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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Third periodic reports of States parties due in 1996

Addendum

CAMEROON*

[19 December 2002]

* The information submitted by Cameroon in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in document HRI/CORE/1/Add.109.

For the initial report of Cameroon, see CAT/C/5/Add.16; for its consideration see CAT/C/SR.34 and 35 and *Official Records of the General Assembly, Forty-fifth Session, Supplement No. 44* (A/45/44), paras. 251-279.

A supplementary report (CAT/C/5/Add.26) was submitted on 25 April 1991 and considered on 20 November 1991 (CAT/C/SR.101 and 102, and *Official Records of the General Assembly*, *Forty-seventh Session, Supplement No. 44* (A/47/44), paras. 244-284).

For the second periodic report, see CAT/C/17/Add.22; for its consideration, see CAT/C/SR.448, 451 and 454 and *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 44* (A/56/44), paras. 60-66.

The annexes to the present report may be consulted in the files of the secretariat.

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Introduction

1. On 19 December 1986 Cameroon acceded, without any reservations, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), adopted by the General Assembly of the United Nations on 10 December 1984. The Convention entered into force for Cameroon on 26 June 1987.

2. Under article 19, paragraph 1, of the Convention, States parties are required to submit to the Committee against Torture reports on the measures they have taken to give effect to their undertakings under the Convention, within one year after the entry into force of the Convention. Thereafter, States parties submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

3. Cameroon's initial report, submitted on 15 February 1989 (CAT/C/5/Add.16), was considered by the Committee on 20 November 1989 (CAT/C/SR.34 and 35). Following its consideration, the Committee requested the Cameroonian Government to submit a supplementary report, which was sent to the Committee on 25 April 1991 (CAT/C/5/Add.26) and considered on 20 November 1991 (CAT/C/SR.101 and 102).

4. The information due to be submitted to the Committee in 1992 and 1996, in accordance with Cameroon's quadrennial treaty obligation, was provided in Cameroon's consolidated second periodic report, covering the period from 1988 to 1996 (CAT/C/17/Add.22).

5. On 12 October 2000 Cameroon declared its recognition of the competence of the Committee against Torture under articles 21 and 22 of the Convention. On 24 October 2000 the Secretary-General of the United Nations, in his capacity as depositary, notified the States and organizations concerned of this declaration by Cameroon.

6. The Committee considered Cameroon's second periodic report at its 448th, 451st and 454th meetings, held on 20, 21 and 23 November 2000 (CAT/C/SR.448, 451 and 454), and adopted its concluding observations on 6 December 2000 (A/56/44, paras. 60-66).

7. In accordance with the general guidelines adopted by the Committee at its sixth session on 30 April 1991, the present third periodic report, which covers the period from 1996 to 2000, is divided into three parts. Part one presents the general legal framework for the prohibition of torture in Cameroon. Part two contains information on new measures and new developments relating to implementation of the Convention. Part three contains additional information and replies to the Committee's observations and to the questions raised during consideration of the supplementary report in November 2000.

PART ONE: LEGAL FRAMEWORK

8. Between 1990 and 2000, Cameroon's socio-political and legal environment underwent a process of extensive liberalization. During the period 1996-2000, the implementation of the Convention was fostered by the Government's determination to endow Cameroon with the most liberal and republican laws possible and to establish the sustainable rule of law and democratic pluralism, accompanied by institutional and other checks and balances and the emergence of civil society. On 19 December 1990 the President of the Republic promulgated a series of laws

that had just been adopted by the National Assembly during a parliamentary session known as the "session of freedoms". Most of the laws that violated human rights and fundamental freedoms were either repealed or amended.

9. It was in this context of political liberalization that multiparty elections were held. Cameroon was a de facto one-party State from 1966 to 1990, when Act No. 90/56 of 19 December 1990 on political parties was promulgated, providing for the establishment of a genuine multiparty system. Five elections have been held since the change:

(a) In 1992, 5 political parties took part in the presidential election and 32 in the legislative elections;

(b) In 1996, 36 political parties took part in municipal elections: town councillors from 15 parties were elected and many town halls were taken over by opposition parties;

(c) In 1997, 9 political parties each fielded a candidate in the presidential election and 44 political parties took part in the legislative elections. The 1997-2002 legislature consisted of deputies from seven political groupings.

10. Among the institutional innovations engendered by the liberalization process was the creation, on 8 November 1990, of the National Committee on Human Rights and Freedoms. This body, which has legal personality and enjoys financial autonomy, has made the prohibition of torture and other ill-treatment a major focus of its endeavours. Its work is supplemented by several private charities and non-governmental organizations (NGOs) concerned with the defence of human rights. These NGOs are governed by Act No. 99/014 of 22 December 1999.

11. In 1996 a decisive turning point was reached in the consolidation of the rule of law. The Constitution adopted by referendum on 20 May 1972 was amended by Act No. 96/06 of 18 January 1996. The major elements of this constitutional amendment were the incorporation of human rights into constitutional law, the creation of a judicial system independent of the legislature and the executive, and administrative decentralization.

12. Under article 37 of the Constitution, justice is administered in the Republic in the name of the Cameroonian people. Judicial power is held by the Supreme Court, the courts of appeal and the ordinary courts.

13. Under article 38, the Supreme Court is the highest court in the State with competence for judicial, administrative and auditing matters. It comprises a judicial division, an administrative division and an audit division:

(a) The judicial division (art. 39) issues final rulings on appeals upheld by law against final judgements handed down by courts and tribunals of the judicial system;

(b) The administrative division (art. 40) examines all administrative disputes involving the State and other public authorities. It examines appeals arising from disputes over regional and municipal elections;

(c) The audit division (art. 41) is competent to audit and issue final rulings on public accounts and those of public and semi-public enterprises.

14. Each of the Supreme Court's three divisions issues final rulings on final judgements handed down by the competent lower courts and considers any other disputes or matters expressly devolving upon it by law. The newly restructured administrative court will include the new administrative division of the Supreme Court, as an appeals body, as well as the administrative tribunals due to be established throughout the country, in a reversal of the previous situation where there was only one administrative court, namely the Supreme Court at Yaoundé.

15. The amended Constitution of 1996 established the Constitutional Council, which has competence for constitutional matters. This is the regulatory body responsible for overseeing the running of institutions. The Council delivers final rulings on:

The constitutionality of laws, treaties and international agreements;

The constitutionality of rules of procedure of the National Assembly and the Senate prior to their implementation;

Conflict of authority between State institutions, the State and the regions, and between the regions themselves.

16. Prior to their enactment, laws, treaties and international agreements may be referred to the Constitutional Council by the President of the Republic, the President of the National Assembly, the President of the Senate, one third of the members of the National Assembly, one third of the members of the Senate, or the presidents of the regional executives.

17. The Constitutional Council ensures the regularity of presidential elections, parliamentary elections and referendums. It also proclaims the results thereof.

18. The constitutional functions of the Supreme Court have thus been largely revamped and passed on to the Constitutional Council. For example, judicial monitoring (direct or collateral challenge) of the constitutionality of laws, which used to be very limited, has been opened up and completely overhauled.

19. However, pending the full functioning of this body, the Supreme Court continues to carry out its duties.

20. There is also the Parliamentary Court of Justice, which has been given broader personal jurisdiction. It is competent to adjudicate acts carried out in the course of their duties by:

The President of the Republic, in cases of high treason;

The Prime Minister, other members of the Government and other top government officials to whom power has been delegated, in cases involving conspiracy against State security.

21. With regard to the administrative system, the Constitution established 10 regions to replace the 10 provinces that had existed since 1984 and were nothing more than decentralized administrative districts. Unlike its 1972 predecessor, the Constitution devotes all of its part X to the decentralized authorities of the Republic, namely the regions and communes. These are

bodies corporate under public law, enjoy administrative and financial autonomy in the running of regional and local affairs and are independently managed by the regional councils. The councils have responsibility for promoting the development of these authorities in the economic, social, health, educational, cultural and sporting domains and are overseen by the State.

22. Cameroon is a decentralized, unitary, democratic State with a semi-presidential system characterized by the separation of the executive, legislature and judiciary. The Parliament, which, under the 1972 Constitution, consisted of a single chamber, the National Assembly, is now a bicameral institution including a second chamber, the Senate.

23. In the fight against torture, two laws of 10 January 1997 deserve particular mention:

(a) Act No. 97/009, which amended and supplemented certain provisions of the Criminal Code and introduced article 132 bis, entitled "Torture" into the chapter on offences committed by public officials in the discharge of their functions. This new article, which reproduces, mutatis mutandis, the definition of torture contained in the Convention, also prescribes the penalties to be imposed on persons who perpetrate acts of torture. It furthermore recalls the absolute nature of the right of every person to be protected against torture and excludes any derogation from the prohibition of torture;

(b) Act No. 97/010 amending certain provisions of the Extradition Act, No. 64/LF/13 of 26 June 1964, satisfies the requirements of article 3 of the Convention prohibiting the expulsion, return (refoulement) or extradition of persons to receiving States where they would be in danger of being subjected to torture.

24. The dissemination of human rights with a view to their effective realization is being facilitated by the media in the context of the liberalization of the media environment in Cameroon. In order to reconcile the requirements of legal prosecutions with guarantees of freedom of expression, the crime of opinion has been abolished. Under Act No. 90/092 of 19 December 1990 on freedom of public information, the maximum penalty for any breach of its provisions is a fine.

25. On 3 April 2000 the Prime Minister, as the Head of Government, signed Decree No. 2000/158, which stipulates the conditions and procedures for the establishment and operation of private enterprises in the audio-visual communications sector.

26. The transformation of Cameroon's socio-political and legal environment with a view to promoting human rights and strengthening the rule of law was a challenge that the Cameroonian authorities took up without any reservation. Indeed, since 1999, the Government has been engaged, in coordination with the competent international institutions, in a national programme of good governance, which puts the emphasis on the fight against corruption, on transparency and on greater participation by citizens in the management of public affairs. The basic philosophy of this programme is the promotion of human dignity.

27. The fight against torture and other ill-treatment is certainly one of the central focuses of these liberal reforms. This liberal environment brings into sharper focus both the development of the judicial and democratic culture of the people and the implementation of the Convention to which Cameroon committed itself 15 years ago.

28. The Cameroonian Constitution of 1972 ensured harmonization between international commitments and domestic legislation. The Constitution of 1996 clarifies that relationship still further. Article 45 of the Constitution stipulates: "International treaties or agreements which have been ratified take precedence, as soon as they have been published, over national law, provided that each such agreement or treaty is implemented by the other party." Leaving aside the rule of reciprocity, the same can be said of treaties or agreements concerned with the protection of human rights, including, in particular, the Convention.

29. In this light, the Convention takes precedence over domestic law. Its provisions may be directly invoked before the national judicial and administrative authorities, which may directly apply them without needing to make provision for them through the adoption of a domestic law.

30. One of the major innovations brought about by the 1996 constitutional reform was the greater recognition given to human rights. The preamble to the Constitution, which was improved and developed, takes even fuller account of the democratic aspirations of the Cameroonian people and specifies some new rights.

31. Having declared that the human person, without distinction as to race, religion, sex or belief, possesses inalienable and sacred rights, the people of Cameroon affirm their attachment to the fundamental freedoms enshrined not only in the Universal Declaration of Human Rights and the Charter of the United Nations, but also in the African Charter on Human and Peoples' Rights and all duly ratified international conventions pertaining thereto.

32. Apart from addition of the reference to the African Charter on Human and Peoples' Rights and duly ratified international human rights conventions, the preamble of the Constitution includes some new principles for the protection of rights. It states, inter alia, that everyone has the right to life and to physical and moral integrity; that everyone should be treated with humanity in all circumstances; and that under no circumstances should a person be subjected to torture or to cruel, inhuman or degrading treatment or punishment. It also states that everyone charged with an offence has the right to be presumed innocent until proved guilty according to law in a trial conducted in strict compliance with due process of law.

33. One of the new rights specified in article 1 of the Constitution refers to the virtues of tradition as follows: "The Republic of Cameroon is a secular, democratic and socially committed State. It recognizes and protects traditional values that are consistent with democratic principles, human rights and the law."

34. This declaration of principle on the protection of human rights makes a positive contribution to the existing body of rules designed to protect physical and moral integrity, inspired by the principle that "no one may be subjected to prosecution, arrest or detention except in the cases and in accordance with the procedures determined by law".

35. The 1996 Constitution also has the merit of having dispelled the uncertainty over the value attached to human rights in the preamble to the 1972 Constitution. Article 65 of the Constitution clearly states: "The preamble shall be an integral part of the Constitution". This incorporation of the preamble into the body of the Constitution gives constitutional value and thus unquestionable binding force to the rights proclaimed therein.

36. The precise definition of the meaning of the right to physical and moral integrity, particularly the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, as formulated in the preamble to the revised Constitution, makes it possible for this right to be subjected to constitutional monitoring and for violations to be prosecuted by the judge of a constitutional, administrative or ordinary court.

37. Finally, by proclaiming certain rights with reference to relevant duly ratified conventions, the revised Constitution, article 45 of which gives legal precedence to such conventions, makes them an integral part of its preamble and thereby endows them with constitutional force which the constitutional courts are required to guarantee.

38. Hence, the Convention benefits from this interpretation in Cameroonian law, with regard to its position in the normative hierarchy.

39. In any event, the 1996 Constitution, in terms of both the content of the newly enunciated rights and the constitutional value of the preamble, represents a highly significant advance in terms of building a liberal State under the rule of law. These changes are all the more fundamental and inviolable as no procedure for amendment of the Constitution can be accepted if it affects the republican form and democratic principles which govern the Republic (art. 64).

