



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

Distr.: General
5 August 2009
English
Original: French

Committee against Torture

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

Fourth periodic report of States parties due in 2000

Cameroon* **

[27 November 2008]

* For the third periodic report, see CAT/C/34/Add.17; for its consideration by the Committee on 18, 19 and 20 November 2003, see CAT/C/SR.585, 588 and 590.

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

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List of acronyms and abbreviations

ACAT/LT:	Action des Chrétiens pour l'Abolition de la Torture-Antenne du Littoral (Christian Action for the Abolition of Torture – Coastal Branch)
CA:	Cour d'Appel (Court of Appeal)
CEEAC:	Communauté économique des États de l'Afrique centrale (Economic Community of Central African States)
CEMAC:	Communauté économique et monétaire de l'Afrique centrale (Central African Economic and Monetary Community)
CICR:	Comité international de la Croix-Rouge (International Committee of the Red Cross, ICRC)
CNDHL:	Commission Nationale des Droits de l'Homme et des Libertés (National Commission on Human Rights and Freedoms)
CP:	Code pénal (Criminal Code)
CPP:	Code de procédure pénale (Code of Criminal Procedure)
CS:	Cour suprême (Supreme Court)
DGSN:	Délégation générale à la sûreté nationale (Department for National Security)
ENAP:	École nationale de l'administration pénitentiaire (National Prison Administration College)
ESIR:	Equipes Spéciales d'Intervention Rapide (Special Rapid Intervention Teams)
GPX:	Gardien de la Paix (Police Constable)
CFA FRANCS:	Franc de la Communauté Financière Africaine (African Financial Community franc, CFA franc)
IADM:	Initiative d'Allègement de la Dette Multilatérale (Multilateral Debt Relief Initiative, MDRI)
IFCD:	Institut de Formation et de Coopération pour le Développement (Institute of Training and Cooperation for Development)
MINATD:	Ministère de l'Administration territoriale et de la Décentralisation (Ministry of Territorial Administration and Decentralization)
MINJUSTICE:	Ministère de la Justice (Ministry of Justice)
MP:	Ministère Public (State Prosecutor's Office)
ONG:	Organisation non gouvernementale (Non-governmental Organization, NGO)
PACDET:	Programme d'Amélioration des Conditions de Détention et Respects des Droits de l'Homme (Programme to Improve Detention Conditions and Respect of Human Rights)
TGI:	Tribunal de grande instance (Regional Court)
TM:	Tribunal militaire (Military Court)
TPI:	Tribunal de première instance (Court of First Instance)

Introduction

1. The concluding observations adopted by the Committee against Torture after consideration of the third periodic report of Cameroon on 18, 19 and 20 November 2003 were published under the symbol (CAT/C/CR/31/6).
2. In response to the various concerns and recommendations expressed by the Committee, the State of Cameroon would like to report on the set of measures taken to give effect to its commitment under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”). After briefing the Committee on progress achieved in the legal sphere on the implementation of the Convention (**I**), the State of Cameroon will respond to each of the Committee’s recommendations (**II**) and then systematically analyse each article of the Convention in order to show action taken by the national authorities to promote incorporation of the Convention into domestic law (**III**). It should be noted that, in the interests of providing up-to-date information, this report contains data relating to beyond the period under review.

I. New information on the general framework for implementation of the Convention in domestic law

3. The new measures taken by the State of Cameroon to ensure the effective implementation of the Convention are both normative (**A**) and institutional (**B**).

A. Normative measures

4. Since submitting its last periodic report, Cameroon has signed and ratified international conventions and adopted laws that contribute to strengthening the implementation of the Convention.
5. Hence, at the international level, Cameroon has ratified:
 - (a) The United Nations Convention against Transnational Organized Crime, which was the subject of Enabling Act No. 2004/011 of 21 April 2004 and of Ratification Decree No. 2004/125 of 18 May 2004, and two of its three additional protocols, namely
 - (b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which was the subject of Enabling Act No. 2004/011 of 21 April 2004 and of Ratification Decree No. 2004/125 of 18 May 2004; and
 - (c) The Protocol against the Smuggling of Migrants by Land, Sea and Air, which was the subject of Enabling Act No. 2004/011 of 21 April 2004 and of Ratification Decree No. 2004/125 of 18 May 2004.
6. At the regional level, Cameroon is a party to:
 - (a) An extradition agreement between the member States of the Central African Economic and Monetary Community, adopted in Brazzaville on 28 January 2004, which was the subject of Enabling Act No. 2005/009 of 29 December 2005 and of Ratification Decree No. 2006/048 of 25 December 2005;
 - (b) A legal cooperation agreement between the member States of the Central African Economic and Monetary Community, adopted in Brazzaville on 28 January 2004, which was the subject of Enabling Act No. 2005/009 of 29 December 2005 and of Ratification Decree No. 2006/050 of 25 December 2005.

7. In the area of cooperation, Cameroon is also a party to the African Convention on Mutual Legal Assistance between the member States of the Economic Community of Central African States adopted on 18 March 2006 in Brazzaville, which was the subject of Act No. 2007/008 of 26 December 2007 authorizing its ratification by the President of the Republic.

8. At the domestic level, significant legislation has been enacted, including:

(a) Act No. 2004/004 of 21 April 2004 concerning the organization and functioning of the Constitutional Council;

(b) Act No. 2004/005 of 21 April 2004 establishing the status of members of the Constitutional Council;

(c) Act No. 2004/016 of 22 July 2004 on the establishment, organization and functioning of the National Commission on Human Rights and Freedoms and its Implementing Decree No. 2005/254 of 7 July 2005;¹

(d) Act No. 2005/006 of 27 July 2005 concerning the status of refugees;²

(e) Act No. 2005/007 of 27 July 2005 on the Code of Criminal Procedure;³

(f) Act No. 2005/015 of 29 December 2005 on combating smuggling and trafficking in children.⁴

9. In addition to new developments in the protection of human rights brought by the Code of Criminal Procedure, which will be explained in greater detail in the section analysing each article of the Convention (paras. 148 to 213 below), it should be noted that detention conditions have improved substantially, including:

(a) Formal introduction of action on habeas corpus or immediate release (arts. 584 to 588);

(b) Restrictions on the number of cases of persons held in police custody (arts. 86 (1), 92 (4), 118 to 126, 196, 236 (1) and (2), 237) and in pretrial detention (arts. 218 to 221, 223 (2) and (3), 236 (1) and (2), 237);

(c) Strengthening the rights of a suspect to have access to a lawyer and to be examined by a doctor at the outset of a judicial inquiry (arts. 122 (3), 123);

(d) Prohibition of subjecting suspects to torture and the obligation to treat them humanely (art. 121 (2) of the Code of Criminal Procedure);

(e) The right of a suspect to remain silent (art. 116 (3));

(f) The judge's requirement to specify the duration of pretrial detention on the remand warrant (art. 221);

(g) The right of a victim of improper detention in police custody or pretrial detention to claim compensation (art. 236);

(h) Compulsory provision of legal aid for a child by a lawyer or any other person qualified to protect children's rights (art. 719 (2));

¹ Act annexed hereto.

² Act annexed hereto.

³ This code entered into force on 1 January 2007, pursuant to Act No. 2006/008 of 14 July 2006 amending and supplementing the provisions of article 747 of Act No. 2005/007 of 27 July 2005 on the Code of Criminal Procedure.

⁴ Act annexed hereto.

- (i) Possibility of release on bail at any stage in proceedings (arts. 224 to 235).

B. Institutional measures

10. New measures to enhance implementation of the Convention against Torture include the establishment of the Constitutional Council; the transformation of the National Committee on Human Rights and Freedoms into the National Commission on Human Rights and Freedoms; the transfer of prison administration to the Ministry of Justice; the creation of a Directorate for Human Rights and International Cooperation in the Ministry of Justice; and the establishment of a Special Police Oversight Division, the so-called “*Police des Polices*” (“Police Police”) within the Department of National Security.

1. Establishment of the Constitutional Council

11. The remit of the Constitutional Council is set out in articles 46 and 47 (1) of the Constitution of Cameroon, which provide that:

(a) “The Constitutional Council is the competent authority in constitutional matters. It delivers final rulings on the constitutionality of laws. It is the regulatory body responsible for oversight of the functioning of institutions.

(b) The Constitutional Council delivers final rulings on:

(i) The constitutionality of international laws, treaties and agreements;

(ii) The rules of procedure of the National Assembly and the Senate, prior to their implementation, in conformity with the Constitution;

(iii) Conflicts of authority between State institutions, the State and the regions, and between the regions themselves.”

12. This body was established in stages with the promulgation of Act No. 2004/004 and Act No. 2004/005 of 21 April 2004, cited in paragraph 8 above, and by Decree No. 2005/253 of 30 June 2005 concerning the organization of its secretariat. The pending appointment of Council members is the final stage in its effective establishment.

13. However, in accordance with the transitional provisions of the Constitution, until the Constitutional Council is fully established, the Supreme Court will discharge its functions. In this connection, the Supreme Court has delivered final rulings on several election disputes, the most notable example of which is Decision No. 81/CE/96-97 of 30 June 1997 rendering the election in one constituency null and void following the 17 May 1997 legislative elections. This decision states that “These acts (acts of violence against opposition party officials) are an unjustified and discriminatory violation of the principle of equality of opportunity for candidates and of the right to form political parties under electoral law and of citizens to choose their representatives freely, as they constitute a clear and deliberate infringement of the aforementioned legislation and of article 21 of the Universal Declaration of Human Rights.”

14. The Supreme Court also delivered rulings on a number of election disputes⁵ in the

⁵ Decision No. 118/CEL/2007 of 7 August 2007, in the case of *Basile Yagai (UNDP) v. the State of Cameroon*; Decision No. 119/CEL of 7 August 2007, in the case of *Pierre Kwemo v. the State of Cameroon (MINATD)*; Decision No. 117/CEL of 7 August 2007, in the case of *Augustin Frédéric Kodock (UPC) v. the State of Cameroon (MINATD)*; Decision No. 116/CEL of 7 August 2007, in the case of *Marie Joseph Njana (MDP) v. the State of Cameroon (MINATD)*, Decision No. 30/CEL of 7 August 2007, in the case of *Jean Michel Nintcheu (SDF) v. the State of Cameroon (MINATD)*.

joint legislative and municipal elections of 22 July 2007.

2. Strengthening the powers of the National Commission on Human Rights and Freedoms

15. The Paris Principles emphasize the need for human rights institutions to investigate complaints of alleged human rights violations as well as advising the Government on human rights activities. That was why it was deemed appropriate to transform the National Committee on Human Rights and Freedoms into the National Commission on Human Rights and Freedoms, which was established through Act No. 2004/016 of 22 July 2004 on the creation, organization and functioning of the National Commission on Human Rights and Freedoms.

3. Transfer of prison administration to the Ministry of Justice

16. Prison administration, which formerly came under the auspices of the Ministry of Territorial Administration, has been transferred back to the Ministry of Justice through Decree No. 2004/320 of 8 December 2004 on organization of the Government. This amendment, which was recommended by the Committee (CAT/C/CR/31/6, para. 9) and requested by the Head of State, should ensure that there is a coherent follow-up structure in the criminal justice chain.

