



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

Distr.: General
31 May 2010

Original: English

Committee against Torture
Forty-fourth session

Summary record of the first part (public)* of the 944th meeting

Held at the Palais Wilson, Geneva, on Friday, 7 May 2010, at 10 a.m.

Chairperson: Mr. Wang Xuexian (Vice-Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.944/Add.1.

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In the absence of Mr. Grossman, Mr. Wang Xuexian (Vice-Chairperson) took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Fourth periodic report of Cameroon (continued) (CAT/C/CMR/4; CAT/C/CMR/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Cameroon resumed their places at the Committee table.*
2. **Mr. Nkou** (Cameroon) said that he wished to convey to the Committee the greetings of the President of Cameroon, Mr. Paul Biya. Various members of his delegation would reply to the questions raised by the Committee.
3. **Mr. Mayang** (Cameroon), replying to a question asked by Ms. Sveaass, said that his Government was currently considering ratifying the Optional Protocol to the Convention.
4. The Committee had asked about the apparent gap between the law and its implementation. His Government was taking all appropriate measures to implement the human rights standards enshrined in the international instruments ratified by Cameroon, inter alia, through capacity-building activities.
5. No specific law prohibited female genital mutilation, but legislation on that matter was envisaged as part of the reform of the Criminal Code.
6. There was no gender-based discrimination in the area of access to justice. A new law on legal assistance had been enacted in late 2009 with a view to facilitating access to justice for members of the most vulnerable groups.
7. His Government was carrying out awareness-raising activities focusing on women in order to inform them of their rights, and to combat domestic violence and other harmful customary practices.
8. There had been extensive legislative activity in the field of human rights, and the Government had taken a series of measures to raise awareness of new legislation and its implementation.
9. In reply to the question raised by Mr. Gaye about the apparent contradiction between article 37 and article 116 of the Code of Criminal Procedure, he said that in fact the two articles were not in conflict. Article 37 contained general provisions concerning the rights of persons under arrest, while article 116 established the protections afforded to suspects at the start of a pretrial investigation. Articles 122 and 132 established further protections concerning the treatment of suspects.
10. **Ms. Belmir** had expressed concern that article 32 of the Code of Criminal Procedure seemed to encourage the practice of torture. That article, which related to holding offenders in custody in order to establish their identity, was in fact clear and unambiguous concerning the prohibition of torture.
11. **The Chairperson** had asked for clarification concerning article 31 of the Code of Criminal Procedure. Arrests made in flagrante delicto cases by law enforcement officials or citizens were acts of good citizenship performed to assist a person in danger or stop an offender from escaping. Those were exceptional, often dangerous, situations in which it was not always possible to identify oneself or to inform the miscreant of the reasons for his arrest.

12. No statistics were available concerning implementation of article 315 of the Code of Criminal Procedure relating to the inadmissibility of evidence obtained through torture. That was not because the article had not been invoked but rather because computerization of the justice system was still in its early stages and accessing court decisions was not easy.

13. **Mr. Gaye** had asked whether the law on states of emergency still existed. The law was still on the statute books, but no state of emergency was currently in force.

14. He requested the Committee to provide further information on the case it had mentioned regarding the former police officer who had been sentenced to 15 years in prison.

15. **Ms. Banaken** (Cameroon) said that Act No. 2005/006 of 27 July 2005 concerning the status of refugees guaranteed non-nationals most of the rights enjoyed by Cameroonian citizens. The Government actively informed refugees of their rights.

16. No specific legislation on the protection of Pygmies was envisaged. Pygmies enjoyed the same rights as other citizens. However, the Ministry of Social Affairs and the Ministry of Forests and Wildlife had implemented a development plan aimed at improving the lives of Pygmies and local population groups through community-based environmental management initiatives. The plan also sought to preserve the identity and promote the cultural values of those groups.

17. **Mr. Nkou** (Cameroon) said that the United Nations High Commissioner for Refugees, Mr. António Guterres, had recently visited Cameroon. On his return to Geneva, he had met with the Ambassadors of the African Group and urged them to take Cameroon's treatment of refugees as a model.

