



**African Commission on Human and Peoples' Rights  
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**Report on the Death Penalty and Detention Conditions in the Republic of Cameroon  
Under the African Charter on Human and Peoples' Rights  
in response to  
The Third Periodic Report of the Republic of Cameroon  
presented at  
The 53<sup>rd</sup> Ordinary Session of the Commission  
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**prepared by**

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since 1991**

**and**

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A Cameroonian association dedicated to building a society that respects human rights**

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

Droits et Paix is a Cameroonian volunteer-based non-governmental organization working to establish a more fair and peaceful society in Cameroon through the implementation of human rights for all. Its main objectives are to protect and promote fundamental human rights and freedoms, encourage peaceful and non-violent action, and humanize and improve prison conditions in Cameroon. Droits et Paix's main activities include engaging in legal advocacy, providing legal and judicial assistance to victims of violations of human rights, issuing public statements, organizing campaigns regarding specific issues of concern, alerting the media and developing media strategies, raising public awareness of local organizations and of issues of human rights, and organizing calls to action in urgent cases. Droits et Paix is a member of the World Coalition Against the Death Penalty.

## EXECUTIVE SUMMARY

1. This report addresses Cameroon's compliance with its human rights obligations with regard to the death penalty and detention conditions. This report concludes that although the President of Cameroon has commuted many death sentences to life imprisonment, this practice has not been formalized and offers no protection to a large number of prisoners in Cameroon who remain under a sentence of death and who could be executed if the ad hoc policy changes. The Government of Cameroon has revealed a potential willingness to abolish the death penalty altogether sometime in the future, but the African Commission should encourage it to do so as soon as possible.
2. This report addresses the conditions of detention for people accused or convicted of crimes in Cameroon. Prisoners, many of whom have been awaiting trial for years, are incarcerated in conditions that violate domestic law and Cameroon's obligations under international human rights treaties. Although the Government of Cameroon has made progress in the past five years, it must dedicate more State resources to expanding the prison network, improving facilities, and providing a more efficacious justice system to reduce the number of pretrial detainees.
3. This report consists of four parts. Part I (pages 4 to 7) describes Cameroon's domestic, regional, and international human rights commitments. Part II (pages 8 to 10) explains the ways in which Cameroon's death penalty practices violate the country's international human rights obligations and the Constitution of Cameroon. Part III (pages 11 to 23) describes in detail how detention conditions in Cameroon violate Cameroon's international human rights obligations. Part III consists of six Subparts:
  - Subpart A (pages 12 to 14) describes the problem of lengthy and unlawful pretrial detention in Cameroon's detention facilities, and notes how this problem exacerbates overcrowding.
  - Subpart B (pages 14 to 15) focuses on detention conditions for women and children, explaining how those conditions violate human rights standards.
  - Subpart C (pages 16 to 18) discusses the use of torture and other forms of cruel, inhuman, and degrading treatment in detention facilities in Cameroon.
  - Subpart D (pages 20 to 20) demonstrates that detainees lack access to adequate medical care, in violation of their right to health.
  - Subpart E (pages 21 to 22) shows that detainees lack adequate nutrition and shelter.
  - Subpart F (pages 22 to 23) discusses the plight of individuals detained in unofficial detention facilities, and demonstrates that they are often subjected to prolonged detention, torture, and inhuman treatment without Government oversight.

Each Subpart concludes with suggested questions for the Delegation from the Government of Cameroon and suggested recommendations for the Government of Cameroon. Part IV (page 2424) offers some brief concluding remarks.

4. This report offers many recommendations to address these ongoing human rights violations in Cameroon. Among other recommendations, the report concludes that the Government of Cameroon should:

