



**Concerns of FIACAT and ACAT Cameroon¹ regarding
torture and ill-treatment in Cameroonian prisons**

Yaounde – Geneva, 1 September 2008

ACAT Cameroon and FIACAT wish to bring to the Council's attention information on the situation of detainees in Cameroon.

1. Figures

These data were provided to ACAT Cameroon by a representative of the National Committee for Human Rights and Freedoms at a workshop organised by the Human Rights Group of the Concerted Multi-Stakeholder Programme in Yaounde.

In 2007 and 2008, the National Committee for Human Rights and Freedoms received 992 complaints:

20%	on violation of the right to a fair trial
18%	on violation of the right to property
16%	on violation of the right to housing
12%	on violation of the right to physical and moral integrity
10%	on violation of the right to work
7%	on arbitrary arrests and detentions
14%	on other human rights violations

2. Procedural guarantees

A new Criminal Procedure Code entered into force on 1 January 2007. It is flawed in a number of respects, in particular as regards the length of preventive detention (6 to 12 months), the execution of warrants at any time (including Sundays and public holidays), the use of coercion by law enforcement officers during an arrest, the entitlement of a judicial police officer to make an arrest without a warrant, and the prerogative of the Minister of Justice to halt criminal proceedings if he considers them likely to compromise the "social interest" or "law and order" (Section 221(1) of the Criminal Procedure Code).

The reality appears to be far removed from the aims set out by the legislator, such as the establishment of rules protecting citizens' rights, speedier judicial processes and the rapid enforcement of court decisions.

¹ ACAT Cameroon is a human rights organisation established in 1993. It is affiliated to FIACAT (International Federation of Action by Christians for the Abolition of Torture).

From what has been observed on the ground, former practices remain prevalent 20 months after entry into force. Committal orders can be enforced immediately without prior formal notice; the failure to comply with the provisions of sections 118(2) and 218(1) of the Criminal Procedure Code, dealing with police custody arrangements and remand in custody respectively, are routinely abused by judicial police officers, state counsels and examining magistrates, especially with regard to the known place of abode. For instance, a suspect who voluntarily answers a summons to appear before a judicial police officer is nonetheless kept in custody before being brought before a state counsel and, subsequently, an examining magistrate, and is placed under a detention warrant without explanation. Judicial police officers do not allow lawyers to provide advice or make remarks during preliminary inquiries. Individuals detained during public demonstrations are tried quickly without legal representation.

3. Length of police custody

The Criminal Procedure Code stipulates that a person with a known place of abode may not be remanded in police custody except in case of a felony or a misdemeanour committed *flagrante delicto*. The time allowed for remand in custody may not exceed 48 hours, renewable once, subject to the approval of the State Counsel. In exceptional cases, this period may be extended twice, on duly motivated grounds.

In practice, custody periods in certain police and gendarmerie headquarters far surpass the 48-hour period provided for by law, and are neither made apparent to the State Counsel nor subject to a reasoned explanation. Worse still, such extended spells in custody are used as a pretext by judicial police officers to extort money from detainees.

4. Length of preventive detention

Of the 3 549 persons being held at Douala Central Prison on 6 August 2008, a mere 15% had been sentenced. The remaining 85% were under preventive detention.

These figures were replicated at Yaounde Central Prison, which held 4 626 inmates on 6 August 2008.

- a) On 22 December 2006, Boniface Trésor DINOZOR was served with a committal order for Douala Central Prison for public immodesty. On 8 June 2007 he was discharged on every count by judge ELABA at the Bonanjo Court of First Instance. Yet on 1 July 2008 he was still in custody at Douala Central Prison.
- b) Held since 2003, the minors listed below, were detained at Douala Central Prison until September 2007 before being brought to trial at Douala Military Tribunal:
 - a. Eléo Paulin TAGNIZEU MOFFO;
 - b. Victorien ETAME;
 - c. Bouba YAYA;
 - d. Joseph NDJOUÏ.
- c) On 16 August 2006, A. NZIMA MBANG, Albert NTOM and Jean MBANG were questioned at Nkondjock gendarmerie and detained in a cell for around three weeks. On 4 September 2006, they were transferred to Yabassi Prison because of a family problem, which had nonetheless been resolved. More than one year on, they have yet to be tried, despite their application for *habeas corpus*, which was rejected by the President of the Nkam Court of First Instance.
- d) Until 30 October 2007, Charles NGASSAM was held at Douala Central Prison, having been detained on 31 October 2002 in a case involving the sale of a family home. On 25 March 2004, the Wouri Court of First Instance stated that it was not competent to deal with the committal order. This verdict was overturned by the Littoral Appeal Court on 20 September 2005. Subsequently, the Court of First Instance stated that it was waiting for the case to be returned to it; in the meantime, Charles NGASSAM had spent five years in prison.

5. State of illegal detentions

Illegal arrests and detentions remain widespread in Cameroon. Here are some examples:

Georges Djemba, alias Flash

Arrested at around 6.30 p.m. on 25 April 2008, beaten up and tortured at Penja gendarmerie headquarters, he was then transferred to the local Moungo gendarmerie brigade in Nkongsamba on 26 April 2008. Following a number of negotiations, he was released on 30 April without charge.