4. Creation of a Directorate for Human Rights and International Cooperation

17. A Directorate for Human Rights and International Cooperation was established by Decree No. 2005/122 of 15 April 2005 on organization of the Ministry of Justice. It is responsible for:

- (a) Follow-up of human rights issues in general;
- (b) Follow-up of the implementation of international conventions relating to human rights;
- (c) Informing and raising awareness among personnel in the judiciary and prison administration on human rights protection standards.

18. Since its creation, in addition to other activities it has prepared three reports on the status of human rights in Cameroon in 2005, 2006 and 2007.

5. Establishment of a Special Police Oversight Division

19. A Special Police Oversight Division was established by Decree No. 2005/065 on 23 February 2005. "It ensures the police are policed" (article 1, paragraph 2 of the Decree). It is responsible for:

- (a) "Carrying out civil or administrative investigations and conducting character checks;
- (b) Ensuring the protection of the secrecy, state of mind, character and loyalty of national security personnel, public officials and civil servants of the State or State bodies;
- (c) Participating actively in the fight against corruption;
- (d) Contributing to the strengthening of discipline and respect for professional ethics in national security;
- (e) Instituting administrative and judicial investigations against national security personnel.

Without prejudice to the disciplinary powers of departmental heads, it is responsible for preventing any abuses, misconduct and acts in breach of the law, professional conduct, duty, honour and probity, committed in the line of duty whilst on or off duty.” (art. 2)

20. Since its establishment, this division has carried out a number of investigations, which have led to several administrative and/or criminal sanctions being levied against police officials.⁶

II. Responses to the Committee’s recommendations

A. Response of the State of Cameroon to the recommendations in paragraph 8 of the Committee’s concluding observations

1. Response to the recommendation in paragraph 8 (a)

Prohibition of torture in police and gendarmerie stations and prisons

21. It is worth noting that, in addition to criminalizing torture, Cameroon has implemented a set of measures to end acts of torture and other forms of violence. Political will is evident primarily in official speeches on the issue.

22. As well as criminalizing torture, the Code of Criminal Procedure provides for preventive measures (see paragraph 9 above).

23. Prosecutions resulting convictions have been brought against police, gendarmerie and prison administration officials found guilty of acts of torture, without prejudicing disciplinary action. Furthermore, some of these prosecutions do not match the definition of torture in the Convention, which is also evidence of a decrease in the number of cases of impunity.

24. With respect to the police, legal action has been taken and sanctions levied against the following police officials:

- Police Constables John Brice Kam, Louis Legrand Bimoga and Michel Greboudai and Police Officer Marc Etoundi were prosecuted for torture and murder. At the end of proceedings, Police Constables John Brice Kam, Louis Legrand Bimoga and Michel Greboudai were found guilty of torture and murder of a person in custody and were each sentenced by Mfoundi regional court to five years’ imprisonment in its Judgement No. 318/CRIM of 26 August 2003. Police Officer Marc Etoundi was found guilty of failure to render assistance and sentenced to three months’ imprisonment.
- Police Constable Geoffrey Effa Ngono Akame was sentenced by Yaoundé military court to two years’ imprisonment, suspended for three years, for manslaughter and ordered to pay CFA francs 3 million in damages.
- Senior Police Constable Kedio Ntchingue and Constable Jean-Marie Enyegue were brought before Yaoundé-Centre court of first instance for common assault.
- Police Inspector Stephen Ngu was sentenced by Mémé regional court on 24 October 2005 to five and three years’ imprisonment respectively for torture and serious

⁶ See paragraphs 24 to 33 below for details of disciplinary sanctions and judicial proceedings against police officials.

assault. In Ikiliwindi on 12 May 2004, the accused burned Bernard Afuh Weriwo, the alleged perpetrator of a bicycle theft, who later died as a result of his burns.

- Police Superintendent Japhet Miagougoudom Bello, First Deputy to the Commissioner for Public Security of the town of Kribi, was found guilty of abuse of authority and complicity in murder through Judgement No. 01/CRIM of 27 October 2006, and then sentenced to 10 years' imprisonment. The accused led an operation ending in the death of a person by gun shot in January 2005. In the same judgement, Boubakari Modibo was found guilty of murder and sentenced to 15 years' imprisonment. The accused were ordered to pay a total of CFA francs 20 million in damages to the complainant. Seven other accused were acquitted in this case.

25. Following an appeal by the accused, Sud court of appeal, through Decision No. 23/CRIM of 8 March 2007, partially reversed the judgement, reducing the charge initially classified as murder to manslaughter, and found the accused Boubakari Modibo guilty of the reduced charge and sentenced him to two years' imprisonment, suspended for five years. Japhet Miagougoudom Bello was found not guilty of complicity in the charge brought against Boubakari Modibo. In a civil suit, the accused was ordered to pay a total of CFA francs 10.5 million in damages to the complainant. The Department for National Security was declared liable under civil law.⁷

26. A number of other cases deserve a mention:

(a) *The People v. Police Constable Mpacko Dikoume*. In its judgement on 12 December 2006, Wouri regional court found the accused guilty of the charge of manslaughter and sentenced him to three years' imprisonment, suspended for three years, and ordered him to pay a total of CFA francs 12 million in damages to the complainant;

(b) *The People v. Police Constable Joseph Ndiwa*. In its judgement of 12 December 2006, Wouri regional court found the aforementioned guilty of manslaughter and sentenced him to three years' imprisonment, suspended for three years, a fine of CFA francs 400,000 and ordered him to pay a total of CFA francs 8 million (approximately €12,308) in damages to the complainant;⁸

(c) *The People v. Police Constable Mandjek*, prosecuted for torture, abuse of trust, serious and common assault. In its judgement of 30 November 2005, Mbanga court of first instance declared the case closed due to the death of the aforementioned;

(d) *The People v. Police Inspector Gabriel Ava*, tried for torture. At the hearing on 18 April 2006, the accused was found guilty of torture and sentenced by Garoua court of first instance to six months' imprisonment, suspended for three years, and ordered to pay CFA francs 150,000 (€231) in damages to the complainant. This decision is final;

(e) *The People v. Magloire Enguene*, Police Superintendent at the Garoua Emigration-Immigration office, charged with minor assault and arbitrary arrest and detention. A judicial inquiry is pending and the case is being handled by the investigating judge of Garoua court of first instance;

(f) *The People v. Markus Memena Goua*, Police Constable in GMI No. 4, prosecuted for abuse of authority. The case is pending before Garoua court of first instance;

(g) *The People v. Chief Police Superintendent Seke Colomban*, charged with abuse of authority, arbitrary arrest and detention, minor assault and torture. The case is

⁷ The decision is final.

⁸ These two decisions are final.

under preliminary judicial investigation before the investigating judge of Guider court of first instance;

(h) *The People v. Police Constable Joseph Belomo*, tried for common assault by Bamenda court of first instance, which handed down a judgement of acquittal on 19 October 2007;

(i) *The People v. Police Constable Minkoulou Essomba*, prosecuted for minor assault by Bamenda court of first instance, which handed down a judgement of acquittal on 22 December 2006;

(j) *The People v. Police Officer Richard Epanda*, tried for minor assault by Bamenda court of first instance, which sentenced him to a fine of CFA francs 100,000 in its judgement of 9 February 2007 and ordered him to pay CFA francs 343,630 in damages;

(k) *The People v. Police Inspector Atep*, sentenced to a fine of CFA francs 10,000 for minor assault by Mokolo court of first instance in the 2004–2005 judicial year;

(l) *The People v. Police Inspector Meigari Beda*, sentenced to two years' imprisonment, suspended for three years, and a fine of CFA francs 99,000 by Adamaoua court of appeal on 27 January 2005 for torture, threats, blackmail, arbitrary arrest and detention;

(m) *The People v. Police Inspector Amadou Abba*, sentenced by Nord court of appeal through a decision on 4 February 2005 to six years' imprisonment for torture, suspended for three years, after reducing the charges to common assault.

27. Disciplinary sanctions levied against police officials are shown in tables 1, 2, 3 and 4 annexed to this report.

28. Turning to prison administration, the following legal actions and sanctions are worth highlighting:

(a) *The People v. Laurent Otabela Otabela, Prison Officer employed at Mbalmayo prison*, accused of murdering a prisoner. In its Judgement No. 63/CRIM of 2 July 2007, Nyong and So'o regional court reduced the charges to manslaughter and sentenced the accused, who was on remand, to three years' imprisonment and a fine of CFA francs 200,000;⁹

(b) *The People v. Mboke Nane, Governor of Kribi prison*, brought before Océan regional court for manslaughter, failure to render assistance and torture. He was found guilty of torturing a prisoner and sentenced to five years' imprisonment on 25 June 2004. Following appeals lodged by all parties, Sud court of appeal reduced Mr. Mboke Nane's sentence to two years' imprisonment on 12 May 2005.

(c) *The People v. Chief Prison Administrator, Aimé Parfait Bikoro, and Chief Prison Officers, Luc Awa, Mbazoua and Tsimi Biloa*. The first was sentenced to three years' imprisonment, suspended for four years, by Mvila regional court, which also sentenced Chief Prison Officers Luc Awa, Mbazoua and Tsimi Biloa to three years' imprisonment each, suspended for three years, for manslaughter of a prisoner at Ebolowa central prison.

(d) *The People v. Chief Prison Officer Bienvenu Joseph Mani Essama, Prison Officers Jules Hubert Kemnang Nana and Ibrahim Aoudou Kossingo*. The accused were placed under a detention order on 25 January 2006 and tried for torture and complicity in torture by Océan regional court. Following acts of violence carried out with the aid of a

⁹ Otabela lodged an appeal against the decision on 2 July 2007.

club on the prisoner Jean Bokally, who had been chained up by the aforementioned, the latter was taken to hospital where he succumbed to his injuries. Bienvenu Joseph Mani Essama was found guilty of torture and sentenced to 10 years' imprisonment through Judgement No. 28/CRIM of 28 September 2007, while the other two accused were found guilty of complicity in torture and each sentenced to five years' imprisonment.

29. With regard to disciplinary sanctions, as part of a State effort to combat impunity, lenient action is being taken against officials for acts that are unethical or in breach of current regulations, subject to legal proceedings being brought against them.

30. Further evidence of the fight against impunity can be seen in examples of sanctions levied against members of the gendarmerie and army contained in table No. 5 annexed hereto.