18. **Mr. Mayang** (Cameroon), referring to the question raised by Ms. Sveaass concerning the meaning of the expression "positive cooperation of the prison authorities", said that his delegation had not found the phrase in its report and asked for further details.

19. **Mr. Banda** (Cameroon) said that the National Commission on Human Rights and Freedoms, in accordance with the Paris Principles, submitted reports and recommendations to competent authorities following visits it had carried out. The Commission followed up on those reports and encouraged the bodies concerned to implement its recommendations. It was clear that State bodies had taken steps to do so, although it would take time for its recommendations to be fully implemented, particularly in the area of prison administration. The Commission urged relevant authorities to acknowledge human rights violations when they occurred and to explain clearly how they intended to redress those violations.

20. The Commission was made up of 30 members from various backgrounds. They were persons of proven integrity and were selected by members of the professional bodies to which they belonged, such as the Bar Association and the Medical Council. However, members of the Commission were not elected to defend the interests of their own professional bodies, but to promote and protect human rights.

21. **Mr. Mayang** (Cameroon) said that mechanisms for monitoring prison conditions existed. In addition to unannounced visits, inspections were carried out once every three months at the initiative of public prosecutors or the Inspector-General of Prisons and reports were submitted to the Ministry of Justice. Furthermore, accredited civil society organizations were authorized to carry out prison inspections.

22. In accordance with the Code of Criminal Procedure, police custody registers or prison registers were kept in all places of detention. Since the 2008 budget year, 10 million CFA francs had been allocated to the prison service for the purchase of record-keeping materials for prisons (e.g. release registers, indexed data sheets, release files).

23. Pretrial detention was regulated by the Code of Criminal Procedure (arts. 218 to 221). The period of detention began following the issue of a detention order and ended when a judge ordered release. The duration of pretrial detention was fixed by the judge in the order and could not exceed six months. However, it could be extended by means of a reasoned order for a maximum period of 12 months in the case of serious offences and 6 months in the case of ordinary offences. There were provisions for judicial appeal against such decisions. However, in flagrante delicto cases in which the order was issued by the State Prosecutor, the duration of detention was fixed not by the Code but by a judge, and could be challenged by the detainee before the judge.

24. In December 2009, the prison population had stood at 23,196, a large number of whom were being held in pretrial detention. The prison population was growing owing to a combination of factors, such as the general population explosion, growth in urban crime, and inadequate material and human resources.

25. The use of chains in prisons was a disciplinary measure and was not intended as an affront to human dignity. Given the lack of high-security facilities, dangerous prisoners were generally held along with other prisoners and it was for that reason that chains were used as a way of isolating them. As part of prison reform, new high-security facilities would be built to accommodate such prisoners.

26. The Code of Criminal Procedure affirmed the exceptional nature of detention. That principle was further strengthened in the case of the detention of minors, which was governed by both the Criminal Code and the Code of Criminal Procedure. Legislation provided for minors to be held in special centres or, failing that, separate from adult prisoners. The small number of minors being held in detention, the physical layout of some prisons and inadequate human resources meant that it was not always possible to comply fully with all legal requirements concerning detainees in general and minors in particular. However, that situation was exceptional and there were only two prisons in which minors were not separated from adult prisoners. The Government was working to rectify the situation. With the support of the European Union, separate quarters for minors had been built in Douala and Bafoussam prisons, and Youandé prison had been renovated. In both living quarters for minors in prisons and rehabilitation centres, health care, education, food and leisure activities were provided. Specialist staff of the Ministry of Social Affairs worked with detainees to facilitate their social integration following release.

27. Conditions in the 74 prisons now in operation had been steadily improving since 2007, thanks to the budget appropriations made for the purpose and to the Programme for the Improvement of Conditions of Detention and Respect for Human Rights, now in its second phase. An infirmary had been built in Yaoundé central prison, and nine other prisons would also be provided with one. Daily food rations per person were now budgeted at 215 CFA francs, and it was planned to increase that amount to 500 CFA francs. Six new prisons were under construction. Further improvements in prison conditions would be financed through the Multilateral Debt Relief Initiative. The computerization of data on prisons, funded by the Commonwealth, would make it possible to fill information gaps in the prison system, notably as regards overcrowding. The Government was also in the process of reforming prison administration to render it more humane and protective of human dignity, while enabling prisoners to exercise their rights. Special attention was to be given to women prisoners, and prison staff would be trained to provide for their needs. The number of deaths in custody had fallen since 2008. Most of the deaths were due to sickness, but enquiries were always made if natural causes could not be established.