Victor Tchote (chauffeur to Mayor Paul Eric Kingué, himself arrested in 29 February 2008 in Penja)

Arrested on leaving Nkongsamba Prison, where he had taken food to Paul Eric Kingué, a detainee in the prison, Tchote was taken to the local gendarmerie brigade, where he was subjected to several rounds of physical questioning by the Commandant, Lieutenant Colonel Nguette Nguette Moïse. He was released after a fortnight in detention, only to be rearrested 48 hours later. He was eventually served with a committal order and detained at Nkongsamba Prison for reasons unknown to him and spent months there without being brought before a judge.

On 27 October 2000, Sergeant Jean Claude MBITA was imprisoned at Douala Central Prison for the murder of Luc Benoît BASSILIKIN on the orders of the infamous Operational Command. No verdict was issued in this case, which was put back once again on 29 June 2006 to allow witnesses to appear. He remained in detention, without trial, until the end of 2006, despite the fact that all reasonable deadlines had expired.

Moreover, many prisoners who have served out their sentences remain in detention because of a debt under the committal order. This depends on the sum to be paid and its length is laid down by Section 564 of the Criminal Procedure Code. It is set by the Court. At this point their detention becomes illegal. Almost 5% of detainees in Cameroonian prisons are affected by committal orders.

On 15 December 2006, John ACHINI was served with a committal order for Douala Central Prison for petty theft, sentenced to three months in jail on 31 January 2007 and ordered to pay FCFA 32 000 (committal order). Failure to pay would result in an additional three months in prison. He remained in detention until the beginning of October 2007, even though he had already served out his sentence.

6. Detention conditions in Cameroon

Detention conditions in Cameroon are deplorable. Regardless of the many criticisms of and representations to the public authorities on this issue, no concrete steps have been taken, in spite of the somewhat misguided measures that the government has set out with a view to promoting the best detention conditions in Cameroon's prisons.

That said, some promising measures have been taken:

- the Criminal Procedure Code has entered into force;
- the Prison Administration has been placed under the control of the Ministry of Justice;
- Cameroon and the European Union have established a financing agreement to improve detention conditions and respect for human rights.

How these measures yield results remains to be seen.

Detention conditions in Cameroon are characterised by:

- aged and cramped prisons in the country. To give just one example, Douala Prison was built in 1930 to hold a maximum of 800 detainees. It is now located in a built-up area beside Douala's central market and held 3 549 detainees on 6 August 2008;
- overcrowding;
- the unhealthy environment. Faecal matter runs through the drains that go through the prison cells. Septic tanks are not emptied properly – often by hand by the inmates themselves – especially in Douala and Yaoundé;
- no waste water evacuation mechanism;
- undernourished inmates;

- dirty cells and prison quarters;
- no real segregation of men and women, adults and minors, convicted criminals and prisoners awaiting trial, or serious offenders and petty criminals;
- violence between inmates;
- shaky and inadequate prison hygiene: insufficient and aged equipment, lack of medicines, no care policy for sick inmates;
- repeated deaths of detainees as a result of poor detention conditions. The death of 19 inmates at Douala Prison in June 2008 and of a further 19 at Yaounde Prison in March 2008 is to be condemned.

6. Visits to places of detention

Cameroon has not yet ratified the Optional Protocol to the Convention against Torture (OPCAT). No national mechanism for visiting places of detention has been envisaged. Only the National Committee for Human Rights and Freedoms – a government body – is entitled to undertake such visits occasionally. However, it very seldom does so and does not report back to the Head of State.

Human rights associations are barred from carrying out visits.

Furthermore, although all places of detention have a register, there are regular reports of people being held in police or gendarmerie cells without having their names entered in the register.

7. The practice of torture

Despite a persistent decline in recorded instances of physical torture in Cameroon's places of detention, mental and psychological torture is more and more prevalent. It even affects the families in the form of public humiliation and extends to unsafe detention conditions, arbitrary arrests, detention in secret, chaining, violation of the right to be presumed innocence, and corruption as a condition for access to public services.

8. Use of confessions extracted under torture

Section 132a of Cameroon's Criminal Code clearly punishes acts of torture. That said:

- a) Section 30(2) of the Criminal Procedure Code provides a loophole enabling judicial police officers to continue practising torture. The result is that inhuman and degrading acts linked to a legitimate punishment may not be considered acts of torture. Consequently, law enforcement officers use this clause to practise torture;
- b) the conditions under which defendants are required to furnish the court with proof of torture are so high on impossible that they cannot demonstrate to the judge that their confessions have been extracted under torture, despite the physical marks sometimes visible on their bodies. Thus the confessions recorded in the reports from the preliminary inquiries continue to be considered as evidence in criminal procedures.

RECOMMENDATIONS

- To ratify and implement effectively the Optional Protocol to the Convention against Torture (OPCAT).
- To adopt practices in line with the Standard Minimum Rules for the Treatment of Prisoners.
- To take urgent steps to combat prison overcrowding by giving priority to measures that provide alternatives to detention, particularly with regard to persons sentenced for petty crimes or persons in preventive detention for a number of years, by building new prisons that observe international standards, and by speeding up judicial procedures.
- To take the measures needed to ensure that detainees enjoy access to basic medical care and are properly fed.

- To guarantee that children and women are segregated from adults and women respectively, and that persons awaiting trial are kept apart from convicted criminals.
- To guarantee individuals in custody access to a doctor and to legal aid – free of charge where need be, for those without means. Individuals in custody must be informed of their rights in a language that they understand and be entitled to contact their loved ones.