31. The following cases illustrate the kind of legal action being taken and sanctions levied:

(a) *The People v. Eric Mezedjo, Ngamessi, Tsapi, Emile Njoya Zene, Ndoumbe*, gendarmes employed in Squadron No. 30 of the Maroua gendarmerie headquarters, charged with arbitrary detention, theft, minor assault and failure to render assistance. The judicial inquiry is pending before Diamaré regional court's investigating judge;

(b) *The People v. Wakou Bassai*, Commander of Roua-Souleydé gendarmerie, prosecuted for abuse of authority, arbitrary arrest and detention, trespass on domestic premises and threats. In its Judgement No. 115/COR of 13 November 2006, Mokolo court of first instance found the accused guilty and sentenced him to 10 months' imprisonment and a fine of CFA francs 15,000 (approximately €23.07);

(c) *The People v. Téléphore Metomo Minfomo*, Commander of Bourha gendarmerie, Etienne Alwa, André Pakagne, deputies to the Commander of the gendarmerie in the aforementioned community, tried for abuse of authority and complicity. The case is currently pending before Mokolo court of first instance;

(d) *The People v. Sergeant Alain Fouda and Michel Ndjock*, prosecuted for torture and misuse of transport. In its Judgement No. 008/06 of 9 February 2006, Douala military court found the accused Alain Fouda guilty of torture and sentenced him to six months' imprisonment, suspended for three years, and a fine of CFA francs 50,000 (approximately €76.92), following his admission claiming mitigating circumstances;

(e) *The People v. Squadron Leader Anatole Banem et al.*, tried for torture, breach of military rules, allowing a person's individual rights to be violated, etc. In its Judgement No. 20/06 of 21 March 2006, Douala military court sentenced Squadron Leader Anatole Banem, Commander of the Douala territorial gendarmerie, to 6 months' imprisonment for violation of military rules, Warrant Officer 1st class Athanase Domo to 10 years' imprisonment for torture, Warrant Officer 1st class Léon Tchapi to 8 years' imprisonment for torture, Warrant Officer 2nd class Jean Mbiakop to 8 years' imprisonment for torture, Warrant Officer 1st class Jean-Claude Menanga Ahanda to 6 months' imprisonment for breach of military rules, Sergeant Major Barthélemy Minkeng Djemba to 9 years' imprisonment for torture;

(f) *The People v. Sergeant Major Nkama Onana*, prosecuted for abuse of authority and arbitrary detention. In its Judgement No. 23/06 of 22 March 2006, Douala military court found him guilty of the aforementioned charges, sentenced him to imprisonment and issued an arrest warrant against him at the hearing;

(g) *The People v. Private Richard Dikala*, tried for violence towards a superior. In its Judgement No. 21/06 of 7 March 2006, Buéa military court found him guilty of the

charges brought against him, sentenced him to a year's military detention and issued a detention order against him at the hearing;¹⁰

(h) *The People v. Sergeant Yaya*, prosecuted for violence towards a subordinate. In its Judgement No. 57/06 of 4 July 2006, Buéa military court found him guilty of the charges brought against him and sentenced him to two years' military detention and issued an arrest warrant against him at the hearing;

(i) *The People v. Maître Victor Wanamou*, tried for violence towards a subordinate and minor assault. In its Judgement No. 60/06 of 4 July 2006, Buéa military court found him guilty of the charges brought against him and sentenced him to pay a fine of CFA francs 100,000 (approximately €152,671);

(j) *The People v. Sergeant Jean Paul Mbeng*, prosecuted for violence and assault. In its Judgement No. 62/06 of 4 July 2006, Buéa military court found him guilty of the charges brought against him and sentenced him to a year's military detention, suspended for three years;

(k) *The People v. Ayissi Atangana (Sergeant Major)*, tried for arbitrary arrest and detention. In its Judgement No. 44/07 of 10 April 2007, the accused was found guilty and sentenced to 10 years' imprisonment and ordered to pay costs;

(l) *The People v. Jean Marc Matoumb and William Kouamou Seplong* (senior gendarmes), prosecuted for arbitrary arrest and detention. In its Judgement No. 045/07 of 10 April 2007, the former was sentenced to 10 years' imprisonment and ordered to pay a fine of CFA francs 200,000 plus costs and the latter was sentenced to six months' imprisonment and a fine of CFA francs 25,000 plus costs;

(m) *The People v. Octave Okombo and Vincent Eloundou (Sergeant Major)*, tried for abuse of authority and arbitrary arrest and detention. In its Judgement No. 105/07 of 27 June 2007, they were found guilty and each sentenced to a fine of CFA francs 75,000;

(n) *The People v. Ayissi Atangana (Sergeant Major) and Christine Ngo Kalga (civilian)*, prosecuted for fraud and complicity in arbitrary arrest and detention. In its Judgement No. 148/07 of 9 October 2007, they were found guilty and sentenced to 10 years' imprisonment and a fine of CFA francs 100,000 plus costs;

(o) *The People v. Joseph Magloire Ahanda (soldier)*, tried for attempted murder, common assault and torture, as per Investigating Order No. 204 of 8 April 2008.

32. Finally, the State of Cameroon, through the implementation of preventive and repressive measures, is resolutely committed to prohibiting acts of torture in places of detention and in pursuing the fight against impunity.

33. The National Commission on Human Rights and Freedoms, in its capacity as an independent administrative body and in conformity with the provisions of the aforementioned Act No. 2004/016 of 22 July 2004, has kept a record of cases of torture occurring in 2007–2008, as illustrated in table No. 6 annexed hereto.

Effective supervision in places of detention

34. The National Committee on Human Rights and Freedoms (and later the National Commission) has, from when its activities first began, carried out a number of visits to places of detention, either upon request or on its own initiative. The following prisons have been visited:

¹⁰ He has appealed against the decision.

- (a) April 1992, visit to Kondengui central prison in Yaoundé;
- (b) December 1992, visits to Batouri, Bertoua, Douala, Garoua, Maroua, Ngaoundéré and Tcholliré II prisons;
- (c) March 1993, visit to Bamenda prison;
- (d) July 2003, visit to Yaoundé central prison;
- (e) January 1994, follow-up visit to Douala central prison;
- (f) January 1996, follow-up visit to Bertoua prison;
- (g) March 1996, visit to Buéa prison;
- (h) November 2001, visit to Bafoussam, Bamenda, Douala and Yaoundé central prisons;
- (i) In 2003, the Chair of the National Committee on Human Rights and Freedoms carried out a round of visits to all of Cameroon's central prisons in order to make initial contact;
- (j) On 22 October 2007, the Head of the regional branch of the National Commission on Human Rights and Freedoms for Adamaoua visited places of detention in Tibati. The aim of this visit was to assess the general and specific detention conditions in this community;
- (k) From 1 to 3 December 2007, visit to Kousseri main prison by the Head of the regional branch of the National Commission on Human Rights and Freedoms for the far north region;
- (l) 11 January and 26 February 2008, visit to Yaoundé central prison by the Chair of the National Commission on Human Rights and Freedoms, accompanied by some of his aides;
- (m) March 2008, visit to the places of detention of the eastern province by the Head of the regional branch of the National Commission on Human Rights and Freedoms;
- (n) 28 August 2008, visit to the main prison of Bafia;
- (o) July 2008, visit to Ngaoundéré, Maroua and Garoua central prisons.

35. The National Commission on Human Rights and Freedoms also makes regular visits to cells in police and gendarmerie stations. The chief prosecutors of these units also make routine checks.

36. International bodies, such as the International Committee of the Red Cross (ICRC), make regular visits to prisons and places of detention. In fact, ICRC visited Yaoundé and Bamenda central prisons between 19 and 23 February 2007 after the President's office granted permission to visit.

37. In February 2008, Cameroon experienced riots that ended in the arrest and detention of a number of people. At the request of the Vice-Prime Minister and Minister of Justice, delegates from ICRC visited Yaoundé, Douala, Bafoussam and Buéa central prisons. Thanks to the positive cooperation of the prison authorities, the delegates were able to interview persons deprived of liberty, as per ICRC usual practice.

38. A number of non-governmental organizations and associations receive accreditations upon request to allow them access to Cameroonian prisons.

39. For example, the organization known as "New Human Rights – Cameroon" conducts a programme of regular visits to Cameroonian provincial prisons to investigate the

conditions in which women and children are held and then submits periodic reports on those visits.

2. Response to the recommendation in paragraph 8 (b)

40. With respect to the deaths at Douala central prison, the doctor in charge at the prison medical centre and the governor of the establishment have prepared a report showing that a total of 25 prisoner deaths were recorded between January and October 2003, and not 72 as alleged. They are as follows:

- (a) Eighteen deaths attributable to opportunistic diseases related to HIV/AIDS;
- (b) Two deaths attributable to HIV/AIDS;
- (c) Five cases of multidrug-resistant tuberculosis.

41. This report also mentions the names of each of the deceased prisoners, their release date and criminal status. Prison medical services registers and death registers are properly kept. Since these deaths are not due to any prison administration errors or shortcomings, there is no cause to bring anyone to justice.

3. Response to the recommendation in paragraph 8 (c)

42. In order to take into account the Committee's recommendations, Cameroon, through the adoption of a Code of Criminal Procedure, has reiterated the exceptional nature¹¹ of pretrial detention by stipulating a maximum duration.

43. Thus, under article 221 (1) of the Code of Criminal Procedure:

“The length of pretrial detention is set by the investigating judge in the warrant. It cannot exceed six months. However, it can be extended by court order, up to twelve months for a serious crime and up to six months for a minor offence.”

44. By implementing these provisions, judges handling such cases routinely order the immediate release of any persons unlawfully detained, as illustrated in table No. 6 annexed hereto.

45. It should be noted that current legislation on offences relating to military justice still allows relatively long pretrial detentions. A bill to review the procedure is pending adoption.

46. As for the detention of persons under 18 years of age for minor offences (i.e. following their first offence), the State party would like to emphasize that it has enacted positive legislation in this area to treat such cases as juvenile delinquency, which is subject to special legislation focusing on the supervision, education and resocialization of children in conflict with the law.

47. In this connection, articles 704 to 708 of the Code of Criminal Procedure, which has recently entered into force, regulate the pretrial detention of persons under 18 years of age.

48. Under article 704, “A child of twelve (12) to fourteen (14) years of age can only be subject to a pretrial detention order in the case of murder or manslaughter.”

49. Article 705 specifies that “A child of fourteen (14) to eighteen (18) years of age can only be subject to a pretrial detention order if such measure is deemed essential.”

¹¹ The exceptional nature of pretrial detention in Cameroonian law derives from the fact that it is only imposed when a crime or offence has actually been committed.

50. Similarly, article 706 states that “A child can only be detained in:

- (a) A rehabilitation centre;
- (b) Separate quarters of a prison adapted to house children.”

51. A combined analysis of these various provisions shows that persons under 18 years of age cannot be subject to pretrial detention for minor offences and that, should they be detained, they can only be held in prisons. However, it should be noted that in some prisons, such as Garoua and Ngaoundéré, lack of space does not allow for separate quarters. The State is trying to address this situation.

52. Apart from looking at juvenile delinquency, a major concern of the Government is to improve detention conditions but this is entirely dependent on financial resources, which are not always available. For example, in the 2007 fiscal year lines of credit were opened for alterations and renovations to the following prisons: Yaoundé (central prison), Kousseri, Mora, Moulvoudaye, Edéa, Sangmelima, Garoua, Maroua, Bafang, Betare-Oya, Monatele, Yabassi, Bamenda, Tchollire I, Tignere, Akonolinga, Mantoum, Yoko and Mbalmayo for a total amount of CFA francs 503,565,000 (approximately €774,716).¹² In any event, the State guarantees the minimum conditions demanded by the international community, within its means and in view of its level of development.