28. One solution to the problem of overcrowding was to transfer prisoners from one facility to another, but the disadvantage of so doing was that a transferred prisoner would be deprived of the support of his relatives. Preference was therefore given to the construction of new prisons and the refurbishment of existing ones.

29. A question had been asked about special penal provision for traditional chiefs. There were no private prisons in Cameroon, and illegal arrests would be subject to prosecution. The only traditional practices which were tolerated were those that took place within the law. Another question related to a supposed “shoot to kill” policy at New Bell prison. Two mass escapes had been attempted by prisoners at Yoko and New Bell, in June 2007 and June 2008 respectively. Firearms had been used to quell the attempts, but only in self-defence and without the intention of killing anyone. No injuries had resulted.

30. Concerning the right of detainees to be informed of their right of access to a lawyer and doctor and to have contact with their families, he said that the Code of Criminal Procedure required the judicial police to give that information from the outset of the pretrial investigation of an offence.

31. Criminal sanctions, imposed by independent judges, were applicable to police officers who practised torture or caused bodily harm. The Garoua military court was investigating the death of Mr. Oumarou following the intervention of the Rapid Response Battalion in Salack. As to the deaths of the “Bepanda 9” youths, the gendarmerie officers involved had denied inflicting on them any form of torture or inhuman or degrading treatment. No charges of murder had been laid against them because the youths’ bodies had not been found, and the charges upheld were for dereliction of duty.

32. Although there was no specific offence of cruel, inhuman or degrading treatment, criminal acts of that nature were prosecuted. It had been asked how an order from a superior officer to commit acts of torture could be challenged. The mandate of the so-called “*Police des polices*”, the special police oversight division, extended to administrative and judicial inquiries of any kind, including those relating to torture and ill-treatment, and therefore provided a means of challenging such an order.

33. Several questions had been asked about the country’s institutions. The length of the terms of office of members of the Constitutional Council and whether they could be renewed were questions under consideration by the Government. As to the independence of the “*Police des polices*”, although a part of the Department of National Security, it was in fact independent of the Department in exercising its powers of inspection. Complaints of abuse of authority were dealt with by the administrative tribunals. The Minister of Justice could, however, order a stay of proceedings if law and order were threatened.

34. Immediate release from detention and habeas corpus were one and the same, and could be ordered by a court or a judge if the arrest had been unlawful or if the prescribed procedures had not been followed. The Code of Criminal Procedure provided for compensation in such cases. Military court judges were independent in spite of being appointed by the Minister of Defence.

35. Since they had yet to be computerized, statistics were not available for persons held in police custody. It was correct that police officers suspended from duty for an offence could resume contact with detainees, since it was assumed that the suspension would have had a deterrent effect.

36. **Ms. Banaken** (Cameroon), answering the questions put by the Committee concerning refugees, asylum, extradition and non-refoulement, said that refoulement of individuals deemed by a State to be undesirable was a sovereign act of the State. It was not done arbitrarily or in disregard of human rights.

37. **Mr. Banda** (Cameroon), Chairman of the National Commission on Human Rights and Freedoms, replied to the questions about the implementation of the Istanbul Protocol and the training of medical personnel. Medical and paramedical staff, and prison officers, were trained to detect the physiological and psychological signs of torture, and received additional training in foreign universities. A person who claimed he had been tortured could

ask for an independent expert opinion from a doctor of his or her choice. The Istanbul Protocol was available for consultation. In addition, the Government was intending to strengthen medical capacity in that area and was seeking international cooperation for the purpose.

38. **Mr. Nkou** (Cameroon), commenting on allegations of harassment of journalists, said that his country had around 600 newspapers and magazines, 100 radio stations and over 500 television retransmission companies, as well as digital media, private publishing houses and press associations. The Government subsidized private radio and television broadcasting companies and had abolished censorship as an administrative measure. However, press offences were punishable under the law, the aim being to promote responsible conduct by journalists and to protect law and order and the rights of other citizens. A number of journalists had been imprisoned for offences such as blackmail, fraud, extortion and the publication of falsehoods. Many journalists lacked professional training, and the Government was seeking international assistance in providing an appropriate form of training for them.