40. A unique feature of the Cameroonian legal system is its legislative and judicial pluralism. Traditional or customary law coexists with two legal systems of English and French origin, common law and civil law. The French and English laws applicable to Cameroon during the colonial period are, in some respects, viewed as an integral part of Cameroonian legislation.

41. This is why, after the transition from the federal State instituted on 1 October 1961 to the unitary State provided for in the Constitution of 2 June 1972, the constitutional rule has been that legislative provisions arising from the laws and regulations applicable in the federal State of Cameroon and in the federated States on the date on which this Constitution came into force remain in effect where they do not contravene the terms of the Constitution provided that such provisions have not been amended by legislation or regulation.

42. The solutions employed in resolving incompatibility of norms rely on this juridical pluralism by giving precedence in general to the application of those rules that are most protective of human rights.

43. The decision of Bamenda regional court (High Court of Mezam Judicial Division), judgement No. HCB/19 CRM/921 of 23 December 1992 in *Nyo Wakai and 172 others v. the State of Cameroon*, may be cited by way of illustration. The administrative authorities responsible for maintaining order had proceeded to arrest individuals suspected of having instigated or participated in the destruction of property and other crimes during demonstrations as a result of the declaration of a state of emergency in Nord-Ouest province in October 1992.

44. The court, considering the application by a group of defence lawyers for the release on bail of the individuals on the ground that their arrest and detention were unlawful, rejected the argument advanced by the representative of the State that an ordinary court was not competent to determine the legality of action taken by the authorities, under Act No. 90/47 of 19 December 1990 on states of emergency, to maintain order at a time of exceptional

circumstances. It declared itself competent on the ground that the action by the Administration had led to such a blatant violation of fundamental human rights that it constituted an administrative act so fraught with irregularity that it was deprived of its administrative character, and thus came within the competence of the ordinary courts. As a result the court ordered the conditional release, without bail, of certain detainees, and the immediate and unconditional release of other detainees, without prejudice to possible proceedings for any offences they might have committed.

45. Contrary to what might be expected, the Bamenda High Court judge did not rely on English criminal law rules (rule of freedom from arrest), specifically a writ of habeas corpus, of legendary efficacity in protecting human rights in general and individual liberty in particular. Instead he applied the complex concept of administrative irregularity (*voie de fait*), based in French law, to assert the court's competence ipso jure by finding a situation of flagrant administrative irregularity and ordering appropriate measures to end it. Such measures include the freedom to award pecuniary compensation as damages, grant injunctions and order restitution by appropriate means, such as financial penalties.

46. Lastly, it should be noted that the Convention forms part of a significant network of international commitments undertaken by Cameroon for the protection of human rights. In addition to the Charter of the United Nations and the Universal Declaration of Human Rights, these include:

(a) The International Convention for the Suppression of the Traffic in Women of Full Age of 11 October 1933 (succession on 27 October 1961);

(b) The International Agreement for the Suppression of the White Slave Traffic, amended on 4 May 1949 (succession on 3 November 1961);

(c) The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956;

(d) The International Labour Organization (ILO) Convention (No. 29) concerning Forced or Compulsory Labour, 1930 (signed on 7 June 1960);

(e) The ILO Convention (No. 105) concerning the Abolition of Forced Labour, 1957 (signed on 13 September 1962);

(f) The ILO Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organize, 1948 (signed on 7 June 1960);

(g) The ILO Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (ratified on 15 May 1970);

(h) The ILO Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation, 1958 (ratified on 15 May 1988);

(i) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (accession on 19 February 1982);

(j) The Convention relating to the Status of Refugees (signed by State succession on 23 June 1961);

(k) The Protocol relating to the Status of Refugees (accession on 19 September 1967);

(l) The International Convention on the Elimination of All Forms of Racial Discrimination (ratified on 24 June 1971);

(m) The International Covenant on Economic, Social and Cultural Rights (accession on 27 June 1984);

(n) The Optional Protocol to the International Covenant on Civil and Political Rights (accession on 27 June 1984);

(o) The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (accession on 6 October 1972);

(p) The International Convention on the Suppression and Punishment of the Crime of Apartheid (accession on 1 November 1976);

(q) The Convention on the Elimination of All Forms of Discrimination against Women (ratified on 23 August 1994);

(r) The Convention on the Rights of the Child (signed on 27 September 1990 and ratified on 11 January 1993);

(s) The Convention governing the Specific Aspects of Refugee Problems in Africa (ratified in 1985);

(t) The African Charter on Human and Peoples' Rights of 27 June 1981 (ratified on 21 October 1986); and

(u) The African Charter on the Rights and Welfare of the Child (ratified on 5 September 1997).

PART TWO: INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION (arts. 1-16)

Article 1

47. Act No. 97/009 of 10 January 1997 amending and supplementing certain provisions of the Criminal Code incorporated in the Code an article 132 bis, entitled "Torture".

48. Under paragraphs 5 (a) and (b) of the article, the word "torture" means "any act by which severe pain or suffering, whether physical, mental or psychological, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of a public official or other

person acting in an official capacity, for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind. […] The word 'torture' thus defined does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".

49. The origin of this text in the relevant provision of the Convention is clear and testifies to the wish of the State of Cameroon to comply with the Convention.

Article 2

Paragraph 1

50. Cameroon's previous reports have included a collection of legislative, administrative and legal provisions and other measures taken up to 1996 to combat torture and other ill-treatment.

51. As indicated earlier, the Constitution of 2 June 1972, as amended by Act No. 96/06 of 18 January 1996, stipulates, inter alia, that:

(a) No one may be compelled to do what the law does not prescribe;

(b) No one may be subjected to prosecution, arrest or detention except in the cases and in accordance with the procedures determined by law;

(c) The law shall ensure the right of every person to a fair hearing before the courts;

(d) Every accused person is presumed innocent until proved guilty in a trial conducted in strict compliance with due process of law;

(e) Everyone has the right to life and to physical and mental integrity and must be treated humanely in all circumstances. No one may on any account be subjected to torture or cruel, inhuman or degrading treatment or punishment.

52. This incorporation into the Constitution of the prohibition of torture and other ill-treatment portends a new era with the adoption of a series of legislative and regulatory instruments and other measures as part of a State criminal policy to protect the physical and psychological integrity of individuals in general and to eliminate torture in particular.

Legislative measures

53. As stated in the second periodic report (CAT/C/17/Add.22, para. 50), the political will of Cameroon to give effect to the Convention has now taken the form of classifying torture as an offence. Since 1997 a series of laws adopted by the National Assembly has been promulgated by the President of the Republic.

Act No. 97/009 of 10 January 1997 amending and supplementing certain provisions of the Criminal Code

54. As stated above, this Act inserts in the Criminal Code a new article 132 in the chapter on offences committed by public officials in the performance of their duties. Briefly, the article defines torture, sets forth penalties of varying degrees of severity punishing acts of torture, and excludes any justification for torture.

Act No. 97/010 of 10 January 1997 amending certain provisions of the Extradition Act, No. 64/LF/13 of 26 June 1964

55. The Act incorporates in the Cameroonian regulations on extradition the essential provisions of articles 3 and 6 of the Convention, and represents a major innovation in the punishment of torture as an international crime.

Act No. 97/012 of 10 January 1997 establishing the conditions governing entry to, residence in and departure from Cameroon by aliens

56. The Act abrogates its predecessor, Act No. 90/043 of 19 December 1990, in particular its provisions relating to aliens. It contains no specific prohibition of torture or other ill-treatment. However, the Act incorporates, better than the earlier Act of December 1990, a number of liberal guarantees.

57. With regard to the regulations governing deportation of an alien who has contravened the regulations on residence, the provisions on refoulement, deportation, expulsion, etc., give no latitude at all to border police officers to inflict ill-treatment on the person concerned. Neither does it allow other authorities the right to do so, in contravention of article 3 of the Convention; moreover, the protection of aliens against administrative policing measures is ensured.

58. Thus, under article 35, an alien must be notified of any deportation measure. Upon notification, the alien in question may immediately alert counsel or another person of his choice or, where appropriate, the relevant diplomatic or consular authorities. Under article 36, an alien who is the subject of a deportation measure may, in the 48 hours following notification, request its cancellation before the competent administrative court, notwithstanding the rules governing prior administrative appeals. He may be assisted by counsel or request the judge presiding over the administrative court hearing the case to appoint counsel. Article 37 states that the administrative court must rule within eight days of the case being brought before it. Should the deportation measure be cancelled, the alien may, subject to regularization of his status, be authorized to remain in the country. The judgement thus delivered is subject to appeal in the forms prescribed by law. The appeal has no suspensory effect; costs are met by the State. Lastly, article 38 provides that deportation may not be executed before expiry of the period of 48 hours following notification or before the court seized of the matter has made a ruling.

59. Presidential Decree No. 2000/286 of 12 October 2000 clarifies the procedures for the application of Act No. 97/012 of 10 January 1997. The Decree consolidates the guarantees of the rights of aliens in the context of deportation from the country.

Regulation No. 97/01 of 4 April 1997 amending articles 3 and 4 of Act No. 92/008 of 14 August 1992 establishing certain provisions governing execution of judicial decisions

60. The regulation authorizes the court hearing the case, where a decision is rendered in adversarial proceedings or is considered as such, to order provisional execution, notwithstanding any appeal, in particular in matters of compensation for injury resulting from assault causing bodily harm for reasonable costs and expenses for emergency care, limited, where appropriate, to transport or transfer costs, and the costs of medication, medical care and hospitalization.

61. These provisions apply to civil judgements delivered by a criminal court, and thus apply to torture victims who are civil parties in criminal proceedings against perpetrators of acts of torture.

Act No. 97/002 of 10 January 1997 on protection of the "Red Cross" name and emblem

62. This Act regulates use and protection of the "Red Cross" name and emblem, without prejudice to the relevant provisions of the international humanitarian law conventions duly ratified by the Republic of Cameroon, including the Geneva Conventions of 12 August 1949 and Additional Protocols I and II of 8 June 1977. From this the Cameroonian Red Cross has the exclusive right to display the Red Cross emblem and use the name "Red Cross" throughout the country.

63. On 31 March 1999 Cameroon signed an agreement with the International Committee of the Red Cross (ICRC) on the ICRC regional headquarters office at Yaoundé. This headquarters agreement reflects the desire expressed by ICRC to establish a regional office at Yaoundé to discharge its functions under the mandates entrusted to it pursuant to the 1949 Geneva Conventions and 1977 Additional Protocols to which the State of Cameroon is party, and the statutes of the International Red Cross and Red Crescent Movement. Under the headquarters agreement the Cameroonian Government accords the ICRC regional office privileges and immunities similar to those accorded international organizations and grants it, in a number of areas, treatment as favourable as that granted such organizations (see below, developments relating to article 11 of the Convention).

64. In addition, on 18 June 1999 Cameroon signed a similar agreement with the International Federation of Red Cross and Red Crescent Societies on the status of the regional office for Central Africa in Cameroon. The agreement provides for a range of facilities relating to the Federation's operations, with the general aim of promoting, encouraging, facilitating and advancing at all times and in all ways the humanitarian work of national societies with a view to preventing and alleviating human suffering and thereby contributing to the maintenance and promotion of peace in the world.

65. Further, it should be noted that after having played an active part in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from 15 June to 17 July 1998, Cameroon signed the text containing the statute of the Court on 17 July 1998, the day of its adoption. The Rome Statute of the International Criminal Court makes torture and other ill-treatment crimes against humanity (art. 7, paras. 1 (f), (g) and (k)) and war crimes (art. 8, paras. 2 (a) (ii) and (iii)).

66. To prepare for ratification, the President of the Republic of Cameroon created, by Decree No. 2000/343 of 4 December 2000, the Ad Hoc Technical Committee for Implementation of the Rome Statute of the International Criminal Court. The Committee was responsible, inter alia, for studying the implications for Cameroonian domestic law of ratification of the statute of the Court. The Committee comprised:

Members of the Cameroonian delegation to the Preparatory Commission for the International Criminal Court;

University professors and English- and French-speaking judges, representing the two modern branches of the Cameroonian legal system;

Diplomats.

67. The work of this technical committee, which took place outside the reporting period, will be dealt with subsequently.

Regulatory and administrative measures

68. Decree No. 97/205 of 7 December 1997 on organization of the Government distributes the various offices for the promotion and protection of human rights among a number of ministerial departments.

69. The Ministry of Territorial Administration is responsible, inter alia, for prison administration, civil protection, oversight of not-for-profit associations and religions. It contains a public liberties unit.

70. The Ministry of Social Affairs is responsible for the social protection of the individual and protection of the family, in particular prevention and treatment of juvenile delinquency or social maladjustment, and facilitation of social reintegration.

71. The Ministry on the Status of Women is responsible for education and for implementation of measures relating to the rights of Cameroonian women in society, the ending of all discrimination against women, and increased guarantees of equality in the political, economic, social and cultural fields.

72. The Ministry of Employment, Labour and Social Security is responsible for supervising implementation of the Labour Code and international conventions relating to employment ratified by Cameroon.

73. The Ministry of Justice is responsible for the preparation of regulations governing the professional status of judges and clerks of the court, organization of the judiciary, status of individuals and property, and general and special criminal law.

74. The Ministry of Defence, the Ministry of Education, the Ministry of Foreign Affairs, the Ministry of Public Health and other ministerial departments together with the Department of National Security have been given specific, complementary responsibilities in this regard.