- Abolish the death penalty *de jure* and commute all death sentences to life imprisonment.
- Ensure that all detained persons who could potentially be charged with a death-eligible offense have immediate access to State-provided defense counsel during all interrogations and at all stages of any criminal proceedings.
- Create and fund an independent task force to conduct prompt and thorough investigations of all reported and suspected extra-judicial killings, and direct the Ministry of Justice to collaborate with the task force to ensure that the perpetrators of extra-judicial killings are held accountable.
- Enforce the law regarding limits on detention before charge and before trial by requiring all detention facilities to create and maintain systematic data on the date, time, and reason for each incarceration, and by requiring each facility to conduct weekly audits to determine whether individuals are being held unlawfully.
- Provide training to all magistrates on the availability of bail and encourage magistrates to release more pretrial detainees pending trial, with appropriate attention to ensuring the safety of alleged victims.
- Allocate more resources to improve the administration of justice and increase the number and enhance the quality of magistrates.
- Immediately release all women and children who are detained in facilities that lack segregated accommodations and direct those facilities not to receive additional women or children until they have constructed additional, adequate segregated accommodations with quality toilet facilities.
- Collaborate with civil society to ensure that detainees are aware of their right to redress if they are mistreated in detention and to facilitate detainee efforts to obtain redress by an impartial adjudicator.
- Facilitate the efforts of civil society organizations to monitor the treatment of detainees by encouraging them to conduct unannounced visits of all detention facilities and to interview all detainees in a confidential setting.
- Create a regulatory framework for the inspection of temporary, informal, and customary detention facilities.

**I. Cameroon’s International, Regional, and Domestic Human Rights Commitments Call for De Jure Abolition of the Death Penalty and Humane and Dignified Detention Conditions.**

***African Charter on Human and Peoples’ Rights***

5. Article 3 of the African Charter on Human and Peoples’ Rights (African Charter) demands that “[e]very individual shall be equal before the law” and “shall be entitled to equal protection of the law.” All humans are “inviolable” and every person, without qualification, is “entitled to respect for his life and the integrity of his person,” which includes not being “arbitrarily deprived of this right.”<sup>1</sup> The death penalty violates this “right to life.”<sup>2</sup> Similarly,

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<sup>1</sup> African Charter on Human and Peoples’ Rights, art. 4, entered into force 21 Oct. 1986.

<sup>2</sup> *See e.g.* Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances, Preamble (“Convinced that everyone’s right to

all individuals under the Charter have “the right to liberty and to the security of person,” and one’s freedom can be taken only “for reasons and conditions previously laid down by law.”<sup>3</sup> Specifically, “no one may be arbitrarily arrested or detained.”<sup>4</sup> Article 16 establishes that everyone has “the right to enjoy the best attainable state of physical and mental health,” and that States must ensure that “necessary measures” are taken to “protect the health of their people,” and that all people “receive[] medical attention when they are sick.” All people are equal under the African Charter, enjoying “the same respect,” having “the same rights,”<sup>5</sup> and having “the right to existence.”<sup>6</sup> Article 24 guarantees the right of all people “to a general satisfactory environment favorable to their development.”

### ***African Charter on the Rights and Welfare of the Child***

6. Under the African Charter on the Rights and Welfare of the Child, the State must guarantee “legal protection in conditions of freedom, dignity and security”<sup>7</sup> to the child regardless of “race, ethnic group, color, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.”<sup>8</sup> In the context of the death penalty, “every child has an inherent right to life”<sup>9</sup> and a “death sentence shall not be pronounced for crimes committed by children.”<sup>10</sup>
7. The State must “ensure that children are separated from adults in their place of detention or imprisonment”<sup>11</sup> and that during this period they are not “subjected to torture, inhuman or degrading treatment or punishment.”<sup>12</sup> Separation is necessary because “the essential aim of treatment of every child . . . found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.”<sup>13</sup>

### ***Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa***

8. The African Protocol on Women’s Rights was ratified by Cameroon “to ensure that the rights of women are promoted, realized and protected in order to enable them to enjoy fully all their human rights”<sup>14</sup> under national law and other international treaties. Under Article 4(1), “Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited” and, more specifically, “death sentences against pregnant or nursing women is prohibited”<sup>15</sup>. There is an obligation under the Protocol to take measures against “harmful practices or all other forms of violence, abuse and intolerance”<sup>16</sup> toward women

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life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings”).

<sup>3</sup> African Charter on Human and Peoples’ Rights, art. 6.

<sup>4</sup> *Id.*, art. 6.

<sup>5</sup> *Id.*, art. 16.

<sup>6</sup> *Id.*, art. 20.

<sup>7</sup> African Charter on the Rights and Welfare of the Child, Preamble, entered into force 29 Nov. 1999 [hereinafter Charter on the Rights of the Child].

<sup>8</sup> *Id.*, art. 3.