39. The Government was prepared to pay compensation to Mr. Philip Afuson Njaru, following the decision in his favour by the Human Rights Committee, but was unable to make contact with him at present because he had apparently gone abroad and applied for asylum in his country of destination.

40. As to Mr. Ngota Ngota, former editor of the *Cameroon Express*, who had been placed in pretrial detention in Kondengui prison in Yaoundé in March 2010 following his arrest on a number of charges, he and his two accomplices had had a medical examination on arrival at the prison. The examination of Mr. Ngota had confirmed his own statement that he suffered from hypertension and a lingual hernia. He had also tested positive for HIV/AIDS. He had received treatment for his existing conditions and had subsequently been admitted to the prison infirmary suffering from a high fever and a skin rash. His condition had deteriorated further in spite of receiving appropriate medical care and, according to the prison doctor, his death on the night of 21–22 April had been due to an opportunistic infection linked to his state of severe immunodeficiency. An inquiry had nevertheless been ordered by the President, and his family and journalist colleagues had been invited to attend. The findings of the inquiry would be made public.

41. Concerning the events of February 2008 and the questions asked about them, the official report on the investigation did not mention any instance of torture. The deaths and injuries that had occurred had resulted from clashes between the demonstrators and police officers acting in self-defence. The demonstrations had been organized because of the general increase in the cost of living, and price increases for food and petrol in particular. Proceedings were still pending in two cases arising from the incidents, and those charged remained in detention while the investigation was being carried out. It would not be appropriate to establish a truth and reconciliation commission to look into the events since they had lasted only three days.

42. With regard to the protection of children, the annual children's parliament provided a forum in which children's concerns could be expressed and listened to by the Government. But it was not expected to solve all their problems.

43. The Government normally contributed to the United Nations Voluntary Fund for Victims of Torture and would resume doing so once the budgetary situation had improved. Concerning amounts of compensation paid to torture victims in Cameroon, Mr. Ayissi Messi had obtained a court order against the Department of National Security for the payment of 2,425,000 CFA francs, and Mr. Albert Mukong had been awarded 100 million CFA francs on the basis of the conclusions of the Human Rights Committee.

44. **Ms. Banaken** (Cameroon), answering the question about marriages between women rape victims and their attackers, said no figures were available; although the law permitted such marriages, intending spouses were not required to state their reasons for marrying.
45. **Mr. Nkou** (Cameroon) emphasized the concern of his Government to protect human rights and to combat impunity. In that light, he would be glad to receive further specific information from the Committee about the cases of disappearance mentioned, such as that of Mr. Jacques Tiwa.
46. **The Chairperson** observed that the delegation's comprehensive responses had certainly helped the Committee to better understand the situation with regard to the implementation of the Convention in Cameroon. He invited the members of the Committee, particularly the rapporteurs, to seek further clarifications as needed.
47. **Ms. Sveaass**, First Country Rapporteur, said that the Committee had been impressed with the delegation's willingness to give responses to all the questions asked, as well as its readiness to seek advice.
48. Turning to the issue of rape and marriage, she thought that a truly important step in combating traditional ways of keeping women subordinate would be to eliminate impunity for rape. Consequently, there should not be any provision whereby marriage to the victim enabled the rapist to escape punishment for his crime.
49. It was regrettable that the State party did not have any specific measures to combat female genital mutilation. She hoped that the various legal measures in place to combat violence against women and children could be expanded to incorporate a prohibition against female genital mutilation.
50. She stressed the importance of access to justice for women, which was a key indicator of a State's commitment to human rights.
51. While acknowledging the State party's difficulty in obtaining statistics, she wished to know how many complaints of ill-treatment had been received and how much paid in compensation, particularly in cases of violation of the principle of habeas corpus, which the delegation had described as a fundamental right in Cameroon.
52. If there were allegations of impunity, the best way of dealing with them was to have good independent investigations in order to be able to demonstrate that the allegations were unfounded or, if they were not, that the offenders were being punished and the victims compensated.
53. The Committee was particularly concerned about the imprisoned journalists, given the allegations from Reporters Without Borders. The Committee had been informed that some journalists had been detained not for ordinary offences, but because they had published allegations that were difficult for the State party to respond to. Full investigations and follow-up would make such allegations redundant. She wondered if the National Commission on Human Rights and Freedoms had taken any steps to ensure open and transparent investigations into the fate of the journalists.
54. In that context, all medical and forensic information was important. Even if an HIV-positive person had committed a crime, he still had the right to be protected and to receive medical care.
55. She referred to three reported cases of police brutality and assault, which seemed to be serious but had attracted only a penalty of a suspension from duty for three months. She sought further clarification.