(a) Territorial administration

75. The Deputy Prime Minister responsible for territorial administration, on 13 November 1997, issued circular No. 02306/CAB/VPM-80 specifying measures governing administrative detention. The intention was to protect the freedom of individual citizens against arbitrary acts by the administrative authorities, in order to make good certain omissions in Act No. 90/054 of 19 December 1990 on the maintenance of order. This act empowers administrative authorities, in particular the Minister for Territorial Administration, governors and prefects, to order detention for renewable periods of 15 days in the context of measures to combat highway robbery. The circular of 13 November 1997 seeks to avoid an inappropriate interpretation of administrative detention that would distort its purpose. In the terms of the circular:

> Administrative detention can be ordered only in the context of efforts to counter highway robbery, with the aim of maintaining or restoring public order;
>
> Provincial governors and prefects are the only administrative authorities competent to order such a measure, and, where necessary, to renew it one time only;
>
> Those in administrative detention must be held in appropriate facilities under the authority of the national security services, the gendarmerie or the prison administration.

76. The lawfulness of form and content is monitored. Any order for administrative detention must comply with the general rules governing unilateral administrative actions. The Minister for Territorial Administration and provincial governors exercise administrative oversight in this matter. Supervision by the courts is also possible.

77. The circular brings the regulations on administrative detention closer to those governing judicial detention under article 9 of the Code of Criminal Investigation, which provides that only officers in the criminal investigation police and not constables may order detention.

78. It should be recalled that this measure to restrict individual freedom can give rise to an action for immediate release based on (new) article 16 of Regulation No. 72/4 of 26 August 1972 on the organization of the judiciary, which provides that the regional court is competent "to hear petitions for immediate release submitted by, or on behalf of, a prisoner or detainee when the said petitions are based on an alleged procedural flaw or the lack of a detention order".

(b) Prison administration

79. Presidential Decree No. 97/205 of 7 December 1997 on organization of the Government created within the Ministry of Territorial Administration two posts of Secretary of State, for local authorities and prison administration, respectively.

80. Presidential Decree No. 97/207 of 7 December 1997 on formation of the Government filled the post of Secretary of State for Prison Administration.

81. These two acts by the Head of State form part of the implementation of Decree No. 95/232 of 6 November 1995 on the organization of the Ministry of Territorial Administration, which established a prison health-care office under the Department of Prison Administration.

82. A concern to humanize living conditions for inmates of Cameroonian prisons underlies prison administration policy, which has taken the form of a considerable number of initiatives to promote human resources, institutional and infrastructure development.

83. It should be recalled that order No. 89/003/MINSCOF of 2 April 1989 had already created posts for social workers at prisons, police stations, universities, high schools, hospitals and medical and social centres, and that ministerial instruction No. 93/000723/MINASCOF/SG of 1 April 1993 determined the functions attaching to the post of senior social worker in prisons.

84. To remedy overcrowding, under order No. 00028/MINAT of 9 May 2000 three new prisons have been constructed: the main prisons at Kumbo, department of Bui; Ndop, department of Ngoketunjia; and Nkambé, department of Donga Mantung. The bringing on-stream of these three prisons will reduce crowding at Bamenda central prison.

85. Also with a view to reducing overcrowding in existing prisons, studies are under way for the construction of new prisons in the towns of Yaoundé, Douala and Kaélé. Government notice No. 000987/C/MINAT/DAG of 21 November 2000 invites bids from companies for the project.

86. With regard to renewal of infrastructure, it should be noted that 28 prisons have been renovated in three years, involving expenditure in the amount of CFAF 449,770,761 (€685,761) over the financial years 1997/1998, 1998/1999 and 1999/2000 for, respectively, 5, 12 and 11 renovated prisons. In reality most Cameroonian prisons are dilapidated. Estimates for their renovation amount to CFAF 1.7 billion (€2,591,633). An annual provision of CFAF 500 million (€762,245) per prison to be built is needed to resolve the problem of prison overcrowding.

87. A number of measures have been taken to preserve the health of prisoners of which two should be highlighted:

The creation, in the prison health-care office, of a petty cash fund for the purchase of medicines for prisoners;

Recruitment and posting of eight chief prison medical officers, who cannot only assume responsibility for the central prison in each provincial administrative centre, but also inspect other prisons within the province.

88. Thus the efforts under way to modernize prison administration are continuing notwithstanding the lack of financial resources available to the State. At the same time increased vigilance is required to ensure compliance by prison administration officials with the disciplinary system, which is enforced by criminal sanctions.

89. Pursuant to Decree No. 92/052 of 27 March 1992 on regulation of the prison system, which was largely based on the Standard Minimum Rules for the Treatment of Prisoners, to Decree No. 92/054 of 27 March 1992 on the special status of prison administration officials, and in particular to order No. 080 of 16 May 1983 of the Ministry of Territorial Administration on the disciplinary system for prison administration officials, sanctions are routinely imposed on all prison personnel guilty of torture or any other ill-treatment of inmates. Such sanctions range from confinement to quarters to delayed promotion, without prejudice to any criminal prosecution. In the absence of any generally available statistics, a few cases may be cited by way of illustration:

> Senior prison guard T…, at Bafoussam central prison: disciplinary sanction of 72 hours' confinement for ill-treatment of a prisoner (service note No. 27/NS/REG/PC/BFM of 5 September 1999 from the prison governor);
>
> Prison guard F…, at Bafoussam central prison: disciplinary sanction of three days in a punishment cell for abuse of an inmate (service note No. 46/NS/REG/DCB of 7 June 1999 from the prison governor);
>
> Prison guard Major M…O…L…, at Yaoundé central prison: disciplinary sanction of three days in a punishment cell for gratuitous violence against prisoner T…A… (service note No. 38/S/PCY/SAF/BP of 22 April 1997 from the prison governor);
>
> Prison guard A…B…, at Yaoundé central prison: disciplinary sanction of 12 hours' confinement for abuse of authority and acts of violence against a prisoner (service note No. 17/S/PCY/SAF/BP of 10 February 1998 from the prison governor).

(c) Police

90. The attention of police personnel is constantly drawn to violations of human rights and freedoms.

91. In an address delivered on 4 August 2000 at the National Police College graduation ceremony, the Minister for National Security reminded police officers that "respect for the legal traditions of the Republic, individual freedoms and human rights must remain at all times at the centre of their concerns".

92. Further, in connection with the Convention, Decree No. 2002/003 of 4 January 2002 on the organization of the Department of National Security, in its article 103, creates within units of the security police the post of superintendent, one of whose principal functions is to ensure the safety of persons held in police custody.

93. Senior police officials constantly remind officers responsible for persons held in custody of the following regulations:

(a) Only superintendents and other senior police officers are empowered to decide on cases of police custody under the continuous oversight of the Attorney-General;

(b) Every morning, the officers in charge of police stations must check on persons held in police custody in order to identify, in time, any sick persons, who must be immediately taken to hospital for appropriate medical care;

(c) The police custody registers are to be inspected every day by the same officers-in-charge, who must verify the actual presence, in good health, of the detainees;

(d) Any inhuman or degrading treatment of citizens at police stations must be prohibited as a working method. This applies to:

(i) Use of a baton or a whip as a means to extract confessions;

(ii) Improper use of aerosols and service weapons.

94. In general, scrupulous respect for individual rights and freedoms while, at the same time, taking account of the need to safeguard public order, should be regarded as the cardinal rule of conduct for police officers.

95. Police units maintain a police custody register in which the following information is entered:

(a) The reason for the police custody;

(b) The date and time;

(c) The individual's overall appearance at the time when he is taken into custody;

(d) His condition at the time of his departure (transfer or release);

(e) Other details concerning property found in his possession.

96. Further, criminal investigation officers are constantly reminded to strictly observe the limits on the length of detention in police custody. In order to verify the effectiveness of these measures, senior officers regularly monitor police units.

97. In addition to this internal monitoring, the judicial authorities also have a responsibility to monitor the regulations, instructions, interrogation methods and practices and the provisions concerning the police custody and treatment of persons held for questioning and, to that end, the Attorney-General visits the cells of police stations, usually without prior notice, and systematically releases any person held in custody without legal justification.

98. It is useful to cite, at this stage, circular No. 00466/DBSN/CAB of 6 April 2001 addressed by the Minister for National Security to all national security officials at the central and regional levels on improvement of conditions of police custody. This circular, widely covered in the media, will be analysed in detail in the next periodic report. It again prohibits police officers

from all acts against the dignity of persons in custody, whatever the reasons for such custody. In particular, it recalls certain prohibitions in the Convention, and prohibits individuals held in custody and police cells from being stripped of their clothing.

99. When these measures fail to prevent the commission of the acts specified and condemned in the Convention, the police officers responsible are subject to disciplinary and/or penal sanctions. The following tables recapitulate some of the disciplinary and penal sanctions imposed on police personnel convicted of acts of torture or other ill-treatment over the reporting period.

Table 1

Status of disciplinary proceedings in connection with human rights violations

Rank Acts punished	Police constables	Police inspectors	Police officers	Police superintendents	Total
Custody/ Unlawful detention	1	0	1	0	2
Abuse and threats with service weapons	2	6	2	0	10
Violence and trespass to the person/manslaughter	8	2	2	0	12
Improper removal of documents	1	0	0	0	1
Rape of minor in custody	2	0	0	0	2
Improper withholding of property	4	0	0	0	4
Negligence leading to death of prisoners in custody	0	1	0	1	2
Total	18	9	5	1	33

Table 2

Status of proceedings and judicial sanctions

Rank Penalties	Police constables	Police inspectors	Police officers	Police superintendents	Total
Imprisonment	9	3	0	1	12
Suspended sentences	1	0	0	0	1
Life imprisonment	1	0	0	0	1
Cases pending	22	3	0	2	27
Total	33	5	0	3	41

100. In order to improve physical conditions for those held in custody throughout the country, the Government has constructed more suitable cells and renovated those not up to the required standards. Sanitation, electricity and ventilation systems have been renovated; the principle of separating men, women and children has been scrupulously applied.

101. Thus there is no doubt that current conditions of custody in police stations, while not perfect, have undergone considerable improvement. It should be noted that contributions from certain friendly countries and multilateral partners have supported this ongoing effort by the Government to improve conditions for persons held for questioning.

102. At the same time, with the economic recovery, police units have been provided with mobile equipment and offices allowing inquiries to be speeded up so as to avoid lengthy periods of custody.

(d) Gendarmerie

103. In the terms of its constituent texts, the national gendarmerie is an elite military corps responsible for public security, law enforcement and compliance with the country's laws and regulations.

104. The international human rights conventions to which Cameroon is party form an integral part of the instruments with which the gendarmerie ensures compliance both on the part of citizens and the gendarmes themselves through their exemplary behaviour.

105. As noted in the previous periodic report, the terms of a dispatch dated 18 April 1996 from the Permanent Secretary of the Office of the President of the Republic to the Secretary of State for Defence, who is responsible for the gendarmerie, concerning "reprehensible conduct by the forces responsible for law enforcement", are constantly brought to the attention of members of the gendarmerie. The Permanent Secretary of the Office of the President prescribed "diligent action, without laxity, to deter offenders and make the population feel safe and to restore the requisite confidence between the public and the security forces".

106. Reminders from the senior command of the gendarmerie are regularly addressed to gendarmerie units reiterating the obligation to respect and protect human rights, and above all to combat torture and other ill-treatment; other measures are also taken.

107. Thus, on the occasion of the annual meeting of corps commanders and senior officers of the central services of the gendarmerie on 12 December 2000, the Minister of Defence delivered an address intended to raise awareness in particular of the importance of defending rights and freedoms, in which he emphasized that: "Domestically, respect for human rights, individual and societal freedoms, in short the rule of law, that gendarmes must assimilate as a fundamental plank of government policy, and the aspirations of the Cameroonian people itself for peace and increased freedom, impose on us new obligations which require in our corps changes in behaviour on the part of individuals and the gendarmerie itself. The vision of a citizens' gendarmerie, accessible to the people, must be our guide."

108. On the same day the Secretary of State for Defence with responsibility for the gendarmerie stated: "We must seek to improve the effectiveness of the gendarmerie in this time of globalization and democracy so that it remains what it has always been, namely an institution deeply imbued, in terms of organization and culture, with the will to ensure security and respect for human rights in all aspects of its duties."

109. The following tables show sanctions imposed on members of the gendarmerie for violations of human rights and fundamental freedoms; the tables relate to 1997, 1998 and 1999. The gendarmerie command has identified the following offences as human rights violations: physical violence, assault and battery, murders, arbitrary arrests and detention, abuse, trespass, attacks, threats involving a deadly weapon, stops constituting harassment.