53. Significant efforts were also made by the Government in the period 2003–2005. A total of CFA francs 112.9 million (approximately €173,692) was invested in the renovation of the following prison establishments:

- (a) Nkambe main prison. Alterations: CFA francs 10 million (approximately €14,350);
- (b) Fundong main prison. Alterations and renovations: CFA francs 25 million (approximately €38,461);
- (c) Ndot main prison. Alterations and renovations: CFA francs 10 million (approximately €15,384);
- (d) Moulvoudaye secondary prison. Construction works for the new prison: CFA francs 10 million (approximately €15,384).

54. The 2005 budget allocation of CFA francs 148 million for investment in prison administration allowed renovation works to be carried out at a number of prisons, including Yaoundé main prison.

55. Total investment for 2006 in the sector amounted to CFA francs 267.2 million. This investment was mostly directed to the alteration and renovation of the following prisons:

- (a) Ngaoundéré central prison: CFA francs 14 million (€9,230);
- (b) Yaoundé central prison: CFA francs 4 million;
- (c) Bertoua central prison: CFA francs 8.5 million;
- (d) Mora main prison: CFA francs 22 million (€9,230);
- (e) Mokolo main prison: CFA francs 3 million;
- (f) Makari secondary prison: CFA francs 8.5 million;
- (g) Douala central prison: CFA francs 69.2 million;

¹² See also this year’s prison administration budget allocation.

- (h) Mbengwi main prison: CFA francs 13 million (€13,846);
 - (i) Bazou secondary prison: CFA francs 14 million (€7,692);
 - (j) Ambam secondary prison: CFA francs 8 million.
56. Works continued in 2007, including the renovation of the following prisons:
- (a) Sangmélima main prison: CFA francs 25 million;
 - (b) Edéa main prison: CFA francs 15 million;
 - (c) Moulvoudaye secondary prison: CFA francs 25 million;
 - (d) Mora main prison: CFA francs 8.5 million;
 - (e) Yaoundé central prison: CFA francs 51 million.
57. Yaoundé main prison became fully operational in 2008, with the capacity to house 300 inmates.
58. As for the problem of the high number of prisoners held in pretrial detention, the prison population is growing due to a combination of factors, such as a population explosion, growth in urban crime, etc. All countries around the world are affected by this phenomenon and Cameroon is no exception. Existing infrastructures are somewhat inadequate and often unfit for purpose.
59. However, the State has reacted by creating new courts and by increasing the number of courtrooms in the large cities of Douala and Yaoundé. Higher staffing levels (including judges and court clerks) have enabled court personnel to be redeployed, speeding up the handling of legal proceedings in general and of pretrial detention cases in particular.
60. In order to facilitate access to the judicial system and ensure a more efficient distribution of justice, a number of courts have been opened and courthouses built or renovated.
61. Fourteen courts have also been opened in Yaoundé-Ekounou, Yaoundé-Centre, Douala-Ndokoti, Douala-Bonanjo, Ambam, Bangem, Fundong, Ngoumou, Poli, Tcholliré, Tignère, Bengbis, Menji and Ntui.
62. Four courthouses have been built in Yaoundé-Centre, Yaoundé-Ekounou, Douala-Bonanjo and Douala-Ndokoti.
63. In addition, the Supreme Court and the appeal courts of the central, coastal, west, north-west and south-west regions have been extended.
64. This effort has been accompanied by the three-year programmed recruitment of 450 judges and 1,500 prison administration officials, to be allocated to the 2008 fiscal year.
65. Furthermore, within the framework of the 8th European Development Fund, the Government of Cameroon and the European Union signed an agreement on 18 July 2001 for a programme to improve detention conditions and respect for human rights, known as "PACDET" (Programme d'Amélioration des Conditions de Détention et Respect des droits de l'homme). PACDET I was signed in June 2002 between the European Union and Cameroon. It aimed to make improvements in how prisons and the judiciary operate and, more specifically, to reduce defects and abuses prevalent in pretrial detention in Douala and Yaoundé central prisons. This agreement to finance an amount of €1 million matured on 31 December 2005.
66. Positive results were recorded, which enabled the project to be extended to the 10 central prisons, with the signing of a second agreement, PACDET II, on 19 December 2006 between the same partners for €8 million. The project's main aim is to improve detention

conditions from a human rights perspective in the 10 central prisons concerned. The four-year programme was launched during the first half of 2007 and must be implemented before 31 December 2010. The expected outcome is for significant improvements to court and prison institutions in the areas covered by the project and improvements in detention conditions in the 10 Cameroonian central prisons. The two phases of the programme are as follows:

(a) Phase one covers improvements in the functioning of court and prison institutions. This phase includes the following activities:

- (i) Support for the implementation of the Code of Criminal Procedure;
- (ii) Support for the consideration of alternative sentences and their implementation;
- (iii) Improvements in the functioning of court institutions;
- (iv) Support for the design and implementation of a programme for post-training and continuing professional development;
- (v) Legal aid for prisoners and the establishment of provincial legal centres;

(b) Phase two covers improvements in detention conditions. This phase includes the following:

- (i) Support for better prisoner food;
- (ii) Support for disease prevention and care of the sick;
- (iii) Construction of a new medical centre in Yaoundé central prison;
- (iv) Support for infrastructure improvements;
- (v) Promotion of the social reintegration of prisoners;
- (vi) Support for improvements in the functioning of prison institutions;
- (vii) Strengthening of the oversight and monitoring of pretrial detention conditions.

67. A project to modernize prisons and prepare detainees for social reintegration has also been initiated, financed by funds from the Multilateral Debt Relief Initiative.

68. This project was launched in 2008 with a budget allocation of CFA francs 3,931,780,000 (€6,048,892) and will facilitate the following:

- (a) Construction of 6 new prisons, each housing 300 inmates;
- (b) Renovation of 24 existing prisons;
- (c) Construction of 12 fitted water boreholes;
- (d) Acquisition of 8 prisoner transport vehicles;
- (e) Creation of production and training activities in 60 main and secondary prisons.

69. As for the concern over the overcrowding of prisoners in cramped cells, in the State party's opinion this has been exaggerated. Whenever the public authorities have noticed an

increase in prisoner numbers in a particular prison, they have instigated a procedure to alleviate overcrowding by transferring convicted detainees to less-populated prisons.¹³

70. However, these efforts are being hampered by all the constraints of development and adjustment to which Cameroon is subjected.

4. Response to the recommendation in paragraph 8 (d)

71. To ensure humane detention conditions, the Government, with the assistance of development partners, has taken a number of measures to improve the treatment of prisoners, including in the areas of medical care, food and separating prisoners into different categories.

72. The following action has been taken on medical care:

- (a) Recruitment of medical and paramedical staff;
- (b) Opening of small laboratories in Douala and Yaoundé central prisons;
- (c) Creation of a line of credit for each prison to purchase medicines for prisoners (for 2008, the overall budget for this type of expense is CFA francs 85,413,000 (€131,404.60));
- (d) Establishment of a programme to tackle HIV/AIDS in large prisons (screening and care of the sick);
- (e) Establishment of a programme to tackle tuberculosis in Yaoundé and Douala central prisons;
- (f) Supplying central prisons with medical equipment and consumables and basic necessities.

73. The Government has doubled prisoner food rations since the start of the 2006 budget year. The annual budget allocation for prisoner food has thus increased from CFA francs 900 million in 2005 to CFA francs 1,800 million in 2006. In addition, the PACDET II project and the project to modernize prisons and prepare detainees for social reintegration began in 2008 with the launch of agricultural activities in all prisons with a view to supplementing prisoner food supplies.

74. With respect to separating different categories of prisoners, this is provided for through Decree No. 92/052 of 27 March 1992 concerning the Cameroonian prison regime. This measure has been implemented in all prisons.

75. This need was also taken into account in the Government's prison infrastructure development plan, which has just been put into effect and envisages the construction of new prisons and the renovation of existing old and dilapidated prisons.

5. Response to the recommendation in paragraph 8 (e)

76. As for the torture, ill-treatment and arbitrary detention perpetrated under the responsibility of the traditional chiefs in the north, in Cameroon the legal status of

¹³ It is well known that prison overcrowding is more acute in large cities (e.g. Douala and Yaoundé) than in small towns. Until new prisons are built and the new prison policy is properly formulated, the many measures taken in the area of prison administration are also supported by a real desire of the courts to see the situation improve. For example, during the annual meeting of appeal court heads on 16, 17, 18 and 19 October 1997, the main goal of which was to assess how well the Code of Criminal Procedure was being implemented, some relevant recommendations were made on the issue and management of detention orders.

traditional chiefdoms is governed by Decree No. 77/245 of 15 July 1977 on the organization of traditional chiefdoms.

77. Traditional chiefs are government auxiliary staff and are subject to a rigorous disciplinary regime. Sanctions vary depending on the offence committed. In order of the seriousness of the offence, they are as follows:

- (a) Call to order;
- (b) Warning;
- (c) Simple reprimand;
- (d) Reprimand with suspension of all allowances for a maximum of three months;
- (e) Dismissal.

78. Article 29 of the 1977 Decree explicitly prohibits traditional chiefs from punishing their “subjects”, any infringement of which will result in their powers being revoked. This article prohibits “abuses by chiefs against the people”. The most recent example is the case of the chief of the Foréké-Dschang tribe (in the western province) who was dismissed for “inertia, inefficiency and abuses against the people” through Decision No. 111/CAB/PM of 22 August 2005 handed down by the Prime Minister, Head of Government.

79. In this connection, legal proceedings were brought against the following traditional chiefs in the years prior to 2005:

(a) Head Chief of Bafoussam was sentenced by Mifi regional court on 6 May 2002 to five years’ imprisonment suspended for five years and a fine of CFA francs 1 million (1,000,000) for gang pillaging, arson, trespass and offences against property;

(b) The Lamido¹⁴ of Tchéboa, prosecuted for arbitrary arrest and detention and forced labour, was sentenced to one year’s imprisonment, with an arrest warrant issued against him at the hearing on 24 August 1993 at Benoué regional court;

(c) The Lamido of Douroum was tried and sentenced for various abuses against the people, including trespass and destruction of private property and sentenced to two years’ imprisonment by Mayo Louti regional court on 13 August 2003.

80. During the 2004/2005 judicial year, legal action was taken against the following traditional chiefs:

(a) Second Class Chief of Foulou (Lamidat of Mindjivin, province of the far north) was sentenced to six months’ imprisonment suspended for three years and ordered to pay CFA francs 50,000 in damages by Maroua court of first instance for complicity in and being an accessory to intimidation, theft and arbitrary arrest and detention;

(b) The Lamido of Bangana (far northern province) was sentenced to two years’ imprisonment suspended for three years and ordered to pay CFA francs 250,000 in damages by Maroua court of first instance for arbitrary arrest and detention and receiving stolen goods;

(c) The representative of the Lamido of Rey Bouba in Touboro (northern province) was charged with arbitrary arrest and detention, fraud and intimidation as part of a judicial inquiry.

¹⁴ Name of traditional chief in the northern provinces of Cameroon.

(d) The Lamido of Douroum (northern province) was prosecuted for arbitrary arrest and detention.

(e) The Lamido of Matakan Sud (Mokolo, far northern province) was prosecuted for arbitrary arrest and detention and torture.