56. Turning to the situation of human rights defenders, she suggested that the claims of harassment against them could advantageously be investigated by inviting the Special Rapporteur on human rights defenders to visit the country.

57. **Mr. Gaye**, Second Country Rapporteur, said that he agreed with Ms. Sveaass' positive assessment of the report and written replies. Indeed, most of his concerns had been allayed, at least tentatively, although clearly there was still follow-up work to be done. Meanwhile, he wished to refer to a few specific points.

58. He had understood that the law on the state of emergency had been repealed, but had now learned that it was still in force. He had raised the issue earlier because it was provided in that law that a person could be ordered by the administrative authority — not the judicial authority — to be held in custody for a period of two months, which was renewable. That seemed long as a period for custody, and he was concerned that it could be an opportunity for law enforcement officials to torture detainees. It might be advisable to state explicitly the guarantees established by the law for such people.

59. With regard to the police commander who had been sentenced to 15 years in prison for the extrajudicial execution of seven people, the point of his question had been to know what were the normal penalties for murders such as those executions, so that the Committee could compare them with the sentence actually received.

60. The power of the Minister of Justice to suspend judicial procedures if continuing them represented a risk of public disorder was a phenomenon with which he was familiar from other countries. But he felt that that power should not be solely at the discretion of the Minister: it should be under some form of control or oversight.

61. With reference to the privileges of traditional chiefs, he noted the assurances given as to the equality of all citizens before the law, and the applicability of the criminal law to the chiefs also, but the Committee had received so much information suggesting that that was not the case that he suggested that there was a need for follow-up and to ascertain whether in reality those chiefs were subject to the law.

62. Recalling his earlier questions, he said that he had been astonished to read, in the written replies to the list of issues, under the reference to article 137 of the Code of Criminal Procedure, that in the course of monitoring prisons the public prosecutor had ordered the release of detainees in possession of a writ of habeas corpus. If a detainee had a writ of habeas corpus, the authorities in charge of the place of detention were obliged to release him or her immediately; he did not understand why the public prosecutor had had to order their release.

63. **Mr. Bruni**, referring to the description of the five provincial committees in paragraph 114 (g) of the report, pointed out that if their function was "to help communities with torture victims", then their role was not strictly one of "torture prevention", as the paragraph said, but of assisting with the consequences of torture after it had taken place. As that paragraph thereby indicated that there were members of the population who were victims of torture, he asked who they were.

64. Paragraph 91 of the report said that the order of a superior officer or a public authority could not be invoked as a justification of torture. That was a good principle, but he wished to know in practical terms what mechanism was available to allow a refusal to carry out, and possibly also report, an order to engage in conduct tantamount to torture.

65. He noted the reference in the report to a programme to improve detention conditions, drawn up with the European Development Fund and due to be completed by the end of 2010. As the State party had said that there was a budgetary shortfall, he wished to know how far the project had actually progressed and what had been the obstacles

impeding implementation of the plan, which was now approaching its scheduled date of completion.

66. **Ms. Belmir** said she was concerned about the chaining of prisoners. The State party had said that the practice was not an affront to human dignity, but she disagreed. She urged the State party to find an alternative to chaining, which should be reserved for animals.

67. An investigation into the events of 2008 had found that law enforcement officials had not committed offences. That was all well and good, but she did not agree that there was no need for a truth and reconciliation commission, which the delegation had said was utilized in other countries only for longer-lasting events. However, there had been several examples of troubles lasting only two or three days, after which a truth and reconciliation commission had indeed been set up. An administrative inquiry into the events, resulting in closure, would not be sufficient.