Table 3

Status of disciplinary or criminal proceedings against members of the gendarmerie for human rights violations, 1997

Reason	No. of complaints		Total disciplinary sanctions		Court proceedings
	Non-commissioned officers	Gendarmes	Custodial arrest (days)	Imprisonment (days)	
Stops/harassment	5	11	100	260	
Improper use of weapons	-	-	-	-	
Extortion of money	40	47	800	940	
Arbitrary arrest and detention	9	3	210	60	
Physical violence	5	32	125	620	
Threats with a deadly weapon	1	5	30	150	
Murder	-	-	-	-	
Trespass	1		20		-
Total	61	87	1 285	2 030	4 criminal convictions 7 before the courts

Table 4

Status of disciplinary and criminal proceedings against members of the gendarmerie for human rights violations, 1998

Reason	No. of complaints		Total disciplinary sanctions		Criminal proceedings
	Non-commissioned officers	Gendarmes	Custodial arrest (days)	Imprisonment (days)	
Stops/harassment	6	15	120	350	
Improper use of weapons	1	1	45	45	1
Extortion of money	5	5	125	125	-
Arbitrary arrest and detention	2	1	40	20	
Physical violence	3	2	60	20	
Threats with a deadly weapon	2	2	50	50	2
Murder	1	1	60	60	1
Trespass	-	2	-	20	-
Total	20	29	500	690	4

Table 5

Status of disciplinary and criminal proceedings against members of the gendarmerie for human rights violations, 1999

Reasons	No. of complaints		Total disciplinary sanctions		Criminal proceedings
	Non-commissioned officers	Gendarmes	Custodial arrest (days)	Imprisonment (days)	
Stops/harassment	1	7	20	220	7 before the courts
Improper use of weapons	6	4	170	110	1 conviction 6 before the courts
Extortion of money	15	5	370	120	-
Arbitrary arrest and detention	7		155		1 conviction 7 before the courts
Physical violence	13	4	315	110	1 conviction 6 before the courts
Threats with a deadly weapon	1		20		-
Murder	-	-	-	-	-
Trespass	4	2	90	20	5 before the courts
Total	47	21	1 140	580	

(e) System of justice

110. The Ministry of Justice has been reorganized by Decree No. 96/280 of 2 December 1996 and its work rationalized.

111. In order to strengthen the Inspectorate-General of the Judiciary and enhance its efficiency, certain provisions of Decree No. 96/280 were amended by Decree No. 2000/372 of 18 December 2000; this provides that the Inspectorate-General of the Judiciary, headed by an Inspector-General with the rank and privileges of ministerial permanent secretary, shall have responsibility for:

(a) Internal oversight and evaluation of the operation of the core services and courts, with the exception of court proceedings;

(b) Keeping the Minister and Permanent Secretary informed with regard to operational efficiency;

(c) Monitoring the implementation and periodic evaluation, in conjunction with the offices responsible for administrative reform, of organizational methods and administrative streamlining.

112. The operational capacity of the Inspectorate-General has been enhanced, partly by an increase in staffing and partly by the provision of material and financial resources enabling it to discharge regular duties and ad hoc tasks.

113. These structural changes reflect the Government's desire to restore the institution and independence of the judiciary, in line with the provisions of article 37, paragraph 2, of the Constitution, which stipulates that "judges shall, in the discharge of their duties, be governed only by the law and their conscience".

114. If the independence of the judiciary, as established by the Constitution, is not to be a mere façade in practice, then judges themselves, in the exercise of their judicial duties, have a certain responsibility to restore the full value of the concept. In a message to public prosecutors at a meeting of heads of court in 1996, the Minister of Justice called for a complete change of mentality on the part of judges:

> "It has long been the custom for you to meet the Minister of Justice and senior Ministry officials for an annual discussion of problems that have particularly occupied our staff during the past 12 months. It was by no means easy to find a subject for my opening address as Minister of Justice, and in the end I looked to current affairs, notably the recently completed work of the National Assembly, including the consideration and adoption of a new Constitution.
>
> "I felt it was important to discuss with you the new development represented by the elevation of judicial authority into judicial power and the benefits all sectors of society hope this will bring, through your efforts. All those involved in judicial affairs must adapt to the limits of this judicial power, now that it is finally in place.
>
> "This change will only bring about an independent judiciary, however, if those responsible for the administration of justice wholeheartedly subscribe to the idea underlying this third branch of State power. Let there be an end to the stifling culture of procrastination that so often inhibits action even when it is blindingly obvious from the evidence that action is necessary. There is no place in the judiciary for those who refuse to shoulder responsibility, and to shoulder it with courage ... The judicial branch requires people of competence and integrity, people like 'The Untouchables', well known in the United States not so long ago ... Let there be no more pandering to people who have no business with you."

115. In his end-of-year broadcast to the nation on 31 December 1998, the President denounced the cankers that riddled the judiciary and told judges it was imperative they should clean up their act and restore confidence in justice.

116. An attempt had previously been made to shield judges from corruption, through Presidential Decree No. 97/6 of 22 January 1997, whereby they were accorded certain benefits guaranteeing material security.

117. Between 25 and 29 October 1999, the Ministry of Justice organized, for the first time, a series of "open days" for Cameroon's judiciary, which took the form of public conferences bringing together legal practitioners and theoreticians. The meetings were sponsored by the Minister of Justice and, in the provincial capitals, chaired by the presidents of the courts of

appeal. Their aim was to review the state of Cameroonian justice, and they also provided an opportunity to explain to the general public the basic workings of the justice service, to enhance the image of the judiciary by gaining citizens' confidence, and, with regard to the judicial apparatus, to reinforce the principle of transparency and thus of good governance.

118. With a view to bringing the justice system closer to those subject to it, new courts have been created and presidents appointed.

119. The impact of the creation and inauguration of these new courts on the much-criticized slowness of judicial procedures will be discussed later.

Judicial measures

120. With regard to military courts, it would appear that members of the military - both the gendarmerie and other army corps - are regularly brought before the courts for a range of abuses that may be considered equivalent to torture or other ill-treatment. Examples from 2000 alone include:

(a) Proceedings against T..., a gendarme, under investigation order No. 078 of 21 December 2000, for arbitrary arrest and detention;

(b) Proceedings against two gendarmes, A... A... and N... N..., under investigation order No. 183 of 2 May 2000, for arbitrary arrest and detention;

(c) Proceedings against two gendarmes, M... A... M... and L... P..., under investigation order No. 192 of 10 May 2000, for torture;

(d) Proceedings against W... under investigation order No. 271 of 12 July 2000, for arbitrary arrest and detention;

(e) Proceedings against B... B... and B... E... in the Bafoussam military court, for assault and battery.

121. Under article 33 of the Criminal Code, obeying an order from a legitimate authority constitutes grounds for absolute discharge. For such an excuse to be invoked, however, the order itself must be legal. Thus the carrying out of a manifestly illegal order is prohibited, as is the exercise of excessive zeal in enforcing the law; responsibility rests with the perpetrators, whether in normal times or in a state of emergency. The law in this regard applies to all and, in every case where it is reported that a manifestly illegal order has been carried out, the perpetrators have been prosecuted and convicted. Examples include:

(a) Proceedings against N... N... and A... F... M…: tried and convicted by the Bafoussam military court, for the homicide of N..., in Bamenda;

(b) Proceedings against K... F... D... and others: tried in the Bafoussam military court, for complicity in manslaughter, in an incident in Malentouen;

(c) Proceedings against Captain E... B...: tried for the murder of A... in Yaoundé and sentenced to 10 years' imprisonment;

(d) Proceedings against Captain H... and five subordinates: convicted of murder and sentenced to 10 to 15 years' imprisonment;

(e) Proceedings against Captain D... and six other officers: convicted of the manslaughter of N... in Garoua and sentenced to one to four years' imprisonment.

122. A number of homicide prosecutions are currently sub judice, including the following cases: Warrant Officer E... P..., for the murder of P... P... in Douala; Sergeant M... J... C..., for the murder of L... B... B...; and Sergeant A... J... C..., for the murder of N... in Douala. All the above were brought before the Douala military court, remanded in custody and detained in the central prison at Douala.

123. Military court proceedings are currently being taken against a number of soldiers serving at Poli, Z... M..., Y... J... P..., N... J... and A... N... M..., for complicity in torture.

124. The use of violence or torture to extract confessions in the course of investigations is strictly prohibited. Confessions obtained in this way are null and void, as are the subsequent proceedings. It is as a result of this concern that such emphasis is not placed on forensic police work in cases involving deaths.

125. The prosecution of torture and other ill-treatment in civil courts is illustrated by the following cases:

(a) Judgement No. 176/crim of 5 June 1998: three police officers, including a superintendent, sentenced by Mfoundi regional court to up to five years' imprisonment for torture;

(b) Judgement No. 608/crim of 11 November 1997: a criminal investigation officer convicted of torture for having refused to allow a person in custody to eat; and judgement No. 728/crim of 17 December 1997: the same court considered the refusal to allow a person in custody to communicate with family members to be an act of torture;

(c) Judgement No. 195/crim of 26 June 1998: two high-ranking police officers sentenced by Mfoundi regional court to 10 and 6 years' imprisonment respectively for torture. At an appeal hearing at the centre court of appeal on 9 February 1999, the conviction of one of the officers, B..., was upheld on the count of torture but his sentence was reduced from 10 to 8 years' imprisonment. In the case of the other officer, N... B..., the torture charge was reduced to failure to render assistance and his sentence reduced to one year's imprisonment and a fine of CFAF 25,000 (€38). The claimants were awarded a total of CFAF 20 million (€3,053) in damages. The State of Cameroon was declared liable under civil law;

(d) Police constable N... N...: sentenced on 10 June 1999 by Wouri regional court to 20 years' imprisonment and CFAF 80 million (€12,214) in damages, for murder. The Department of National Security, in which N... N... served, was declared liable under civil law;

(e) Police superintendent S... C...: prosecuted by the Guider public prosecutor's office for acts of violence and torture against M... B... on 14 September 1999;

(f) Police superintendent M... S...: brought before Haut-Nkam regional court in Bafang, together with police constable S... J…, for complicity in torture leading to the death of D... F... on 10 October 1999;[1]

(g) Interlocutory decision No. 90/add of 5 February 1997: the Littoral provincial court of appeal in Douala ordered a defendant who appeared before the court chained hand and foot to be immediately unchained.

126. In a related area, that of summary executions, the State authorities have taken legal action against the perpetrators whenever allegations have been received. Generally speaking, prosecutions lead to heavy prison sentences. In judgement No. 297/97 of 26 August 1997, the Yaoundé military court sentenced H..., then a company commander in the Poli gendarmerie, to 15 years' imprisonment for executing by firing squad seven persons who had been arrested for highway robbery. The five members of his unit were also convicted of murder and sentenced to 12 years (S... F... and B... S...) and 10 years (F..., P..., W... B... and D... E...) respectively.

127. Likewise, in strictly judicial terms, it is fully accepted that, for public officials or civil servants, obeying the orders of a superior can never constitute a justification or an excuse. As the Cameroon Supreme Court, in its authoritative ruling No. 4 of 7 October 1969, ruled in a leading case: "It is neither justification nor excuse for civil servants or officials to claim that they were obeying the orders of their superiors. Likewise, an accused person cannot invoke the orders of his employers in an attempt to exonerate himself from responsibility for an offence. Such a situation, if it were to be established, would not absolve the accused from responsibility, since no defendant can escape the penal consequences of his own personal actions unless he was compelled to take them by a force which he was unable to withstand."

128. In respect of members of the military and other law-enforcement officials, it is important to modify the principle established in article 83, paragraph 1, of the Criminal Code, according to which, "criminal liability cannot be incurred for an act carried out on the orders of a competent authority to whom obedience is legitimately due". Such an excuse, which provides grounds for absolute discharge, may be invoked only if the order itself is not manifestly illegal.

129. The ever-increasing number of cases brought against law-enforcement officials who commit torture bears witness to the Cameroonian Government's determination to combat this illegal practice. In 1998, 1999 and 2000 alone, some 50 legal actions were brought in the military courts for acts of torture or related offences, such as abuse of authority, arbitrary arrest and detention, or assault and battery, as in the following cases:

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[1] In its judgement No. 18/CRIM/2001/2002 of 27 February 2002, Haut-Nkam regional court found M... S... and S... J... guilty of the offence of complicity in torture leading to involuntary homicide; found also that the fact that this was a first offence was a mitigating circumstance; sentenced them to five years' imprisonment each; awarded the claimants (mother, brothers and sisters of the deceased) CFAF 6.5 million (€10,833) in damages; and declared the State of Cameroon (Department of National Security) liable under civil law for the actions of its officials.

(a) Under trial order No. 116 of 9 February 1998, three majors in the gendarmerie, N... N... A..., W... S... F... and N... L..., were tried for torture: in the course of a patrol on the night of 30 to 31 July 1995, they had stopped a suspicious van, one of whose occupants was found not to be in possession of his national identity card. Following a heated discussion with the gendarmes, this person had been taken to the gendarme post. Believing he had been subjected to torture, he successfully took legal action;

(b) Under trial order No. 484/MINDEF/0262 of 16 September 1998, B… G…, a major in the Obala gendarmerie, was tried for torture;

(c) Under trial order No. 567/MINDEF/0262 of 28 October 1998, B… E…, K... I... M..., Y... M... E... and T... J..., all gendarmes based in Tsinga and on assignment in Ngaoundéré, were tried for breach of the peace while on duty, and for torture following an altercation with M... E... M..., a Cameroon Railways official.

130. This list is not exhaustive and mention could be made of many other cases, as can be seen from the table of torture cases annexed to this report. The important point is that, in all cases of successful prosecution, those found guilty were punished. In one such case M... A... S... was found guilty of torture and sentenced to 33 months' imprisonment suspended for three years, a fine of CFAF 100,000 and costs, in Douala military court judgement No. 11/99 of 11 March 1999. Other cases are sub judice, including the proceedings against a police officer, A... D..., and others, and a case concerning three members of the Douala international airport special police.

131. In the first case, H... N... Bernard, an accountant with SITABIC, brought a complaint against a police officer, A... D..., Chief Inspector O... B... and Inspectors S... B... and K... N..., all members of the Douala mobile unit (GMI), for torture and inhuman treatment at GMI headquarters, inasmuch as they had stopped the complainant during the night of 18 to 19 July 1997 and taken him like a common thief to GMI headquarters, where they stripped him naked, handcuffed him, lashed him to the "see-saw" and subjected him to a savage beating as a result of which he was unable to work for 105 days.

132. In the second case, three members of the Douala international airport special police were accused of torture on 31 August 2000, following the opening of an investigation by the Douala prosecution service.

133. One thing emerges clearly from these few examples: in Cameroon, the fight against torture and other inhuman or degrading treatment is a reality. The alleged perpetrators of such offences are systematically prosecuted, and punished if found guilty.