81. Torture cannot be justified under any circumstances in Cameroon. The State routinely institutes legal proceedings in cases brought before it, as illustrated below in the, by no means exhaustive list of court cases, which give an overview of the situation in 2006:

(a) *The People v. Mathias Bidjeke*, Third Class Chief, was tried for abuse of authority by Edéa court of first instance. He was acquitted on 17 October 2007;

(b) *The People v. Boubakari Hamadou*, Lamido de Dazal (northern province) was prosecuted for arbitrary arrest and detention and theft by Guider court of first instance. He was found not guilty and acquitted on the basis of benefit of doubt through a judgement on 5 April 2006;

(c) *The People v. Abdou Hamayadji Mayo*, representative of the Lamido of Rey Bouba in Touboro, charged with arbitrary arrest and detention, fraud and intimidation – the case was dismissed following the death of the aforementioned;

(d) *The People v. Abbo Aboubakar*, traditional chief, tried for arbitrary arrest and detention. The accused was found not guilty and acquitted through Judgement No. 21/CRIM of 21 March 2007 by Tibati regional court;

(e) *The People v. Moussa Aboubakar*, Lamido of Tchéboa, charged with arbitrary arrest and detention and subsequent physical abuse; the case is pending before the investigating judge of Garoua court of first instance;

(f) *The People v. Baina Dedaidandi*, Doré-Tongo Village Chief, prosecuted for arbitrary arrest and detention. He was found guilty through judgement No. 13/CRIM of 16 August 2006, sentenced to 10 years' imprisonment and ordered to pay CFA francs 1 million in damages to the complainant by Garoua regional court. A warrant for the arrest of the accused was issued, against which counsel lodged an appeal on 2 February 2007;

(g) *The People v. Ousseini Hamadou*, Lawan of Babadji, tried for arbitrary arrest and detention. Guider court of first instance found him guilty of complicity in arbitrary arrest and unlawful withholding of property through Judgement No. 101/COR of 29 November 2006, and sentenced him to 12 months' imprisonment suspended for 3 years and ordered him to pay CFA francs 360,000 in damages to the complainant;

(h) *The People v. the Fon¹⁵ Gah Gwanyin* of Balikumbat and 11 others. On 20 August 2003, near Bamenda, John Kohtem, a leader of the opposition party *Social Democratic Front*, was beaten to death by followers of the Fon of Balikumbat, who were arrested and held in pretrial detention for murder. Strong suspicions have fallen on the Fon, for whom the lifting of parliamentary immunity has been ordered. He was sentenced by Ndop regional court on 12 April 2006 to 15 years' imprisonment along with nine other persons. On 18 August 2006, the north-west Court of Appeal ordered the release on bail of Fon Gah Gwanyin and four other co-defendants. Bail was set at CFA francs 4 million (approximately €6,154), to be paid by two persons should he not appear in court. The five other co-defendants, who had their request for bail refused, have lodged appeals;

¹⁵ Name of traditional chiefs in the north-western province.

(i) *The People v. Djaouro Hamadou*, Village Chief of Nyassar, prosecuted for arbitrary arrest and detention, sentenced to six months' imprisonment suspended for three years by Ngaoundéré court of first instance;

(j) *The People v. Ousseini Hamadou*, Lawan of Babadji, tried for arbitrary arrest and detention. Guider court of first instance delivered Judgement No. 101/COR of 29 November 2006, finding the accused guilty of complicity in arbitrary arrest and withholding property, and he was sentenced to 12 months' imprisonment suspended for 3 years and ordered to pay CFA francs 360,000 (approximately €554) in damages to the complainant;

(k) *The People v. Moussa Aboubakar*, Lamido of Tchéboa, charged with arbitrary arrest and detention and subsequent ill-treatment. Legal proceedings are pending before the investigating judge of Garoua court of first instance;

(l) *The People v. Lawan Youssoufa*, traditional chief of Liri-Mogodé, prosecuted for arbitrary arrest and detention; the case is pending before Garoua court of first instance.

B. Response of the State of Cameroon to the recommendations in paragraph 9 of the Committee's concluding observations

1. Response to the recommendation in subparagraph (a) of paragraph 9

82. With the entry into force of the Code of Criminal Procedure, ensuring protection against restrictions on individual freedom is provided for under the law. This is particularly so in the case of police custody, which is governed by articles 118 et seq. of the Code of Criminal Procedure. The more limited system in force under the Code of Criminal Investigation has been abolished and the entry into force of the Code of Criminal Procedure marks a significant step forward in Cameroonian criminal procedure, especially with regard to guaranteeing individual freedoms. Please note the provisions of articles 118, 119 and 121 attached hereto.

2. Response to the recommendation in subparagraph (b) of paragraph 9

83. The measure allowing the period of police custody to be extended depending on the distance between the place of arrest and place of custody was introduced because there was a discrepancy between the judicial district map and the administrative and security district map. This should be less of a problem once the judicial district map and the administrative and security district map are combined.

3. Response to the recommendation in subparagraph (c) of paragraph 9

84. In addition to the responses already given in the previous report (para. 72), the habeas corpus procedure provided for in the Code of Criminal Procedure enables possible abuses linked to unlawful detention in custody to be rectified, regardless of the circumstances or whether it be a case of administrative or military custody.

85. The above procedure is provided for in article 584 of the Code of Criminal Procedure, which states that:

(a) "The Presiding Judge of the regional court in the place of arrest of a person, or any other judge of that court district nominated by him/her, is authorized to apply for immediate release on grounds of unlawful arrest or detention or failure to observe the formalities prescribed by law;

(b) He/she also has the power to lodge appeals against administrative custody measures;

(c) The application is made either by the arrested or detained person or by another person on his/her behalf. It does not bear an official stamp.”

86. For example, Mfoundi regional court, through its Decision No. 65/PTGI/Ydé of 1 February 2007, ordered the immediate release of Sergeant Didace **Esselebro**, who had been held under a detention order issued by the investigating military judge. The accused was released pursuant to Release Bulletin No. 070092/BCE/MINDEF/DJM/PMY/BG.

4. Response to the recommendation in subparagraph (d) of paragraph 9

87. At prison administration level, article 16 of Decree No. 92/052 of 27 March 1992 provides that “the prison governor cannot, without it resulting in arbitrary detention, detain a person without an official written release order, warrant, legal decision or administrative document. Any detention must be recorded in a release register”.

88. During the current budget year, CFA francs 10 million has been allocated to the Prison Administration Directorate for the purchase of record-keeping materials for prisons (e.g. release registers, indexed data sheets, release files, etc.).

89. The problem of monitoring custody in police and gendarmerie units is provided for in article 124 of the Code of Criminal Procedure, which states that:

(a) “The investigating officer should note in his report the reasons for custody, rest periods between interviews and the day and time when the detainee was either released or brought before the State Prosecutor;

(b) The notes mentioned in subparagraph (a) above must be viewed by the suspect as stipulated in article 90 (3), (4), (5) and (7). Should the person refuse, the investigating officer should note so in the report;

(c) The notes must appear in a special register kept in every police station handling criminal investigations where suspects are likely to be detained; this register is monitored by the State Prosecutor;

(d) Failure to enforce the rules stipulated in the article shall render null and void any subsequent reports and entries without prejudice to disciplinary action against the investigating officer.”

5. Response to the recommendation in subparagraph (e) of paragraph 9

90. On the question of transferring responsibility for prison administration to the Ministry of Justice, the Committee is invited to refer to paragraphs 10 and 16 to 18 above regarding Cameroon’s institutional reforms since the submission of its third report and reforms concerning the transfer of responsibility of prison administration to the Ministry of Justice.

6. Response to the recommendation in subparagraph (f) of paragraph 9

91. Notwithstanding the provisions of article 83, in accordance with article 132 bis subparagraph 5 (b) of the Criminal Code, “the order of a superior officer or a public authority may not be invoked to justify torture”.

7. Response to the recommendation in subparagraph (g) of paragraph 9

92. The suspensive effect of appeal in Cameroonian administrative law is a general principle of law reaffirmed by the provisions of article 114 (1) of Act No. 2006/022 of 29 December 2006 specifying the organization and functioning of administrative courts, according to which decisions handed down in the first instance in administrative disputes “may be appealed to the Administrative Chamber ... of the Supreme Court”.

93. Subparagraph (2) of that article provides that “The appeal stays execution of the judgement, except in the case of a decision contrary to the Administrative Chamber of the Supreme Court.” It is therefore a decision confirming or invalidating a deportation order and any appeal stays its execution. Moreover, the transitional provisions of this act invalidate any previous provisions that are contrary to it.

94. In addition, the act regarding refugee status provides for measures and mechanisms to ensure the legality of any deportations of this category of foreigner.

C. Response of the State of Cameroon to the recommendations in paragraph 10

1. Response to the recommendation in subparagraph (a) of paragraph 10

95. The option chosen by the Government with respect to criminal policy does not allow for the impunity of gendarmes or military personnel.

96. Court proceedings are conducted by military judges who undergo the same training as their civilian counterparts. The many decisions quoted in the report are evidence of such proceedings.

97. In any event, the Government, mindful of the need to guarantee the rights of victims, has drafted a bill enabling them to notify the courts directly. Thus, the draft bill on State military judicial organization and formulation of rules of procedure applicable to military courts stipulates in article 7 (2) that “Notwithstanding the provisions of article 1 above, the civilian victim of an offence may institute public proceedings before the military court, subject to the conditions specified in articles 157 et seq. of the Code of Criminal Procedure, if the military court has still not been notified three months after the committal of the offence.”

2. Response to the recommendation in subparagraph (b) of paragraph 10

98. The case known as “*the disappearance of the Bépanda nine (Douala)*” was a lawsuit to bring the alleged perpetrators before the military court for breach of military rules, complicity in torture and murder and corruption. They were sentenced on 9 July 2002 pursuant to Judgement No. 139/02. Two of the eight accused were found part guilty of the charges brought against them and sentenced in conformity with the law.

99. In the last few years a type of crime known as “*highway robbery*” has emerged in Cameroon. This sharp rise in insecurity has led government authorities to develop strategies to re-establish security by creating special units to stop these heavily-armed bandits rampaging in certain regions. Although these units have a special remit, they are still subject to the laws of the Republic and international conventions. They do not have the power to torture or commit murder.

3. Response to the recommendation in subparagraph (c) of paragraph 10

100. The numerous prosecutions mentioned in this report were initiated by the courts, whose role is to institute public proceedings when an offence is committed. The operational capacities of existing monitoring mechanisms could be strengthened if extra funding were made available. In addition, the Code of Criminal Procedure allows a victim to file criminal indemnification proceedings with the investigating judge (article 157 of the Code of Criminal Procedure) or to bring a private prosecution directly before the courts (article 290 of the Code of Criminal Procedure).

4. Response to the recommendation in subparagraph (d) of paragraph 10

101. The Cameroonian Government ensures that victims, witnesses and generally all citizens living in its territory are protected against any form of violation of their physical integrity. Elements of this protection are contained in the Criminal Code, including the criminalization of acts of torture (see article 132 bis in paragraph 91 above).

102. As for the State's responsibility to inform the public on human rights, it should be noted at this point that the basic values of human rights enshrined in the Convention are provided for in the Code of Criminal Procedure.