68. She noted that juveniles were sometimes held in the same place of detention as adults owing to lack of space. That was a matter of concern, and she hoped that efforts would in future be made to separate them.

69. **Mr. Mariño Menéndez** sought more information about a development plan for the Pygmy people, to which reference had been made. The Pygmy people could be considered the country's indigenous population, in the sense of having been on the territory before the present population arrived. He suggested that ILO Convention No. 169 could create a useful framework for their protection.

70. Drawing a parallel with the situation referred to by Mr. Bruni, where the Minister of Justice was empowered to suspend legal proceedings, he said that evidently a similar possibility existed under military law, as the delegation had described, whereby the government commissioner could halt military legal proceedings on instructions from the minister responsible for military justice. He found that an extraordinary invasion of the executive into the realm of authority of the judiciary, one which seemed to call into question some of the fundamental issues of the rule of law. He asked for more information on that question, in particular whether there was any oversight of the minister's decision, so as to avoid giving an impression of arbitrariness.

71. He also asked to what extent Cameroon participated in the African system for the protection of human rights, and if the African Commission on Human and People's Rights had had occasion to act on cases involving Cameroon.

72. **The Chairperson** invited the delegation to respond to the questions asked or to do so in writing by the beginning of the following week.

73. **Mr. Nkou** (Cameroon) said that most of the information would be sent in writing, but answers to some particularly pressing questions could be given straight away.

74. Rape was an extremely sensitive issue. As the victims were usually unwilling to admit that they had been raped, it was difficult to institute criminal proceedings, although rapists were liable to severe penalties under Cameroonian law.

75. Female genital mutilation was a very rare phenomenon in Cameroon and measures had been taken to prevent it. It was found mostly among the displaced or refugee population.

76. Women's access to justice was being enhanced through their access to education. More and more girls were attending primary and secondary school and university, and they were determined to defend their rights.

77. Events similar to those that had occurred in Cameroon in 2008 had also occurred elsewhere on account of the economic crisis, which had led to higher prices for basic

necessities. The acts of violence in Cameroon had been fomented by politicized NGOs which had been unable to achieve their aims through the ballot box. As a result of the damage they had inflicted, many people had lost their livelihoods and property. The army's response had been an act of self-defence.

78. The most recent report of the NGO Reporters Without Borders had not mentioned the situation in Cameroon. The authorities did not harass journalists. Politicized NGOs had attempted to tarnish the country's image.

79. On arriving in Geneva as Ambassador in 2009, he had met with the Special Rapporteur of the Human Rights Council on the promotion and protection of the right to freedom of opinion and expression, who had stated that he wished to visit Cameroon. Although he had made the necessary arrangements, the Special Rapporteur had never visited the country. His successor as Special Rapporteur had also been invited but had not taken any action to date. The Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation had failed to turn up for an appointment at the Palais des Nations. He urged the Committee to publicize his complaint about the conduct of the officials concerned.

80. **Mr. Mayang** (Cameroon) said that the public prosecutor was not empowered to take a decision on a writ of habeas corpus. All such decisions were taken by the courts. Once the court ordered a person's release, the public prosecutor simply transmitted its decision after checking that the person was not being detained on any other ground.

81. With regard to the penalties applicable to torture, the three-month suspension was an interim measure that could be ordered pending the imposition of disciplinary and judicial sanctions.

82. **Ms. Nama** (Cameroon) said that her country cooperated closely with the African Commission on Human and Peoples' Rights. It would be submitting a report to the Commission at its forty-seventh ordinary session in Banjul (Gambia) on 12 May 2010. A rapporteur from the Commission had visited seven Cameroonian prisons.

83. **Mr. Nkou** (Cameroon) assured the Committee that the Cameroonian authorities would carefully study its concluding observations and would do their utmost to eliminate torture.

84. **The Chairperson** said that he had no doubt about the State party's commitment to implement the Convention. He also understood the difficulties faced by a developing country with some 240 ethnic groups.

The public part of the meeting rose at 12.20 p.m.