134. The courts in Cameroon will also annul any proceedings initiated on the basis of forced confessions. In judgement No. 69/2000 of 21 September 2000, for example, the Bafoussam military court annulled the proceedings brought in the case of *Public Prosecutor and T... J... v. K... R...* under investigation order No. 073/MINDEF/0262 of 16 July 1999 and ordered the immediate release of the accused, K... R..., who had been stopped on the spurious pretext of

illegal possession of a defensive weapon and threatening behaviour, and then remanded in custody for some 20 days and subjected to ill-treatment. In its judgement, the court annulled the entire proceedings on the ground that the confessions obtained had been extracted in flagrant and manifest violation of human rights (see below, section on article 15 of the Convention).

135. In another case, two Army non-commissioned officers, Warrant Officer E... P... and Sergeant K..., were brought before the Douala military court under trial order No. 552/MINDEF/0262 of 21 October 1998, issued by the Minister of Defence, on charges of having made K... J... unfit for work for 25 days. In its judgement No. 31/00 of 27 April 2000, the court found that K... J... had been remanded in custody by two members of the military security forces for more than 24 hours in connection with a problem over land that did not fall within the jurisdiction of that service. The court found the accused guilty of torture and sentenced them to three years' imprisonment and a fine of CFAF 200,000 (€305) each. It also awarded the claimants CFAF 500,000 (€762) in damages and declared the State of Cameroon liable under civil law.

Other measures

136. The *Official Gazette* appeared regularly over the reporting period. The *Gazette* publishes bilingual versions of laws, regulations, decrees and statutory instruments, in accordance with Regulation No. 72/11 of 28 August 1972, which superseded Regulation No. 61-OF-1 of 1 October 1961 and which, in article 2, stipulates that legislative and administrative instruments shall be published in the *Official Gazette*, in English and French, by the Office of the President.

137. Bilingual publication fulfils a function that goes beyond the strictly legal, having a political dimension that serves to promote national integration. In some cases, it makes for better, more uniform, implementation of legislation, for legal standards need to be observed in the same way everywhere. It has become the key to disseminating a body of law that is genuinely Cameroonian, since it gives all those subject to the law, both French and English speakers, similar access to that law.

138. In addition to the *Official Gazette*, legislation is publicized through various Cameroonian scientific, legislative and legal journals such as *Juridis Périodique* and *Lex Lata*.

139. At quite another level, the establishment in 1998, by presidential decree, of a technical committee on the implementation of international human rights instruments, was a hopeful sign.

140. The same applies to the human rights cooperation agreement Cameroon has signed with France.

141. The fiftieth anniversary of the Universal Declaration of Human Rights, also in 1998, was celebrated with due ceremony in all 10 provinces of Cameroon. The celebrations culminated in the erection on 10 December 1998, with the Prime Minister and Head of Government presiding, of a stela in Yaoundé dedicated to human rights. Since then, various NGOs have taken up the task of promoting and defending human rights. Much remains to be done, however, in particular in the area of information and education for the public at large, from primary school to university and in all the *grandes écoles*.

Paragraphs 2 and 3

142. According to article 132 bis, paragraph 5 (c), of the Criminal Code, "no exceptional circumstances whatsoever, such as a state of war or a threat of war, internal political instability or any other exceptional situation, may be invoked as a justification for torture".

143. According to paragraph 5 (d) of the same article, "orders from a superior officer or State authority may not be invoked as a justification for torture".

144. These two provisions are based directly on paragraphs 2 and 3 of the Convention.

145. This provision in the legislation is also reinforced by case law, whether established by civil or military courts and even where it predates the criminalization of torture in Cameroon, as shown in the previous report (CAT/C/17/Add.22, para. 37).

Article 3

Paragraph 1

146. Act No. 97/010 of 10 January 1997 amending and supplementing the Extradition Act, No. 64/LF/133 of 23 June 1964, added the following provision to article 29 of the 1964 Act: "No one shall be extradited to a country where there are substantial grounds for believing that he would be in danger of being subjected to torture."

147. This provision should be applicable, mutatis mutandis, in respect of other measures to deport foreigners, including refoulement and expulsion, both of which are explicitly covered by article 33 of the Convention relating to the Status of Refugees, to which Cameroon has been a party since 23 October 1961; this point was addressed in the previous report (ibid., paras. 41-43).

148. Cameroonian courts have already had occasion to apply article 29 of the Extradition Act. In its decision No. 337/cor of 21 February 1997, in respect of extradition proceedings against eight Rwandan alleged genociders requested by the Government of Rwanda, the Yaoundé court of appeal stated: "Whereas ... new article 29 of the Act regulating extradition provides that no one shall be extradited to a country where there are substantial grounds for believing that he would be in danger of being subjected to torture; whereas, in the international media, the present Government in Kigali makes no secret of its determination, before any trial has taken place, to impose the death penalty on the suspects ... The court therefore finds the extradition request inadmissible under the law."

Paragraph 2

149. In accordance with article 3, paragraph 2, of the Convention, the last part of article 29, paragraph 1, of the above-mentioned Act states that "for the purpose of determining whether there are such substantial grounds for believing that a risk of torture exists, all relevant considerations shall be taken into account, including, where applicable, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights".

150. Applying this provision of the law, the Yaoundé court of appeal rejected extradition of the Rwandan alleged genociders on the basis of the situation at the time in Rwanda, where the system appeared to be more conducive to the settling of scores than to arranging for a fair trial for the individuals whose extradition had been requested.

Article 4

Paragraphs 1 and 2

151. Cameroon has criminalized acts of torture under the above-mentioned article 132 bis of the Criminal Code. Such acts constitute a crime and incur a sentence of life imprisonment if they involuntarily lead to the death of another person; or a sentence of 10 to 20 years' imprisonment if the torture permanently deprives the victim of the full or partial use of a limb, organ or sense. Acts of torture constitute an offence punishable by 5 to 10 years' imprisonment and a fine of between CFAF 100,000 (€153) and CFAF 1 million (€1,524) if they result in the victim being unable to work for more than to 30 days by reason of sickness or incapacity; or 2 to 5 years' imprisonment and a fine of between CFAF 500,000 (€762) and CFAF 200,000 (€305) if they result in the victim either being unable to work for up to 30 days by reason of sickness or incapacity, or experiencing mental or moral pain or suffering.

152. Acts of torture are thus punished in accordance with their gravity. The penalties are graded in accordance with the prejudicial consequences of the act of torture. They are at least commensurate with the seriousness of an offence abhorred throughout the world.

153. Attempted torture and complicity in torture are likewise punished under Cameroonian criminal law, and equally as severely as the main offence.

154. Article 94 of the Criminal Code defines an attempted offence as "any attempt realized by an act that would have led to the commission of a crime or offence and that unequivocally demonstrates the perpetrator's irrevocable decision to commit such an offence, had it not been interrupted or failed to achieve its effect only through circumstances beyond the perpetrator's control".

155. The final part of this provision states that such an attempt shall be "considered equivalent to the crime or offence itself".

156. Article 96 of the Criminal Code states that:

> "(a) Anyone who:
>
> (i) Instigates an offence in any way whatsoever or gives instructions for an offence to be committed; or
>
> (ii) Assists in or facilitates the preparation or commission of an offence, shall be considered an accomplice in such crime or offence;
>
> (b) Attempted complicity shall be deemed equivalent to actual complicity."

157. According to article 98 of the Criminal Code, "joint perpetrators and accomplices are liable to the same penalty as the main perpetrator, except where the law provides otherwise".

158. There is no legislation providing that joint perpetrators or accomplices to torture shall be liable to any penalties other than those applicable to the principal perpetrator of the offence. Here again, Cameroonian law is fully in line with the relevant provision of the Convention.

Article 5

Paragraph 1

159. Cameroon has given detailed descriptions of its rules of criminal jurisdiction in its previous reports. It may be recalled that Cameroon's Criminal Code establishes:

(a) Cameroon's jurisdiction over all offences committed in its territory (art. 7);

(b) Jurisdiction in rem for offences against State security or forgery of the seal of State or of the national currency, including offences committed abroad, provided that, in the case of an alien, he must have been arrested within or extradited to Cameroon (art. 8);

(c) Personal jurisdiction in respect of its citizens or residents for offences committed abroad, following an official complaint or charge by the Government of the country where the offence was committed (art. 10).

160. Thus the jurisdictional rules defined in paragraphs 1 (a) and (b) of article 5 of the Convention are to be found in Cameroonian law. Only the rule governing passive personal jurisdiction, described in paragraph 1 (c), is not clearly established under Cameroon's Criminal Code. It could be argued, however, that, by virtue of the mechanism of universal competence, described below, Cameroonian courts would be competent to try a person who has tortured a Cameroonian national and is in Cameroon, if Cameroon does not extradite him.

Paragraph 2

161. Paragraph 2 raises the issue of the universal jurisdiction of national courts.

162. Article 11 of the Criminal Code recognizes such competence only in respect of what the Code terms "international" offences - piracy, people trafficking, slave trading and drugs trafficking.

163. Article 28 bis of the aforementioned 1964 Extradition Act (read with Act No. 97/010 of 10 January 1997, mentioned above) adds torture to this list of "international" offences. Torture may thus be prosecuted in Cameroon even if the offences were committed abroad by a non-Cameroonian. According to this article:

> "Where the circumstances so warrant, any foreigner present in Cameroon and suspected of having committed an act of torture in another State may, after an examination of the relevant information, become the subject of a preliminary inquiry into the facts.

> "Any measures required to ensure his presence may be taken in accordance with applicable domestic law. Such measures shall apply only for *such time as is necessary for criminal proceedings* (emphasis added) or for the completion of extradition proceedings."

164. Under this provision, in other words, if Cameroon does not, when so requested, extradite a person suspected of having committed an act of torture abroad, it is obliged to submit the case to its own competent criminal courts. This represents an application of the *aut dedere aut judicare* principle established in article 7 of the Convention.

Article 6

165. Article 28 bis of Act No. 64/LF/133 of 26 June 1964 (amended) reproduces the content of article 6 of the Convention almost word for word:

> "Where the circumstances so warrant, any foreigner present in Cameroon and suspected of having committed an act of torture in another State may, after an examination of the relevant information, become the subject of a preliminary inquiry into the facts.
>
> "Any measures required to ensure his presence may be taken in accordance with applicable domestic law. Such measures shall apply only for such time as is necessary for criminal proceedings or for completion of extradition proceedings.
>
> "Any person in custody pursuant to the previous paragraph of this article may communicate immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
>
> "The State in whose territory the torture was committed shall be informed ... of the results of the inquiry, with, where appropriate, an indication as to whether jurisdiction will be exercised."

Article 7

166. The information given at the end of the section on article 5 above, applies equally to article 7, paragraph 1.

167. The conditions governing proceedings are the same as those that apply to ordinary offences of a serious nature. They can be summarized as follows:

(a) Inquiries shall be carried out by the criminal police in accordance with the rules set forth in the *Code d'instruction criminelle* (Code of Criminal Investigation) or the Criminal Procedure Ordinance. Persons arrested and remanded in custody are brought before the prosecution service, which may, in the case of a lesser offence, proceed against them directly in the lower court, or, in the case of a crime, open an investigation. If, on completion of the investigation, the charges against them are sufficient, they may be brought before the regional court if the offence is still considered a crime, or before the lower court in the case of a lesser offence;

(b) The accused person is tried under a procedure that provides every guarantee of fair trial (public; adversarial proceedings, etc.), equality of arms between prosecution and defence, the right to the assistance of counsel of his choice or of a court-appointed counsel (in criminal cases) and the availability of legal remedies (appeal; request for review).

Article 8

Paragraph 1

168. Cameroon has links with a number of countries through judicial and legal cooperation agreements that cover extradition, including:

(a) A general convention on judicial cooperation between Cameroon and 11 other African countries and Madagascar (the "Antananarivo Convention" or Organisation Communale Africaine et Malgache (OCAM) Convention);

(b) Special judicial cooperation agreements between Cameroon and Mali (6 March 1965), France (21 February 1974) and the Democratic Republic of the Congo (formerly Zaire) (11 March 1977).

169. Where any of these countries are also parties to the Convention, acts of torture are considered to be fully covered by these agreements.

170. It should be noted that these agreements all retain the extradition threshold system, not the extradition list system, but torture, as penalized under Cameroonian law, is extraditable pursuant to the extradition threshold established in the agreements.

171. Consequently, if asked by one of the above-mentioned States to grant extradition under specific provisions of these conventions, Cameroon must do so, always providing that the requested torture suspect does not himself risk being subjected to torture in the requesting State.

Paragraphs 2 and 3

172. Cameroon does not make extradition conditional upon the existence of an extradition treaty. Although treaties remain the principal basis for extradition, their absence may be compensated for by domestic legislation (Extradition Act, No. 64/LF/13 of 26 June 1964, as amended by Act No. 97/010 of 10 January 1977). According to article 38 of the Act, "the present Act shall apply where normally applicable treaties are absent or silent".

173. Cameroon may even grant extradition as a matter of comity or on the basis of a simple declaration of reciprocity such as that concluded with Switzerland.

174. As the requested State, therefore, Cameroon should never have the slightest difficulty in complying with the provisions of article 8, paragraphs 2 and 3, of the Convention.

Paragraph 4

175. The mechanisms deriving from the *aut dedere aut judicare* rule, such as the principle of universal jurisdiction of Cameroonian criminal courts in respect of torture, are of relevance to the country's obligations under paragraph 4.