103. The Code of Criminal Procedure has been the subject of several campaigns to inform the public of their rights and of the boundaries that may not be breached by law enforcement authorities. All of these initiatives to inform and raise more awareness about the main actors of the criminal system (i.e. gendarmes, police officers, lawyers and judges) formed part of the Government's overall objective to provide human rights education.

104. In order to familiarize the public with the Code of Criminal Procedure, on the instructions of the Head of State, an initial awareness-raising campaign was organized by the Deputy Prime Minister and the Minister for Justice from 3 to 30 May 2006 throughout the country's 10 provinces.

105. This campaign was launched in Yaoundé on 3 May 2006 under the patronage of the Prime Minister, Head of Government.

106. During the preparatory phase of the awareness-raising campaign, the following essential technical tools were produced in English and French:

- (a) Publication of legislation on the Code of Criminal Procedure in the *Official Gazette*;
- (b) Publication of the Code in two formats (simple and luxury editions);
- (c) Design of 20,000 posters on the provisions most likely to be of public interest;
- (d) Design of 20,000 leaflets on certain sensitive provisions, directed at the lay public;
- (e) Production of a support video of a simulated prosecution trial;
- (f) Drafting of standardized forms for processing procedural documents;
- (g) Preparation of presentations for use during seminars;
- (h) Drawing up of the seminar schedule and programme;
- (i) Establishment of awareness-raising campaign teams.

107. The operational phase of the campaign involved making visits and holding a number of seminars.

108. Ten seminars were organized in key places in the provinces.¹⁶ The participants, mostly composed of administrative authorities, local MPs, religious and traditional authorities, investigating officers, and members of the judiciary and civil society, showed a real interest in this government initiative by taking an active part in debates.

¹⁶ Yaoundé, from 3 to 4 May 2006; Maroua, from 8 to 9 May 2006; Garoua, from 10 to 11 May 2006; Ngaoundéré, from 12 to 13 May 2006; Ebolowa, from 23 to 24 May 2006; Bafoussam, from 8 to 9 May 2006; Bamenda, from 10 to 11 May 2006; Buéa, from 15 to 16 May 2006; Bertoua, from 23 to 24 May 2006; and Douala, from 29 to 31 May 2006.

109. The seminars were structured around presentations and a demonstration of a simulated trial.

110. Clarification was also given on:

- (a) Government efforts to improve prisoner conditions;
- (b) The constitutional roles of the various powers characterizing a lawful State;
- (c) The need to put the implementation of the Code of Criminal Procedure into a global context, placing humankind at the heart of any action taken by a government official;
- (d) The clean up of conduct within the various bodies of professions involved in the implementation of the Code;
- (e) The need for collaboration between administrative and judicial authorities, since the success of the 27 July 2005 reform will depend on the effective participation of all authorities involved, to ensure that citizens can feel truly governed by law and not by power.

111. The National Commission on Human Rights and Freedoms has taken steps to promote human rights, including the publication of a teaching manual on human rights and a national action plan to promote and protect human rights in Cameroon.

112. In addition, the Commission organized a training workshop on human rights from 14 to 15 October 2008 for judges, lawyers and investigating officers.

113. The René Cassin Cameroon Association for Human Rights conducted an accredited training course in Douala from 8 to 14 April on the Code of Criminal Procedure, sponsored by the Ministry of Justice and with technical support from the African Institute of Human Rights. During this event, police and gendarmerie officials from the coastal province, university lecturers, lawyers and NGO officials had the opportunity to strengthen their capacities.

114. In partnership with the Cameroonian Government, New Human Rights – Cameroon delivered an extensive torture prevention programme over a three-year period under the theme “preventing torture in a nation that respects human rights”. As part of this programme:

- (a) 100,000 posters of the Convention were published and strategically placed in police and gendarmerie stations, churches, the offices of associations, etc;
- (b) 200,000 leaflets explaining the Convention were created and distributed throughout Cameroon;
- (c) 100,000 posters of article 132 bis of the Criminal Code relating to torture were printed and displayed in the same places as the posters on the Convention;
- (d) 10,000 copies of a compendium of legal texts on torture were published and disseminated among judges, lawyers, investigating officers, NGO officials, etc.;
- (e) Stickers were printed and handed out all over the country;
- (f) 50,000 copies of a comic strip on torture were published and distributed in Cameroon’s 10 provinces;
- (g) Five provincial torture prevention committees were established to help communities with torture victims. These committees are comprised of civilians and members of the uniformed services and the clergy and constitute an important pillar of torture prevention in Cameroon;

(h) A newspaper offering specialized information on human rights was launched under the name “*Libertés News*”;

(i) An emergency and support centre for torture victims, called the “Mandela Centre”, has been set up in Cameroon.

5. Response to the recommendation in subparagraph (e) of paragraph 10

115. A solution to the problem of the inadmissibility of evidence obtained under torture can be found in the provisions of subparagraph 2 of article 315 of the Code of Criminal Procedure, which states that “A confession is not admissible as evidence if it was obtained through force, violence or threat or in exchange for the promise of some kind of advantage or through any other means that violates the free will of the author.”

116. Even before the entry in force of the Code of Criminal Procedure, Cameroonian judges declared that, in conformity with international instruments, confessions obtained under torture were inadmissible and would render subsequent proceedings null and void.

117. Please note Judgement No. 182/COR of 24 February 2005 (extract annexed hereto), handed down by Abong-Mbang court of first instance in the case of *the People and Dame Philienne Ekouas v. Junette Mengue and Jean Denis Djessa*, which followed in the wake of Judgement No. 69/00 of 21 September 2000 of Bafoussam military court, as mentioned in paragraph 134 of the third periodic report (CAT/C/34/Add.17).

118. Similarly, article 91 of the Code of Criminal Procedure provides that “The reports prepared by investigating officers are for information purposes only.”

D. Response of the State of Cameroon to the recommendations in paragraph 11 of the Committee’s concluding observations

1. Response to the recommendation in subparagraph (a) of paragraph 11

119. The act organizing the functioning of the National Commission on Human Rights and Freedoms was intended to strengthen the operational capacities of this institution. As part of the move towards institutional reform on human rights, the National Commission on Human Rights and Freedoms was created through Act No. 2004/016 of 22 July 2004 (annex 1) to replace the National Committee on Human Rights and Freedoms, established by earlier decree.

120. Under article 2 of this Act “the Commission’s remit is to promote and protect human rights and freedoms”. In that connection, it:

(a) “Handles all complaints regarding cases of violations of human rights and freedoms;

(b) Conducts all necessary inquiries and investigations into cases of violations of human rights and freedoms and reports those to the President of the Republic;

(c) Notifies all authorities of cases of violations of human rights and freedoms;

(d) Carries out visits to prisons, police and gendarmerie stations, as required, in the presence of the State Prosecutor or his/her representative;

(e) Suggests measures to be taken in connection with human rights and freedoms to the public authorities;

(f) Liaises, as appropriate, with the United Nations Organization, international organizations, foreign committees or associations pursuing similar goals.”

121. The responsibilities and functioning of the National Commission on Human Rights and Freedoms are in compliance with the Paris Principles, which emphasize the need to advise the Government on human rights activities.

122. Under article 1 of the Act, “The National Commission on Human Rights and Freedoms is an independent, consultative body on human rights protection.

(a) The Commission has a legal personality and financial autonomy;

(b) The Commission may establish branches in other communities throughout the Republic.”

123. It is financed through State budget allocations, support from national and international partners and donations and legacies (art. 20).

124. The draft annual budget and investment plans of the National Commission on Human Rights and Freedoms are prepared by the Chair, adopted by the Commission and submitted for the Prime Minister’s approval as part of the finance legislation drafting process. This budget is subject to specific budgetary provisions (art. 23).

125. The National Commission on Human Rights and Freedoms enjoys a legal personality and financial or operational autonomy (art. 1, subpara. 3). It employs its own directly-recruited staff, government officials on secondment and outside agents with expertise on the Labour Code, who are hired at the request of the Chair of the Commission (art. 26, subpara. 1).

126. The National Commission on Human Rights and Freedoms draws up its own internal set of rules and measures (arts. 3 and 17).

127. Thus, it may, *inter alia*:

(a) Call upon any party or witness;

(b) Notify the minister in charge of the Ministry of Justice of any offence falling within its organic act;

(c) Use mediation and conciliation in non-punitive cases;

(d) Intervene in the defence of victims of human rights violations.

128. The National Commission on Human Rights and Freedoms is composed of 30 members, including 2 Supreme Court judges, 4 MPs, 2 lawyers, 2 university professors, 3 representatives of religious faiths and members of civil society. A conscious effort to achieve a well-balanced mix of members will guarantee the independence of the institution. Moreover, having a mixed composition of members was specified in Decree No. 2006/276 of 6 September 2006 to ensure its independence.¹⁷ In accordance with domestic regulations, representatives of the Administration do not have the right to vote.

129. Members of the National Commission on Human Rights and Freedoms may not be prosecuted for their personal beliefs or opinions in the exercise of their duties.

130. The National Commission on Human Rights and Freedoms also monitors the activities of a number of associations with which it works in partnership to carry out human rights education projects.

¹⁷ Decree attached.

2. Response to the recommendation in subparagraph (b) of paragraph 11

131. Under article 5 of Order No. 75-5 of 26 August 1972 on the organization of the military judiciary, “The military court is the only competent body to prosecute any person aged 18 or over for:

1. Purely military offences specified in the Code of Military Justice;
2. Any kind of offence committed by military personnel, whether or not civilians are co-defendants or accessories, either inside a military establishment or in the line of duty;
3. Crimes and offences against State security;
4. (This provision was repealed with the disappearance of the custodial sentence under Cameroonian law);
5. (This provision was repealed with the disappearance of the offence of subversion under Cameroonian law);
6. Offences under weapons legislation;
7. Offences of any kind committed by military or comparable personnel in a region that is in a state of emergency.”

132. Such offences, which form the basis of military court jurisdiction, are defined as military offences according to three criteria under Cameroonian law:

- (a) The first is that military offences should be reflected in a legal text (e.g. an offence specified in the Code of Military Justice or in weapons legislation);
- (b) The second relates to personnel. Any offence in which military or comparable personnel are implicated is considered a military offence;
- (c) The third refers to the place of committal of an offence.

133. Moreover, the requirement for the trial judge to be independent must extend to all levels of court, even the military court.

134. Article 41 of Decree No. 75/7000 of 6 November 1975 concerning the set of regulations on general discipline in the Armed Forces provides that: “Military judges, solely in the exercise of their duties, are independent of the military command system and have their own hierarchy.”

135. It is important to emphasize that military judges receive the same training as their civilian counterparts at the Ecole National d’Administration et de Magistrature (National School for Administration and the Judiciary) and are at the forefront in the promotion and protection of rights and freedoms.

136. Furthermore, the structure of the military court lends itself to providing such protection because the position of investigating judge has never disappeared from military courts, even though it was abolished in 1972 in civilian courts and then reintroduced through Act No. 2005/07 of 27 July 2005 on the Code of Criminal Procedure.