<sup>9</sup> *Id.*, art. 5(1).

<sup>10</sup> *Id.*, art. 5(3).

<sup>11</sup> *Id.*, art. 17(2)(c).

<sup>12</sup> *Id.*, art. Article 16.

<sup>13</sup> *Id.*, art. 17(3).

<sup>14</sup> Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, Preamble, 11 July 2003 [hereinafter African Protocol on Women’s Rights].

<sup>15</sup> *Id.*, art. 4(1).

<sup>16</sup> *Id.*, art. 5(d).

and to “punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims”.<sup>17</sup> State Parties must take all measures necessary to prevent sexual abuse of women<sup>18</sup> and to preserve female sexual and reproductive health.<sup>19</sup>

### ***Convention Against Torture***

9. Cameroon is obligated under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to “take effective legislative, administrative, judicial or other measures to prevent acts of torture”<sup>20</sup> and “acts of cruel, inhuman or degrading treatment or punishment.”<sup>21</sup> Additionally, the Government of Cameroon must conduct a “prompt and impartial investigation” if there are reasonable grounds to believe such acts have been committed.<sup>22</sup> The Government of Cameroon must protect and promote the right to make a complaint and to have it promptly and impartially examined by competent authorities.<sup>23</sup> Finally, the government is to “systematic[ally] review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction” as a means of preventing acts of cruel, inhuman or degrading treatment or punishment.<sup>24</sup>

### ***International Covenant on Civil and Political Rights***

10. Article 6 of the ICCPR establishes that every human being has an inherent right to life, of which they cannot be arbitrarily deprived.<sup>25</sup> The sentence of death must be reserved for only the most serious crimes, and subject to a final judgment by a competent court.<sup>26</sup> Additionally, the Covenant prohibits the execution of minors or pregnant women.<sup>27</sup> Article 7 prohibits all forms of torture or cruel, inhuman or degrading treatment or punishment. Article 9 recognizes the rights to liberty and security of self, to not be subjected to arbitrary arrest or detention, and to not be deprived of liberty without an adherence to procedure. Under Article 14, Cameroon is obligated to provide all individuals with equal rights to appear before a competent and impartial tribunal, and to have a fair public hearing.

### ***Domestic Law***

11. The Constitution of Cameroon recognizes the supremacy of duly approved or ratified international treaties, stating that they “override national laws.”<sup>28</sup> Additionally, it guarantees a number of rights and liberties “on the basis of the ideals of fraternity, justice and progress.”<sup>29</sup> The Preamble states that “no person may be prosecuted arrested or detained except in the cases and according to the manner determined by law.”<sup>30</sup> Once detained, “every person has a right to life, to physical and moral integrity and to humane treatment in all

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<sup>17</sup> *Id.*, art. 4(2)(e).

<sup>18</sup> *Id.*, art. 4(2)(a).

<sup>19</sup> *Id.*, art. 14(1)(d).

<sup>20</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2, entry into force 26 June 1987 [hereinafter Convention Against Torture].

<sup>21</sup> *Id.*, art. 16.

<sup>22</sup> *Id.*, art. 12.

<sup>23</sup> *Id.*, art. 13.

<sup>24</sup> *Id.*, art. 11.

<sup>25</sup> International Covenant on Civil and Political Rights, art. 6, adopted on 19 Dec.1966 [hereinafter ICCPR].

<sup>26</sup> *Id.*, art. 6(2).

<sup>27</sup> *Id.*, art. 6(5).

<sup>28</sup> Constitution of the Republic of Cameroon, art. 45.

<sup>29</sup> *Id.*, Preamble.

<sup>30</sup> *Ibid.*

circumstances” and “no person shall be subjected to torture, to cruel, inhumane or degrading treatment.”<sup>31</sup> At trial, all defendants are “presumed innocent until proven guilty” as part of “a fair hearing before the courts.”<sup>32</sup>