Article 9

176. The comments contained in the previous reports remain valid.

177. Cameroon signed an agreement on criminal police cooperation with seven other States of the Central African subregion, in Yaoundé in April 1999. Although the prevention of torture is not formally mentioned, it is clear from the text that the States of Central Africa, wishing to provide better protection for the citizens of the countries of the subregion, and for their property, and to enhance police training, undertake to make good the institutional and legal gaps that have come to light in the area of police cooperation. It provides for Interpol National Central Bureaux to liaise between the various criminal police forces of the contracting parties. The parties undertake to admit criminal police inquiry missions from the other contracting parties into their respective territories. Thus the parties' police forces will exchange general police information relating to notifications of sudden death or missing persons, etc.

178. This agreement has been ratified by Cameroon. As a member of the International Criminal Police Organization (ICPO-Interpol), Cameroon may also make use of Interpol mechanisms and of the recent subregional agreement in order to implement the provisions of article 9 of the Convention.

Article 10

179. The prohibition of torture is dealt with in the courses on human rights and public freedoms that, like forensic medicine and criminal responsibility, have been introduced into the teaching syllabus in civilian, military, judicial, medical and police personnel training schools, including:

(a) The National Civil Service and Judiciary College (ENAM), where civil servants, junior magistrates (trainee magistrates), clerks of the court, and social services, employment and customs inspectors, among others, are trained;

(b) The National Prison Administration College (ENAP), where prison administrators, administrative officers, head guards and guards are trained, as well as - starting some years ago - prison directors;

(c) The Joint Defence College (EMIA), which trains officer cadets and provides advanced courses for officers;

(d) The Gendarmerie Schools and Training Centres Command, under which an advanced training centre for the criminal investigation police was recently established at Yaoundé, as was a law enforcement advanced training centre. These two new training centres cater for the whole region and course participants come from various African countries;

(e) The Faculty of Medicine and Biomedical Sciences, successor to the former University Health Sciences Centre, is part of a network of satellite establishments. In the current context of economic recovery, training of this kind, which takes account of the needs of human dignity, is once more gaining in importance owing, among other things, to:

(i) The proliferation of vocational training schools. Numerous paramedical colleges and health training institutions, both State and private, have been established in Cameroon. They are obliged to offer an approved training programme leading to an official examination;

(ii) The increase in numbers of trained or retrained staff;

(iii) The improvements in technical content and methodology in the course on the prohibition of torture and the defence of human rights, thanks to support from foreign partners and the training of trainers.

180. By order No. 079/A/MINAT/DAPEN/SDPP/SRF of 19 March 1999, the Minister for Territorial Administration initiated the recruitment, on merit, of eight chief prison medical officers; applications were open to Cameroonians who were qualified medical doctors but not civil servants. On completion of the competitive procedure and following training at the National Prison Administration College, eight chief prison medical officers were appointed to eight central prisons in Yaoundé, Maroua, Douala, Bamenda, Buéa, Bafoussam, Ngaoundéré and Bertoua.

181. The prohibition of torture is also the central element in the training and awareness-raising work of the National Committee on Human Rights and Freedoms, which, as in the past, organizes regular seminars on the defence of human rights for the administrative and military authorities in all provinces of the country. Examples include:

A workshop for police officials on improving custody conditions, held in Yaoundé on 30 November and 1 December 1998;

A workshop for prison administration staff, held in Bamenda in 1999;

The Universal Declaration of Human Rights displayed nationwide on 76,000 posters.

182. Human rights associations and NGOs, of which there are around 100 in Cameroon, spread the culture of human rights through their work in society at large.

183. Other training and information initiatives include the International Round Table on the Eradication of Female Sexual Mutilation through the Use of Community Approaches, held from 11 to 13 May 1998 in Yaoundé. The Round Table was followed by a seminar on the adoption of a national plan of action to combat female sexual mutilation, held in Maroua in December 1998.

184. Prison administration staff have also attended further seminars organized by a range of partners:

(a) In June 1997, a Canadian organization, Pro-Démocratie, arranged a seminar that led to the establishment of a committee of prison experts and, in particular, the production of a basic training manual for prison staff, published in October 1997. The aim of the 481-page manual is to teach Cameroon's prison administration staff how to treat the persons in their charge in an equitable and humane manner, and how to fulfil their professional responsibilities with regard to prisoner rehabilitation while safeguarding prisoners' rights. The approach used in the staff training manual takes account of the international standards applied in Cameroon's code of conduct and of some 100 training programmes in operation on all six continents;

(b) Another seminar with the same aim was held in Yaoundé in February 1998, with Commonwealth assistance;

(c) International Prison Watch has also helped organize two seminars for core staff - i.e., staff working directly with prisoners - one in March 1998 in Yaoundé and one in June 1998 in Bertua.

185. Specialists in the field were also sent out into all the provinces to help raise citizens' awareness of their rights and freedoms, as part of the celebrations marking the fiftieth anniversary of the Universal Declaration of Human Rights, launched on 16 June 1998 by the Prime Minister and Head of Government.

186. Information specifically on the prohibition of torture and the defence of human rights is now structured into State communications, with slots in radio and national television (CRTV) programmes, in accordance with the Mass Media Act. Such programmes include:

(a) *Honneur et fidélité* ("Honour and loyalty"), a weekly broadcast introduced by senior officers in the armed forces;

(b) *Le verdict* ("The verdict"), in which fundamental rights are discussed, with comments on court rulings that have been handed down in the area of human rights;

(c) *Le droit au féminin* ("Women's rights and the law"), which aims to raise public awareness of the role and rights of women;

(d) *Le développement social* ("Social development");

(e) *Église et développement* ("The Church and development");

(f) *Le point du droit* and its English counterpart, *The Debate*, which aim to popularize the law.

187. Lastly, the qualification level set for the recruitment of future judges, known as "junior magistrates", has been raised from a first degree in private law to a master's degree in law. In addition, since the curriculum at both university level and ENAM does not cover all the subjects

relevant to the cases the future judges will be trying, an annual "young magistrates' seminar" has been instituted in order to supplement participants' university and professional training in the light of the problems encountered in practice.

Article 11

188. The information given in Cameroon's preceding reports (CAT/C/5/Add.26, paras. 67-68 and CAT/C/17/Add.22, paras. 67-68) still applies, even though, due to the lack of financial resources, the prison supervisory commissions were unable to meet as regularly as they would have wished.

189. At another level, the State of Cameroon has authorized the International Committee of the Red Cross (ICRC) to visit all its detention centres. These visits are organized at the discretion of the ICRC Regional Delegation for Central Africa, in Yaoundé, which enjoys the privileges and immunities granted in the headquarters agreement signed with the Government in 1999.

Article 12

190. The comments on article 12 made in the previous report still apply (CAT/C/17/Add.22, paras. 69 and 9-40).

Article 13

191. Any person claiming to have been subjected to torture in Cameroon has the right to submit a complaint before the judicial authorities. The authorities competent to try such offences or receive complaints are:

(a) The Attorney-General, who has special responsibility for initiating and conducting action by the State and, thus, for custody in criminal investigation police detention centres;

(b) Appeals court prosecutors, who monitor the criminal investigation police within their sphere of competence.

192. In addition to public prosecutors, a complaint may also be filed with any criminal investigation police officer with territorial competence, in particular units of the gendarmerie or police. The victim of an act of torture may also, in the case of an offence, issue a summons, through a bailiff, for the perpetrator to appear before the competent court, or, in the case of a crime, file a complaint for the bringing of criminal indemnification proceedings.

193. The competent courts are:

(a) A court of first instance, where the facts in the case indicate unlawful acts. In principle a court of first instance exists in each administrative district, Cameroon having 269 administrative districts. The territorial competence of a court of first instance may, having regard to the exigencies of service, extend over several neighbouring districts;

(b) A regional court, where the facts constitute a crime. A regional court exists for each department. Although there are 58 departments in all, the competence of a regional court may, in accordance with the exigencies of service, extend over several neighbouring departments. The regional court also hears applications for immediate release submitted by, or on behalf of, a prisoner or detainee where the applications are based on a procedural flaw or the lack of a detention order (habeas corpus);

(c) A military court, where the crime or offence of torture is committed by military personnel, either on duty or in a military establishment or where the offence is purely military in nature.

194. Decisions rendered by courts of first instance, regional courts and military courts may be impugned before a court of appeal in each of the 10 provincial administrative centres in Cameroon.

195. The victim may file an appeal before an administrative court where his rights were violated by an administrative act which may be challenged on the ground of abuse of authority.

196. Similarly, should the infringement of freedom constitute a flagrant administrative irregularity, the victim may have this recorded by the Supreme Court in plenary session, following which he may apply to the judge for damages.

197. Legal aid, which in Cameroon is organized under Decree No. 76/0521 of 9 November 1976, is intended to ensure that legal assistance is afforded those without sufficient means to pay for it. The recipient is excused all legal costs (stamp duty, registration duty, registry fee and payments to court), other than the fee for appeals, which may be required. Act No. 76/16 of 8 November 1975, in its article 8, paragraph 3, provides that "other than in an appeal against a decision in a criminal case or where the appeal originates with the public prosecutor or State, the appellant is required, even if granted legal assistance, to pay a CFAF 5,000 (€8) application fee. Nevertheless, a person in receipt of assistance is counselled by a legal official free of charge.

198. The Bar, the national lawyers' association, has set up a legal aid centre, with offices in 3 of the 10 provinces of Cameroon.

199. Those claiming to be victims of acts of torture may also approach the National Committee on Human Rights and Freedoms, which can conduct the necessary inquiries and bring the matter before the authority having territorial competence with a view to redressing the situation. In this connection the Committee can visit, as required, any prison, police station or unit of the gendarmerie in the presence of the competent public prosecutor or his representative. The Committee receives an average of 500 applications a year relating to different cases of human rights violations.

200. Lastly, it should be noted that Parliament can exercise its authority in this regard. Under article 35 of the amended Constitution of 1996, Parliament oversees government action through oral or written questions and by setting up committees of inquiry with specific terms of reference.

201. The Government, subject to the imperatives of national defence, the security of the State or the secrecy of judicial investigation, must furnish the necessary information.

202. Parliamentary committees of inquiry, of demonstrated importance, had been provided for under article 28 of the 1972 Constitution and article 67 of Act No. 73/1 of 8 June 1973 on the rules of procedure of the National Assembly, and were reinstated by article 35 of the revised Constitution of 1996. Act No. 91/029 of 16 December 1991 regulates their procedures:

(a) Committees of inquiry are established on a decision taken by absolute majority of the members of the National Assembly, which must specifically identify the facts giving rise to the inquiry or the government departments whose administrative, financial or technical management is to be examined. The decision contains a list of members, who may not exceed 20 deputies;

(b) The appointed members must immediately take a judicial oath before the National Assembly;

(c) The committee of inquiry may, in the name of the Cameroonian people and in the discharge of its duties, require any person, official or public authority to assist it. Subsequent to consideration and adoption of a resolution by the committee of inquiry, the National Assembly may decide, as appropriate:

(i) To transmit the records of the inquiry to the legal authorities for action;

(ii) To request the committal for trial of an official, where the official is subject to the jurisdiction of the Parliamentary Court of Justice or the facts in the case are such as to render the matter so subject;

(iii) To refer the matter to the Government, with a view to the taking of appropriate political, regulatory or administrative measures.

203. Non-governmental human rights associations and organizations also play an active role, not only in terms of raising awareness of rights, but also in reporting violations and filing appeals. To compensate for the inability of those before the courts to claim their rights, these associations and non-governmental organizations accompany victims or applicants with a view to rectifying infringements of human rights. Act No. 090/53 of 19 December 1990 on freedom of association and Act No. 99/014 of 22 December 1999 on non-governmental organizations provide the legal basis for their action.

204. With regard to protection of the complainant and witnesses against any ill-treatment or intimidation as a result of filing a complaint or giving evidence, the Criminal Code contains a wide range of offences with appropriate penalties, in particular under articles 164, 168, 173, 302 and 303, as already noted in the supplementary report (CAT/C/5/Add.26, paras. 74-82).

Article 14

205. The information contained in the supplementary report (CAT/C/5/Add.25, paras. 81 and 82) remains relevant.

206. The core document mentioned (HRI/CORE/1/Add.109, para. 33) that to obtain compensation for injury, any person who is a victim of an act of torture may initiate civil proceedings under article 2, paragraph 2, of the Code of Criminal Investigation, which provides that: "civil proceedings for compensation for injury may be taken against the accused and his representatives". If the civil party dies, the action may be undertaken by his heirs.

207. Articles 443 to 447 of the Code of Criminal Investigation provide, in cases of judicial review, for compensation for the victims of judicial errors. Meanwhile, statutory rehabilitation is provided for in articles 69 to 72 of the Criminal Code and in articles 624 to 633 of the Code of Criminal Investigation.

208. The preliminary draft Code of Criminal Procedure envisages, in its article 219, compensation for a person who is wrongfully held in pre-trial detention.

209. The second periodic report (CAT/C/17/Add.22, para. 85) noted that within the context of offences equivalent to torture, victims who brought civil actions were normally compensated following the criminal conviction of the parties accused. The report cited (para. 37) decision No. 122/crim by the Mfoundi (Yaoundé) regional court, by which police officers and others were sentenced not only to terms of imprisonment from 10 to 15 years, but also to payment, jointly and severally, of CFAF 17,135,000 (€26,122) in damages to the civil claimant. The State of Cameroon was declared liable under civil law. On appeal the damages were increased to CFAF 25 million (€38,112).

210. Under Regulation No. 97/01 of 4 April 1997 amending certain provisions governing execution of judicial decisions, a court may order provisional execution, notwithstanding any appeal, in matters of compensation for injury resulting from assault causing bodily harm, of a decision concerning costs and expenses necessitated by emergency care. These provisions apply to civil judgements delivered by a criminal court, and thus apply to torture victims who are civil parties in criminal proceedings against perpetrators of acts of torture.