137. Appeals on judgements handed down by military courts are referred to the military chamber of the Court of Appeal, which is presided over by a civilian judge. The procedure followed is the same as that in force in the Court of Appeal, ruling on criminal matters.

3. Response to the recommendation in subparagraph (c) of paragraph 11

138. In order to comply with this recommendation, the Cameroonian Government introduced a bill on the issue of genital mutilation. Pending the finalization of this

legislation, action has been taken to raise awareness among persons who practise these ancestral customs and to offer them retraining opportunities to help them become financially independent.

139. Although legislation specifically criminalizing female genital mutilation no longer exists, perpetrators of such offences are no less likely to be prosecuted when allegations are made against them. In fact, these offences come under the category of offences against the physical integrity of a person and, specifically, constitute serious assault.

140. In addition, if the victim is a child under 15 years of age, the offence of violence against a child is applicable, as provided for in article 350 of the Criminal Code: “The sentences specified in articles 275, 277 and 278 of this Code are death and life imprisonment respectively if the offences referred to in the aforementioned articles were committed against a child under 15 years of age, and the sentences specified in articles 279 (1), 280 and 281 are doubled in such cases.”

4. Response to the recommendation in subparagraph (d) of paragraph 11

141. Exemption from punishment for rapists who marry their victims provided for in article 297 of the Criminal Code is not intended to encourage impunity for rapists. It should be noted that these provisions apply primarily only in cases where “the pubescent victim of the offences”, having forgiven her torturer, freely consents to marry him.

142. The article is worded as follows: “The marriage with the free and full consent of the pubescent victim of the offences to the culprit of an offence referred to in the two preceding articles may take place in accordance with the provisions of subparagraphs 1 to 4 of article 73 of this Code.”

143. In any event, this issue will certainly be considered during the process of updating the Criminal Code, which has already begun.

5. Response to the recommendation in subparagraph (e) of paragraph 11

144. The ratification of the Optional Protocol to the Convention against Torture is currently under consideration.

E. Response of the State of Cameroon to the recommendation in paragraph 12 of the Committee’s concluding observations

145. A number of steps have been taken to disseminate the Committee’s recommendations and raise awareness of international instruments. An effort has been made to translate the conventions into local languages, including the Convention on the Elimination of All Forms of Discrimination against Women, which was the subject of an awareness-raising campaign in local languages by the Institute of Training and Cooperation for Development. This institute, which receives support from the Ministry of Justice and the Ministry of Promotion of Women and the Family, has translated this instrument into the four local languages of Bulu, Ffuldéd, Ghom’ala and Pidjin.

F. Response of the State of Cameroon to the recommendation in paragraph 13 of the Committee’s concluding observations

146. For an update on the situation with respect to the current minimum safeguards governing court supervision and the rights of individuals in custody, and on how they apply in practice, please see the responses given in paragraphs 42 and 71 to 75 above.

G. Response of the State of Cameroon to the recommendation in paragraph 14 of the Committee's concluding observations

147. Please see the responses given above in paragraphs 76 to 81 et seq. and the Government's responses to the recommendations made by the Special Rapporteur, Sir Nigel Rodley.

III. Specific information concerning each article of the Convention

Article 1

148. Article 1 of the Convention defines "torture".

149. In its previous report (para. 23), the State of Cameroon mentioned the entry into force of Act No. 97/009 of 9 January 1997 inserting article 132 bis entitled "Torture" into the Criminal Code. This article criminalizes acts of torture using the definition of torture contained in the Convention.

150. The article enhances the effectiveness of judicial, regulatory and practical measures (see above for judicial measures, paragraphs 24 et seq.).

Article 2

151. According to paragraph 1 of article 2, the State party is responsible for taking all necessary steps to prevent the committal of acts of torture. In order to give effect to this paragraph, the State of Cameroon has taken the measures set out below.

1. Legislative measures

152. After incorporating the provisions of the Convention into domestic law by criminalizing "torture", the Code of Criminal Procedure was promulgated. This Code significantly enhances the guarantee of human rights at all stages in a trial and, in turn, the prohibition of any act of torture and inhuman or degrading treatment.

153. As an illustration of the growth in the effectiveness of the Convention, the aforementioned articles 118, 119, 121 and 122 of the Code of Criminal Procedure are relevant (see annex 10).

154. All of these provisions show that the State of Cameroon has adopted measures to ensure the effective implementation of legislation establishing the right of all persons held in custody to have access from the outset of their detention to a lawyer and a doctor of their choice and to inform their relatives of their detention. These provisions focus on the right of every individual deprived of liberty to humane treatment.

155. In addition to the Code of Criminal Procedure, the State of Cameroon has adopted Act No. 2004/016 of 22 July 2004 concerning the establishment, organization and functioning of the National Commission on Human Rights and Freedoms.

156. The decision to strengthen the National Commission on Human Rights and Freedoms' powers to intervene comes from the desire to implement the provisions of the Convention in recognition of its potential effectiveness. The Commission has published a four-year report on its successful activities over the period 2002 to 2006.

2. Regulatory and practical measures

157. In addition to the institutional developments mentioned above, in order to enhance the effectiveness of the Ministry of Justice, a general inspectorate has been created through Decree No. 2005/122 of 15 April 2005 on the organization of the Ministry of Justice, which provides for two general inspectors, one responsible for monitoring the activities of the judiciary and the other for monitoring the activities of prison administration. The latter has since carried out several checks in places of detention. For example, it carried out checks at Yaoundé prison on 19 and 22 February 2008 and at Douala prison in March 2008.

158. On a practical level, government action is complemented by the role played by NGOs in raising awareness against acts of torture (see paragraphs 101–114, 119, 145 and 185–197).

3. Judicial measures

159. These measures essentially cover legal decisions handed down by the courts as part of the fight against torture. Some are listed above (para. 24 et seq.).

160. On the specific issue of acts of torture committed or ordered by traditional chiefs, it should be noted that the country's traditional chiefs are subject to the law just as any other citizen.

161. In his circular letter of 17 January 2003, addressed to the State prosecutors of the Cameroonian courts of appeal, the State Minister responsible for justice asked to be informed of any legal action taken against traditional chiefs in respect of offences for which they are likely to be found guilty, including ordering or carrying out arbitrary arrests and detentions.

162. As for paragraphs 2 and 3 of article 2, the information given in the previous report (para. 135) remains relevant.

Article 3

163. In compliance with the Committee's recommendations, the State of Cameroon has taken national legislative and judicial measures to give effect to the substantial provisions of paragraph 1 of article 3 of the Convention, prescribing the non-refoulement and non-extradition of persons to a country where they would be in danger of being subjected to torture. The Code of Criminal Procedure uses the provisions of the 1997 act to extend such provision to prohibition of extradition to countries where there is a danger of being subjected to cruel, inhuman or degrading treatment.

164. First, article 645 (d) of the Code of Criminal Procedure provides that "Extradition is not admissible:

Where the requested State has substantial grounds for believing that the person for whom extradition is being requested will be subjected, in the requesting State, to torture and other cruel, inhuman or degrading treatment or punishment."

165. The Code of Criminal Procedure therefore goes beyond article 3 of the Convention.

166. Second, articles 7, 8, 14 (1) and 15 of Act No. 2005/006 of 27 July 2005 make provisions concerning the status of refugees in Cameroon (annex 2).

167. With respect to the implementation of paragraph 2 of article 3, judges handling requests for extradition check that there are no substantial grounds for believing that the person for whom extradition is requested might be subjected to torture in the country of extradition (Decision No. 96/P of 6 March 1998 handed down by the Coastal Court of

Appeal in the case of *the People v. Dominique Angelique and Christian Lengbe*; and Decision No. 297/P of 11 March 1997 handed down by the Coastal Court of Appeal in the case of *the People v. Bigione Vito*).

Article 4

168. The information given in the previous report remains relevant (paras. 141 to 150).

Article 5

169. In addition to the information given on this article in the previous report (para. 149), article 642 (2) (b) of the Code of Criminal Procedure states that “offences subject to universal jurisdiction provided for in the international conventions ratified by Cameroon are comparable to ordinary offences”. This provision provides clarification as to the criminal status of the offence of torture in Cameroonian law.

170. In order to establish Cameroon’s jurisdiction as provided for in article 5 of the Convention, article 636 of the Code of Criminal Procedure recognizes the jurisdiction of national courts, which reads: “Any person who has been an accessory in Cameroon to a crime or an offence committed abroad may be tried and sentenced in Cameroon”

171. Article 637 of the Code stipulates: “Any person who has been an accessory abroad to a crime or an offence committed in Cameroon may also be tried and sentenced in Cameroon.”

172. Article 699 of the Code provides that any offence shall be deemed to have been committed in Cameroon if “an act comprising one of the elements constituting infringement took place in the Republic’s territory”. This article contains measures recognizing the jurisdiction of national legislation and courts over offences such as torture committed in State territory. On the other hand, articles 636 and 637 recognize jurisdiction founded on the active personality principle when the perpetrator of the acts is a national of the State party or even a foreigner. In any event, these different provisions set forth the general rules concerning the State party’s jurisdiction over ordinary offences. As torture is henceforth an ordinary offence in Cameroonian law, it is clear from these provisions that it is subject to the general regime.

Article 6

1. Paragraphs 1 and 2 of article 6

173. Persons who are suspected of having committed torture may be ordered to be held in police custody, in pretrial detention (see paragraph 9 above) or placed under court supervision (articles 246 to 250 of the Code of Criminal Procedure).

174. As noted above, in Cameroonian law the rules of criminal procedure provide for the opening of a preliminary inquiry into the facts for ordinary offences. The offence of torture, being an ordinary offence, is subject to this general regime. Thus, article 82, which sets out the rules governing the powers of the criminal investigation police, provides that it is responsible for:

- (a) “Recording the offence, collecting evidence, seeking out the perpetrators and accomplices and, where necessary, referring them to the courts;
- (b) Ending requests for judicial assistance to the judicial authorities”

175. Article 83 provides in subparagraph (1):

“In addition to the powers defined in article 82, investigating officers handle complaints and allegations. They process preliminary inquiries”¹⁸

2. Paragraphs 3 and 4 of article 6

176. The response given in the third report remains relevant, based on the 1997 act (paras. 154–161).

Article 7

1. Paragraphs 1 and 2

177. The information given in the third report remains relevant (para. 156).

Paragraph 3 of article 7

178. As noted in the above footnote (footnote 18), the offence of torture is an ordinary offence in Cameroonian law. Consequently, it is subject to the regime provided for in articles 4, 5 and 6 of the Convention (mentioned above).

179. In addition to the information given in paragraphs 9 and 81 above, the Code of Criminal Procedure provides guarantees of the right to a fair trial during the investigation (arts. 167–176 annexed hereto), pretrial hearing (arts. 307–321 annexed hereto) and proceedings (338–384).

Article 8

180. Under this article, States parties are committed to including the offences stipulated in article 4 of the Convention in any extradition treaty they might conclude between them.

181. In Cameroonian law, all ordinary offences are subject to extradition procedure. Under article 642 (1) (b): “The act forming the basis of the extradition request must be an ordinary offence in Cameroonian law.”