211. With regard to recent precedent, attention is drawn to judgement No. 31/00 of 27 April 2000 of the Douala military court, cited above, which awarded CFAF 500,000 (€762) in compensation for moral injury while, however, rejecting as unsubstantiated the claim for compensation for material damage.

212. So as to better guarantee compensation for victims of torture, the public authority in question is held responsible for injury caused by its officials. To circumvent the possible insolvency of the official, the victim has the choice of proceedings against the official before the judicial court and proceedings against the authority before the administrative court.

213. The authority which has had to meet the costs of compensation may initiate an action for indemnity against its offending official.

Article 15

214. The inadmissibility of any evidence obtained by torture is established in Cameroon, even though there is no specific legislative provision thereon. Judgement No. 69/2000 of 21 September 2000 rendered by the Bafoussam military court in the case of *Public Prosecutor and T... J... v. K... R...* illustrates case law in this matter.

215. Following a dispute over land between K... R... and T... J..., the latter had gone to make a complaint at the Dschang investigation brigade, where her brother-in-law, Sergeant D... J... was deputy brigade commander. She claimed that K... R... had threatened her and her children, and that he had fired a shot in the air to intimidate them. On the basis of the complaint, D... J... immediately went to the scene of the incident and placed K... R… under military arrest; K... R... was then placed in detention for 20 days without authorization, whereas the maximum period is 24 hours, renewable on three occasions on the authorization of the government commissioner. K… R... also claimed to have been beaten on several occasions by his torturer, who was attempting to extract a confession. The forensic report established that he had injuries to the soles of his feet, back and left forearm. As a result of the ill-treatment to which he was subjected, K... R..., at the limit of his endurance and under duress, confessed to the acts of which he was accused. The court concluded that:

> "Whereas the circumstances under which the prisoner's confessions were obtained represent, it hardly needs to be stated, a patent example of a flagrant and manifest violation of human rights; whereas no proceedings worthy of the name can be conducted on a basis thus perverted at the outset; whereas, as a result, the proceedings should quite simply be annulled, in accordance with investigation order No. 073/MINDEF/0262 of 16 July 1999 by the Minister of Defence.
>
> "Ruling publicly inter partes on the prisoner in criminal proceedings in first instance, unanimously annuls the proceedings which are the subject of investigation order No. 073/MINDEF/0262 of 16 July 1999 and orders the immediate release of K... R... if the prisoner is not held for other reasons."

216. In addition, Cameroon is party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights, instruments which contain procedural guarantees corresponding to those of articles 12 to 15 of the Convention.

217. In particular, as stated in the second periodic report (CAT/C/17/Add.22, paras. 71-73), article 14, paragraph 3 (g), of the International Covenant on Civil and Political Rights, under the terms of which in the determination of any criminal charges against him, everyone shall be entitled, in full equality, not to be compelled to testify against himself or confess guilt, may be directly invoked before the competent Cameroonian authorities.

218. Further, the conjunction or coexistence in Cameroon of civil law and common law rules also works in favour of the full implementation of article 15 of the Convention.

Article 16

Paragraph 1

219. That Cameroonian law contains no specific offences of cruel, inhuman or degrading treatment or punishment should not be misunderstood.

220. Just as before promulgation of Act No. 97/009 of 10 January 1997 torture was punished through related offences, cruel, inhuman or degrading treatment or punishment is prohibited and punished on the basis of equivalent offences.

221. In implementation of the provision prohibiting cruel, inhuman or degrading treatment or punishment, attention is drawn to interlocutory decision No. 90/add of 5 February 1997 of the Douala court of appeal (see paragraph 125 (g), above).

222. The second report (see CAT/C/17/Add.22, paragraphs 46-49) included a significant amount of information on offences resembling or equivalent to torture and other cruel, inhuman or degrading treatment or punishment.

223. Lastly, article 615 of the Code of Criminal Investigation provides that "the use of force in the process of arrest, detention or execution of a sentence is a crime except where authorized by law".

Paragraph 2

224. Cameroon works for full implementation of the provisions of the Convention, and all the more so as it is party to a number of instruments for the protection of human rights and, on 12 October 2000, pursuant to articles 21 and 22 of the Convention, made a declaration recognizing the competence of the Committee against Torture.

225. Lastly, national legislation dealing with offences comparable to cruel, inhuman or degrading treatment or punishment is compatible with the Convention, as is legislation relating to extradition and expulsion.

PART THREE: INFORMATION ON THE CONCLUSIONS AND RECOMMENDATIONS FORMULATED BY THE COMMITTEE AT THE CONCLUSION OF ITS CONSIDERATION OF THE SECOND PERIODIC REPORT OF CAMEROON

226. In its concluding observations (A/56/44, paras. 60-66), adopted in November 2000 at the conclusion of its consideration of the report of Cameroon for the period 1988-1996 (CAT/80/C/17/Add.22), the Committee took note with satisfaction of the progress made by the Cameroonian State in combating torture and other ill-treatment. At the same time it identified various subjects of concern, in connection with which it formulated 11 recommendations (A/56/44, para. 66).

227. The Cameroonian authorities, in the spirit of frank and constructive dialogue to which they subscribe and which is essential between each State party to the Convention and the Committee, has accorded full attention to the observations. The Government has devoted renewed attention to the Committee's recommendations, which call for the clarifications provided below.

I. INTRODUCE A MECHANISM INTO ITS LEGISLATION FOR THE FULLEST POSSIBLE COMPENSATION AND REHABILITATION OF THE VICTIMS OF TORTURE

228. Developments in connection with article 14 necessitates clarification on this point, in particular with regard to Regulation No. 97/01 of 4 April 1997 amending certain provisions governing execution, of judicial decisions. Under the regulation a court may order provisional execution, notwithstanding any appeal, in matters of compensation for injury resulting from assault causing bodily harm, of a decision concerning costs and expenses incurred for emergency care. These provisions, which apply to civil judgements delivered by a criminal court, apply to torture victims who are civil parties in criminal proceedings against perpetrators of acts of torture.

229. As a general rule and in accordance with the long-standing position adopted by the courts, victims who are civil parties receive compensation following the criminal conviction of the defendants or accused.

230. The question of the rehabilitation or re-education of torture victims is under study. It is, however, relevant to note that the Ministry of Social Affairs and the Ministry of Public Health (Decree No. 97/205 of 7 December 1997) have a number of mechanisms for dealing with social maladjustment and social reintegration: in particular the Etoug-Ebé Centre for Re-education and Rehabilitation of the Disabled at Yaoundé.

II. 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

231. Pending adoption of legislation on this matter, attention is drawn to various administrative provisions and practices:

(a) Circular No. 00708/SESI/S of 21 June 1993 (see CAT/C/17/Add.22, para. 18) prohibiting use of a baton or whip to extract confessions;

(b) With regard to police and judicial practice, it is strictly prohibited to use violence or torture to extract confessions during inquiries. In accordance with judgement No. 69/2000 of 21 September 2000 of the Bafoussam military court, Cameroonian judges will annul proceedings based on coerced confessions;

(c) Emphasis is now placed, rather, on forensic police work to unearth the truth. This takes place at two levels:

(i) The police (Department of National Security), with the establishment of a forensic police office;

(ii) The gendarmerie, with the establishment in 2000, within the Gendarmerie Schools and Training Centres Command at Yaoundé, of the criminal investigation police advanced training centre. The centre, with a regional coverage, operates with the support of French cooperation. Thus far it has trained almost eight contingents of officers and non-commissioned officers, in particular in techniques relating to the conduct of inquiries.

232. Although article 14 (para. 3 (g)) of the International Covenant on Civil and Political Rights and article 15 of the Convention provide a basis for rejection by Cameroonian judges and other national authorities of any statement or evidence obtained by torture, it is clearly the case that the adoption of an appropriate legislative provision would provide national courts with a legal basis that was both more certain and more accessible, and that would permit them to go beyond the simple principle of reliability of the evidence, and to substantiate better in judicial decisions the reasoning on the inadmissibility of evidence obtained by torture. Such a legislative embodiment would also work towards the harmonization of judicial practice.

III. 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

233. Act No. 97/010 of 10 January 1997 amending certain provisions of the Extradition Act, No. 64/LF/13 of 26 June 1964, incorporates within the Cameroonian regulations governing extradition the key provisions of articles 5, 6, 7 and 8 of the Convention, inasmuch as it reflects the will to take effective measures against torture, wherever it is committed (inside and outside the country) and whoever the perpetrator is (a national, a resident or an alien). The ongoing work of legislative reform can only add to these achievements and, where appropriate, improve legislation, in particular with regard to article 5, paragraph 1 (c), of the Convention.

IV. 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

234. The curtailment of pre-trial detention has given rise to much debate. The unanimity which has emerged on the exceptional nature of pre-trial detention and the determination of the Cameroonian authorities to discourage it so as to protect the rights reaffirmed in the amended Constitution of 1996 reflect the fundamental importance attached to the principles reflected in the renewed instructions of the Minister of Justice.

235. It is the case that the Constitution of 2 June 1972 already guaranteed individual freedom and security, and established that no one could be prosecuted, arrested or detained except in the cases and in accordance with the manner determined by law. The amended Constitution of 1996 adds that "every accused person is presumed innocent until proved guilty in a trial conducted in strict compliance with due process of law". This provision makes a constitutional norm of the presumption of innocence which is impugned by pre-trial detention and which the Constitutional Council should be able to guarantee respect for.

236. Measures have been taken on several previous occasions to limit the use of pre-trial detention in judicial practice.

237. Although there is no legal prescription establishing the maximum length of pre-trial detention, article 113 (para. 2) of Act No. 58/203 of 26 December 1958 adapting and simplifying criminal procedure provides that "in criminal cases, there shall be a right to release five days after initial questioning in the case of defendants who are resident in Cameroon when the maximum sentence under the law is less than six months' imprisonment".

238. To rectify the shortcomings in the definition of the maximum length of pre-trial detention, the Minister of Justice has not merely relied on the circulars stating the rules. Every effort has been made to deal with the reality of the situation, with regular oversight to identify lapses and to punish those responsible.

239. The circulars dated 8 April 1965, 12 May 1965 and 16 April 1967 provided that a report should be made to the Minister of Justice regarding any case involving pre-trial detention which lasted or exceeded, according to the case, three or six months - three months in the case of proceedings in cases of flagrante delicto or relating to acts punishable by a sentence not exceeding two years, and six months in all other cases. The circulars were updated on 8 April and 12 May 1985 and 18 October 1989, with a reminder that pre-trial detention constituted an infringement of the presumption of innocence, and should be used only exceptionally.

240. In particular, the circular of 18 October 1989 provides for regular checks to be made periodically in prisons. On a related matter, circular No. 24848/CD/9276/DAJS of 23 May 1990 not only provides for weekly visits to police and gendarmerie cells, but also the systematic release of all persons whose detention has no legal justification.

241. The Cameroonian authorities have an unswerving commitment to put an end once and for all to unlawful pre-trial detention. In an address delivered on 30 May 1999 on the occasion of the confirmation of the heads of court at the Centre court of appeal, the Minister of Justice, speaking in particular to the Attorney-General, strongly urged him "to conduct and ensure the conduct of regular monitoring of pre-trial detention so as to ensure that no one awaiting trial has been overlooked".

242. On 26 July 1999 pre-trial detention was a central issue at the meeting between the Minister of Justice and heads of court.

243. As Cameroonian law stands, article 53 of the Criminal Code mitigates the harmful effects of pre-trial detention. It provides that:

(a) The length of any period of pre-trial detention is deducted in full from the custodial sentence;

(b) In the event of pre-trial detention, where punishment is a fine, the court may exempt the convicted person from all or part of the payment.

244. In any event, the gradual increase in the number of judges and the corresponding reduction in their workload are such as to limit and eradicate pre-trial detention exceeding a reasonable length. In fact special recruitment exercises of judges and support staff (clerks of the court) have been organized with a view to reducing the backlog in the courts. Thus, for the financial years 1999/2000 and 2000/2001, 150 additional judges, 150 clerks, 200 assistant clerks and 100 secretaries/typists were recruited in all.

245. Similarly, judges who, through denial of justice, fraud, bribery or professional misconduct, unlawfully maintain a person in pre-trial detention may be reprimanded in accordance with articles 246 et seq. of the Code of Civil Procedure. An action for compensation may also be taken against offending judges with a view to imposing financial penalties.

246. With regard to release on bail, now to be given greater prominence, article 114 of the Code of Criminal Investigation provides that "pre-trial release may, in all cases where it is not automatic, be subject to bail. The bail guarantees:

(a) The appearance of the defendant in all proceedings and for execution of the judgement;

(b) Payment, in the following order, of:

(i) Costs incurred by the civil party;

(ii) Costs paid by the civil party;

(iii) Fines.

The release order establishes the amount of the bail apportioned to each of these two headings".

247. Article 120 of the Code of Criminal Investigation allows for recognizance, in other words, a commitment by a third, solvent person to ensure that the accused appears in response to any court order. Although included in that part of the Code relating to judicial investigation, the provision, in common with all those relating to bail, has always been interpreted by the courts as being general in scope, that is, applicable at both the investigation and sentencing stages.

248. The report will not enter into greater detail concerning the procedure for immediate release or habeas corpus provided for under (new) article 16 of Regulation No. 72/4 of 26 August 1972 on organization of the judiciary, which was discussed at length in the second report (see CAT/C/17/Add.22, paras. 87-89).

249. Evidence suggests that the elimination of unlawful pre-trial detention, the confinement of pre-trial detention to a reasonable period, that is strictly necessary for the investigation, and the mechanisms for inspecting places of detention, monitoring respect for the regulations and imposing punishments are helping to end prison overcrowding.

250. The regular periodic checks in prisons pursuant to the circular of 18 October 1989 on pre-trial detention is gradually producing impressive results in terms of the strict limitation of pre-trial detention.

251. These are the measures taken by the Cameroonian authorities to give effect before and after pre-trial detention to the instructions of the Ministry of Justice.

V. CONSIDER TRANSFERRING RESPONSIBILITY FOR PRISON ADMINISTRATION FROM THE MINISTRY OF THE INTERIOR TO THE MINISTRY OF JUSTICE

252. The question of the institutional placement of the prison administration in the machinery of government falls under public policy in the sector concerned. There is an obvious link between the prison administration and the technical administrations responsible for the system of justice, health, education, social affairs, etc.

253. As the prison administration has particularly close links with the Department of Justice, the Cameroonian authorities have elected, not to subsume it within the system of justice as in some countries, but to accord it the status of a separate technical administration, with its own specificities.

254. The legal problem of ending pre-trial detention, the concern with managing the large numbers of persons held in pre-trial detention, and prison overcrowding are critical issues facing both administrations.

255. Placement of the prison administration under the Ministry of Justice is not a panacea, even though it would offer the advantage of close supervision of execution of sentences.

256. The institutional link with the Ministry of Territorial Administration should not be misunderstood, as there is no merging or assimilation of the prison administration and territorial administration and organization, and civil command. It dates back several decades, and forms part of the functional logic underlying the rational division of the work of government.

257. There thus exists a prison administration sectoral policy underpinned by its own goals which requires the necessary resources in terms of budget, human resources and physical and logistical infrastructure.

258. The underlying philosophy appears to be to comply with international norms for the protection of the dignity of the individual, in particular with regard to those who, subject to a custodial sentence, are imprisoned, and to contribute to the socialization of those targeted by the criminal justice system.

259. Thus, Decree No. 97/205 of 7 December 1997 on organization of the Government entrusts matters of general and special criminal law to the Ministry of Justice; prison administration is placed under the Ministry of Territorial Administration, as are certain activities for the protection of the individual, namely the protection of public liberties and civil protection. It should be noted that this Decree created within the Ministry of Territorial Administration two posts of Secretary of State, for local authorities and prison administration, respectively. They assist the Minister with his duties and may be given responsibility, under his authority, for management of specific sectors.

260. Decree No. 97/207 of 7 December 1997 on formation of the Government filled the post of Secretary of State for Prison Administration, who is a member of the Government. These two acts by the Head of State form part of the implementation of Decree No. 95/232 of 6 November 1995 on the organization of the Ministry of Territorial Administration, which established a prison health-care office under the Department of Prison Administration.

261. As indicated in the new regulatory measures in connection with article 2 of the Convention, the efforts under way to develop and modernize prison administration are continuing, notwithstanding the lack of financial resources available. A thorough reform of prison administration has been under way since 1990, the beginning of the decade of the transition to democracy.

262. By order No. 230/A/MINAT/DAPEN/SEP of 4 June 1992, the civic re-education centres at Tchollire, Mantoum and Yoko, housing persons in administrative detention under Regulation No. 62/DF/18 of 12 March 1962 on suppression of subversion, were closed and converted into ordinary prisons. And with a view to reducing overcrowding in existing prisons, new prisons are being opened in the various provinces of the country as time goes by.

263. The key date in prison reform is 27 March 1992, with the adoption of three major instruments which have transformed the prison landscape in terms of humanization of the way in which detainees are treated and improvement of working conditions for custodial staff. These are:

(a) Decree No. 92/052 on regulation of the prison system, which, as stated above, is based on the Standard Minimum Rules for the Treatment of Prisoners;

(b) Decree No. 92/054 on the special status of prison administration officials;

(c) Decree No. 92/056 instituting and establishing the rate for and conditions of payment of danger money for prison administration staff.

264. Also of note is the existence at Buéa of the National Prison Administration College, the specialized institution for the professional training of staff at all grades in the prison administration.

265. The Government is seeking to increase cooperation between the competent services of the two ministerial departments. Thus, the public prosecutors responsible for the investigation of criminal cases, oversight of pre-trial detention and execution of sentences (remission, amnesty) regularly monitor prisons and discharge their functions without any interference by the prison administration.

266. The judiciary monitors execution of the sentence to ensure that it is carried out.

267. The collection of information from across the country by the National Steering Committee on Good Governance indicates that placement of the prison administration under the Ministry of Territorial Administration does not pose any problems for the functioning of the system of justice. Rather, the general view is that prison administration should be managed under an autonomous structure.

268. Nevertheless, the transport of detainees to the law courts for various steps in the proceedings (investigations, hearings), which is the responsibility of the gendarmerie, although in practice conducted by the prison administration, often causes problems and disrupts the functioning of the courts when not properly performed.

269. In short, establishment of the post of Secretary of State for Prison Administration, followed by the appointment within the Government of an incumbent, is of fundamental importance in the formulation and implementation of a sectoral policy with its own objectives for the development and modernization of prison administration. There is every reason to believe in this sectoral policy, the only problem being to identify the resources needed to attain its objectives.

VI. 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

Consider abolishing the special forces established to combat highway robbery

270. While the effective dissolution of the Douala operational command in 2001 accords with the Committee's wishes, it should be noted here that the multi-role unit of the national gendarmerie (GPIGM), established by Decree No. 99/15 of 1 February 1999 on the model of the French GGIM, and whose disbandment has also been called for, is in fact an element in gendarmerie units. GPIGM is tasked with maintaining and restoring order, combating highway robbery, and conducting anti-terrorist activities throughout the country. Its presence at one time in the provinces in the north of Cameroon may be explained by the fact that it had been given the mission of reinforcing gendarmerie units engaged in efforts to combat the widespread highway robbery in that part of the country. Following the improvements observed on the ground, GPIGM limited its activities to discharging its traditional functions from its Yaoundé headquarters.

271. In any event creation of the operational command was merely a measure linked to security imperatives in the context of the renewed outbreak of highway robbery. Notwithstanding that, it should not conflict with the social necessity to safeguard human rights.

272. As soon as that necessity became apparent, the Government, on its own initiative, terminated the activities of the operational command.

Lifting the freeze on the recruitment of law enforcement officials

273. To make good the staff shortages occurring as a result of constraints imposed by the structural adjustment programme which, at the end of the 1980s, had imposed severe cuts on the State budget and in particular a reduction in wage costs, the Government, with the economic recovery, has undertaken the recruitment of new personnel. Among other things that has allowed security coverage to be improved.

274. New police recruits over the reporting period are shown in the table.

Year	Total	Cadet superintendents	Cadet police officers	Cadet inspectors	Cadet police constables
1996	1 442	30	82	330	1 000
1999	2 267	58	179	574	1 446
2000	1 990	176	747	1 050	1 500

275. Within the gendarmerie, the average number of new recruits hired annually has progressed as shown in the following table.

1988		1999		2000	
Officers	Cadet gendarmes	Officers	Cadet gendarmes	Officers	Cadet gendarmes
11	653	11	323	14	200

276. It should be noted that in 2001, in a special recruitment exercise, 1,200 recruits were hired. The gendarmerie is now authorized to undertake an annual recruitment exercise.

277. This same desire to increase the numbers of recruits is also evidenced in the case of prison administration officials, the judiciary, the relevant areas of public administration and even in the general civil service, in accordance with the minimum human resources needs in the administrations concerned.

278. In the corps of prison administration officials, in the financial year 1999/2000, a special recruitment exercise was conducted for 117 prison guards and 8 prison medical officers.

279. There has been an increase not only in the numbers of staff but also in quality, owing in particular to the restructuring of training programmes and the initiation of human rights training.

280. In this connection the establishment of a criminal investigation police advanced training centre under the Gendarmerie Schools and Training Centres Command exemplifies the Government's determination in this regard. The centre trains gendarmerie units in the use of forensic methods in gathering evidence in investigations, rather than engaging in brutality or other prohibited means to extract confessions from suspects. The same is true with regard to the establishment at Awaé, near Yaoundé, of the law enforcement advanced training centre, which trains members of gendarmerie mobile units in the ethics of maintaining and restoring order.

VII. 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

281. Certain inquiries under way have led to convictions, others to reappraisal of the evidence or to acquittal of suspects. Decisions for acquittal and financial penalties have been ordered in other cases (see developments in connection with article 2 of the Convention).

VIII. ENSURE SCRUPULOUS RESPECT FOR THE HUMAN RIGHTS OF PERSONS ARRESTED IN THE CONTEXT OF EFFORTS TO COMBAT HIGHWAY ROBBERY

282. The protection of the rights and freedoms of persons arrested in the context of efforts to combat highway robbery is assured by the rigorous monitoring measures and sanctions applied to all those engaged in these efforts. The criminalization of torture (art. 132 bis of the Criminal Code) and reform of the jurisdiction of military courts are of great assistance in making members of the national gendarmerie multi-role unit aware of their obligation to respect human rights.

283. The tables in paragraphs 99 to 109 of the report indicate the sanctions taken against police and gendarmerie personnel for violation of the rights enunciated in the Convention.

IX. PURSUE THE TRAINING PROGRAMME FOR LAW ENFORCEMENT PERSONNEL IN HUMAN RIGHTS, WITH PARTICULAR REFERENCE TO THE PROHIBITION OF TORTURE

284. The information provided in connection with article 10 of the Convention indicates the training and information activities carried out, and emphasizes the importance of international cooperation in this regard.

X. 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

285. The Government notes this recommendation with interest and undertakes to attain this objective. Two measures already taken are relevant:

(a) The establishment, in July 1998, of the Technical Committee on the Implementation of International Human Rights Instruments;

(b) The diplomatic negotiations having led to the establishment at Yaoundé of the United Nations subregional centre, whose operational activities began in March 2001.

XI. SCRUPULOUSLY MAINTAIN A REGISTRY OF DETAINED PERSONS AND MAKE IT PUBLICLY ACCESSIBLE

286. The second periodic report (see CAT/C/17/Add.22, para. 20) indicated that police units maintain a custody register in which the following information is entered: the reason for the police custody; its date and time; the individual's overall appearance at the time when he is taken into custody; his condition at the time of his departure (transfer or release); other details concerning property found in his possession. This practice now needs to be systematized throughout all detention centres, and the register made accessible to the public, as rightly recommended by the Committee.

List of annexes

Constitution and laws

Act No. 96/06 of 18 January 1996 amending the Constitution of 2 June 1972

Act No. 97/009 of 10 January 1997 amending and supplementing certain provisions of the Criminal Code

Act No. 97/010 of 10 January 1997 amending and supplementing certain provisions of the Extradition Act, No. 64/LF/13 of 26 June 1964

Regulations

Regulation No. 97/01 of 4 April 1997 amending articles 3 and 4 of Act No. 92/008 of 14 August 1992 establishing certain provisions governing execution of judicial decisions (compensation for injury resulting from assault causing bodily harm)

International instruments

Declaration by Cameroon, dated 12 October 2000, recognizing the competence of the Committee against Torture pursuant to articles 21 and 22 of the Convention

Regulatory and administrative measures

Decree No. 98/109 of 8 June 1998 establishing a technical committee on the implementation of international human rights instruments

Decree No. 2000/343 of 4 December 2000 establishing an ad hoc technical committee for implementation of the Rome Statute of the International Criminal Court

Order No. 79/A/MINAT/DAPEN/SDPP/SRE of 19 March 1999 by the Minister of Territorial Administration for the recruitment of eight chief prison medical officers

Decision No. 00030/D/MINAT/CAB of 16 February 2001 on the assignment in eight central prisons of chief prison medical officers

Circular No. 02306/CAB/VPMAT of 13 November 1997 on administrative detention procedures

Circular No. 000466/DGSN/CAB of 6 April 2001 from the Minister for National Security to all central and regional senior officials on improvement of conditions of custody

Service note No. 38/S/PCY/SAF/BP of 22 April 1997 from the governor of the Yaoundé central prison concerning the disciplinary sanction applied to a prison guard for gratuitous violence against a prisoner

Service note No. 17/S/PCY/SAF/BP of 10 February 1998 from the governor of Yaoundé central prison regarding a disciplinary sanction of 12 hours' confinement applied to a prison guard for abuse of authority and acts of violence against a prisoner

Service note No. 46/NS/REG/DCB of 7 June 1999 from the governor of Bafoussam central prison regarding a disciplinary sanction applied to a senior prison guard for ill-treatment of a prisoner

Precedents

Judgement No. 176/crim by Mfoundi regional court imposing sentences on three police officers of up to five years' imprisonment for torture

Judgement No. 195/crim of 26 June 1998 by Mfoundi regional court sentencing two high-ranking police officers to 10 and 6 years' imprisonment respectively for torture

Judgement No. 69/2000 of 21 September 2000 by Bafoussam military court in *Public Prosecutor and T... J... v. K... R...* (on the inadmissibility of statements obtained by torture)

Judgement No. 31/00 of 27 April 2000 by Douala military court (conviction for torture of two non-commissioned officers in the army for causing K… J… 25 days' absence from work for incapacity and granting the victim compensation for moral injury)

Judgement No. 18/crim/2001/2002 of 27 February 2002 by Haut-Nkam regional court convicting two police officers, including a superintendent, to five years' imprisonment for torture, on the basis of events in September 1999

Interlocutory decision No. 90 of 5 February 1997 by the Littoral court of appeal ordering a defendant brought before the court chained hand and foot to be immediately unchained

Decision No. 337/cor of 21 February 1997 by the Centre court of appeal refusing extradition of eight Rwandans owing to the risk of torture in Rwanda

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