182. Similarly, article 642 (2) (b) (quoted above) states: “Offences subject to universal jurisdiction provided for in the international conventions ratified by Cameroon are comparable to ordinary offences.”

183. The responses given in the third report remain relevant. Cameroon has, however, signed new regional agreements (see paragraph 6 above).

Article 9

184. Cameroon is a party to a number of international instruments that require judicial cooperation, as shown in the section on the legal framework mentioned above (see developments in paragraphs 5–7).

¹⁸ It should be noted that one of the measures taken by the Cameroonian State to implement the provisions of the Convention is not only to criminalize torture in domestic law but also, and more specifically, to classify it as an ordinary offence, with the consequence that torture is subject to the general regime provided for in the Code of Criminal Procedure, at least as far as procedure is concerned.

Article 10

185. In conformity with the provisions of article 10, and in particular following the Committee's recommendations after consideration of Cameroon's third report, the Government decided to strengthen the capacities of personnel responsible for implementing legislation to ensure that they were adequately trained and informed.

186. Significant action has been taken to strengthen the intellectual and operational capacities of persons responsible for the effective implementation of international and national human rights standards. For example, the following seminars were organized with or without the support of external partners, including the Subregional Centre for Human Rights and Democracy in Central Africa and the International Committee of the Red Cross and the Commonwealth.

187. In this connection, seminars were held in Cameroon:

(a) From 18 to 19 December 2001 in Yaoundé: subregional workshop on the development of national action plans to promote and protect human rights in Central Africa;

(b) From 13 to 14 June 2002 in Yaoundé: subregional conference of ministers of justice or human rights and Supreme Court justices;

(c) From 20 to 22 October 2003 in Yaoundé: national seminar for heads of prison establishments, which brought together various administrations and NGOs to discuss the following themes:

- Assessment of the effectiveness of human rights and security in the prison environment
- Respect for detainee rights and the responsibility of prison administration personnel
- Prisons in the face of questioning by human rights organizations
- The influence of the administrative authority on efficient prison management
- Prison community collaboration within the framework of improving living conditions among the prison population
- Preventive risk management inside a prison
- Rationalization of prison establishment credit management
- Profile of a good governor with regard to respecting human rights and security needs

(d) From 2 to 4 February 2004 in Kribi: subregional workshop on civil society, human rights and the rule of law;

(e) From 12 to 14 July 2004 in Yaoundé: subregional workshop on the role of civil society in the implementation of the Durban Plan of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

(f) From 14 to 18 March 2005 in Yaoundé: seminar on human rights in the administration of justice, with the support of the *Bar Human Rights Committee of England and Wales* and *Lawyers' Rights Watch Canada*;

(g) From 14 to 16 November 2005 in Douala: subregional training seminar on human rights in prison administration in Central Africa with the following sub-themes:

- International standards relating to detainee rights

- The current situation with regard to detention conditions and obstacles to the implementation of international regulations
- Individual complaint mechanisms and visits to prison establishments
- Vulnerable groups in prison (i.e. women, children and the infirm)
- The law and detention (pretrial detention, sentencing procedure, alternative sentences, overcrowding, reforms, etc.)

(h) From 21 to 25 November 2005 in Yaoundé: training seminar for 26 superior officers of the Cameroonian armed forces on “The implementation of international humanitarian law in the context of peacekeeping operations”;

(i) In Yaoundé, from 8 to 11 May 2006: seminar organized by Commonwealth experts on the training of the trainers of police officers and prison authorities on the rights of detainees.

188. Other seminars attended by Cameroonian personnel responsible for implementing legislation took place as follows:

(a) From 13 to 15 January 2003, in Libreville (Gabon): workshop on military justice in Central Africa;

(b) From 20 to 22 May 2003, in Malabo (Equatorial Guinea): workshop on the media, human rights and democracy;

(c) From 17 to 19 March 2004, in Kigali (Rwanda): subregional workshop on women’s rights and national legislation in Central Africa;

(d) From 29 to 30 March 2004, in Bujumbura (Burundi): workshop on collaboration between military personnel and civilians in Central Africa.

189. More generally, what has been said in the previous report with respect to the training of personnel on human rights and international humanitarian law remains relevant.

190. In order to disseminate information to its target audience, the National Committee on Human Rights and Freedoms has developed a communication strategy using several different communication tools, i.e. the publication of information bulletins such as the magazine “*Born free*”, production of radio programmes, publication of special documents and activity reports, preparation of reports on the human rights situation, organization of conferences and seminars.

191. In addition, the gendarmerie and police nowadays focus on the use of new investigation techniques to collect and analyse evidence. With these new techniques, they will no longer be able to claim the need to resort to torture to obtain confessions. It will be a case of the evidence speaking for itself. By way of illustration, an open seminar was held on 28 September 2005 in Yaoundé, on the initiative of the Central Office of Studies and Research into Criminology and with the expertise of the French International Police Technical Cooperation Department, in order to strengthen scientific investigatory capacities.

192. Promotion activities, which are the favourite domain of civil society and NGOs, should also be mentioned.

193. In particular, the following should be noted, although the list is by no means exhaustive:

(a) The creation within the Bar Association of the Human Rights Commission of a structure responsible for, inter alia, the observance of the establishment of a lawful State,

the denunciation of human rights violations, and the promotion of human rights (Decision No. 017/BDA/07/99 of 30 July 1999). The activities of this Commission basically entail:

- (i) Delivering a programme to ensure humane detention conditions through coaching activities under the programme to improve detention conditions and respect for human rights (PACDET) and through NGOs involved in promoting and protecting human rights;
- (ii) Participation in the “cultural week” organized by the association called “The Saving Gesture” in Yaoundé, Douala and Edéa prisons under the theme “detention as practised in Cameroon and international human rights law”;
- (iii) Participation in the validation of the aforementioned national programme of human rights education in Cameroon initiated by the National Commission on Human Rights and Freedoms;
- (iv) Organization of a competition called “Youth, Human Rights and a Culture of Peace” to mark Human Rights Day 2009 on 10 December.

(b) The celebration on 26 June of the United Nations International Day in Support of Victims of Torture provides an opportunity to raise awareness on torture, with themes such as the one chosen in 2005 by Christian Action for the Abolition of Torture – Coastal Branch “The persistence of torture and other violations against the person: Cameroon, a lawful State?”

194. Participant recommendations focused on:

- (a) Freedom of access to justice for victims of torture;
- (b) Eradication of private prisons in the north and south-west of Cameroon;
- (c) Reorganization of detention in all of the country’s prisons by separating children, women, the elderly and serious criminals.

195. The commemoration of the fifty-seventh anniversary of the Universal Declaration of Human Rights gave rise to a week of events and discussions from 8 to 12 December 2005 on the theme “combating torture”, with the following sub-themes:

- (a) International regulations on torture;
- (b) Collective action on the prevention of torture in Cameroon;
- (c) The Code of Criminal Procedure and torture in Cameroon;
- (d) The care of torture victims: experience of the “trauma centre” and the Idolé Foundation;
- (e) Case law studies and the Mukong case.

196. In addition, the Cameroonian Government has favourably welcomed the proposal to create the “Sergio Vieira De Mello” prize aimed at encouraging better initiatives and action on human rights. This prize was instigated by “New Human Rights – Cameroon” in partnership with the United Nations Subregional Centre for Human Rights and Democracy in Central Africa, the National Commission on Human Rights and Freedoms, the National Department of Justice and Peace and the Catholic University of Central Africa. The first prize-giving ceremony was held at the Palais des Congrès in Yaoundé on 27 May 2005.

197. Some human rights defence associations, brought together under the name of “The Human Rights House of Cameroon”, met in Douala on 10 October 2005 to observe the first World Day against the Death Penalty, organized by the World Coalition Against the Death Penalty.

Article 11

198. In order to comply with the provisions of this article and the Committee's recommendations, the Government guarantees that places of detention are properly supervised, by allowing NGOs to conduct visits and strengthen the capacities of prison monitoring boards. The National Commission on Human Rights and Freedoms and State prosecutors carry out more frequent visits of all places of detention.

199. It is the duty of State prosecutors to monitor places of detention, which they discharge by regularly viewing custody and custody release registers and pretrial detention records. They may also occasionally order or request problematic situations to be addressed and resolved.

200. While carrying out monitoring of police custody, the State Prosecutor may order the immediate release of persons held in violation of the law. This remit is subject to article 137 (2) of the Code of Criminal Procedure.

201. For information on visits by NGOs and charity organizations or the promotion of the defence of human rights, see paragraph 36 and paragraphs 36–40–2.

Article 12

202. All offences give rise to the opening of a judicial inquiry (article 135 et seq. of the Code of Criminal Procedure).

Article 13

203. In conformity with the provisions of this article, the State of Cameroon protects victims and witnesses against any intimidation or ill-treatment by informing the public of its rights, including in connection with complaints against State officials (see the responses in paragraphs 101 to 115 above).

204. However, the protection of witnesses and victims of crime is still in its infancy in Cameroon.

205. In fact, as far as witnesses are concerned, the Cameroonian Criminal Code only provides for reprimanding any failure on their part to comply, i.e. failure to appear (art. 173) and giving a false statement (art. 176).

206. There are plans, therefore, to bring Cameroonian legislation up to date by taking on board the relevant measures contained in the statutes and rules of procedure of the International Criminal Tribunals for the former Yugoslavia and Rwanda and of the International Criminal Court. The victims of these crimes have the right to have recourse to the criminal courts (claim for criminal indemnification before the investigating officer, judge or court handing down judgement) or civil courts (demand) to claim reparation for psychological and/or physical damage caused by the offence committed. Access to justice may be facilitated through the legal aid system, provided for by Decree No. 76/521 of 9 November 1976, to provide payment in advance of all or part of the costs that they would normally be required to bear.

Article 14

207. Article 59 of the Code of Criminal Procedure stipulates that any offence may lead to public proceedings and possibly to a civil action. Since the ratification by Cameroon of the

New York Convention, and its incorporation into domestic law in 1997 with the insertion of article 132 bis into the Criminal Code, torture has become an offence in Cameroonian law, which may give rise to civil proceedings.

208. The Code of Criminal Procedure has also extended the entitlement to compensation to the dead victim's dependants. Furthermore, the perpetrator of an offence is not just obliged to provide compensation for damages but is also civilly liable (arts. 71–75 annexed hereto).

209. It should be noted that draft legislation on the organization of military justice recognizes the victim's right to compensation for damages (paras. 45 and 131 to 132 above).

Article 15

210. A solution to the problem of the inadmissibility of evidence obtained through torture can be found in the provisions of subparagraph 2 of article 315 of the Code of Criminal Procedure.

Article 16

Article 16, paragraph 1

211. The information contained in the previous report remains relevant (paras. 205–208).

Article 16, paragraph 2

212. To incorporate this article into domestic law, several legal instruments have been adopted containing relevant provisions, including the Act of 27 July 2005 on the status of refugees in Cameroon and the Act of 29 December 2005 on combating smuggling and trafficking in children (mentioned above).

213. In addition, article 645 (d) extends the scope of the prohibition of extradition “where the requested State has substantial grounds for believing that the person for whom extradition is being requested will be subjected, in the requesting State, to torture and other cruel, inhuman or degrading treatment or punishment”.