12. Cameroon is bound to abide by the Conventions to which it is a party, not only by the terms of those Conventions and the Constitution of Cameroon, but also expressly within the Cameroon Penal Code. Article 2 of the Penal Code confirms that “the rules of international law and of duly ratified and published treaties are applicable to the present code and to any criminal provision.”<sup>33</sup>
13. Despite the applicability of international human rights standards, approximately 13 offenses in Cameroon’s Penal Code are eligible for the death penalty—imposed by hanging or firing squad<sup>34</sup>—including aggravated murder, murder (premeditated), theft committed with violence and leading to death, abduction of a minor less than 21 years old leading to death of the minor, terrorism at an airport or on a plane leading to death, violent theft, assault on a state-employee with intent to kill, plundering by gangs using force during war, and attempt or conspiracy to commit a death-eligible crime.<sup>35</sup> The death penalty may also apply to crimes falling under the jurisdiction of the military, as military tribunals may try civilians under certain circumstances such as the prosecution of armed dissident groups or gangs.<sup>36</sup> Specific information on the scope of military jurisdiction and the laws governing military criminal justice in Cameroon is not readily available to the public.<sup>37</sup>
14. The imposition of the death penalty in Cameroon is not mandatory. Under the Cameroon penal code, the death penalty may be commuted to 10 years’ imprisonment if a court finds mitigating circumstances, “except when the acceptance of mitigating circumstances is expressly excluded by law.”<sup>38</sup> The most current (2004) statutory language describing Cameroon’s death-eligible crimes does not contain any such exclusions.<sup>39</sup> In 1975, the Cameroon Supreme Court struck down mandatory imposition of the death penalty in cases of aggravated theft, allowing the sentencing court to consider mitigating circumstances.<sup>40</sup> The death penalty is outlawed for minors<sup>41</sup> and mentally ill persons,<sup>42</sup> and pregnant women may be executed only after the birth of the child.<sup>43</sup>

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<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> Penal Code of Cameroon, art. 2, Laws No 65-LF-24 of Nov. 12, 1965 and No. 67-LF-1 of Jun. 12, 1967, as amended through to Jun. 10, 2004, published in Samuel Ngue, *Code Pénal*, Minos, 3rd ed., 2004 [hereinafter *Penal Code of Cameroon*].

<sup>34</sup> *Id.*, art. 23.

<sup>35</sup> Death Penalty Worldwide, *Death Penalty Database*, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a14-2> (citing 2004 Penal Code of Cameroon) (last visited 11 July 2013). *See also* GeED et al., *Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4)*, at p. 16.

<sup>36</sup> *Ibid.*; *see also* GeED et al., *Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4)*, at p. 16.

<sup>37</sup> Death Penalty Worldwide, *Death Penalty Database*, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1> (citing GeED et al., *Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4)*, at pp. 25-26, [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf), Jun. 2011.).

<sup>38</sup> *Ibid.* (citing Penal Code of Cameroon, arts. 90-91).

<sup>39</sup> *Ibid.* (citing Penal Code of Cameroon, arts. 90-91).

<sup>40</sup> *Ibid.* (citing Penal Code of Cameroon, arts. 90-91).

<sup>41</sup> Penal Code of Cameroon, art. 80 (establishing that being under the age of 18 is a mitigating factor).

<sup>42</sup> *Id.*, art. 78.

<sup>43</sup> *Id.*, art. 22.

## II. The Government of Cameroon's Death Penalty Practices Violate International Law and the Constitution of Cameroon.

15. Cameroon's ad hoc death penalty practices create a system of uncertain and arbitrary justice, violating Cameroon's international human rights obligations. Cameroon's *de facto* moratorium on the death penalty is laudable, but the Government of Cameroon continues to sentence persons to death, still has prisoners on death row, and has not agreed to end its practice *de jure*. Non-inclusive, and potentially ineffective, Presidential decrees are all that separate a convict from being put to death.

### The Government of Cameroon's Position

16. The Government of Cameroon's 3<sup>rd</sup> Periodic Report to the African Commission on Human and Peoples' Rights (Commission) did not devote much space to the death penalty, despite the African Commission's attention to the issue during prior reviews. At the end of the 2<sup>nd</sup> Periodic Review of Cameroon, the Commission urged the Government of Cameroon to "[t]ake all necessary and urgent measures towards the abolition of the death penalty in Cameroon according to international standards and resolutions of the African Commission on the abolition of the death penalty."<sup>44</sup> Cameroon ignored the Commission's recommendation, responding instead that the Government of Cameroon has been "observing a *de facto* moratorium since 1997" and for that reason, "since 2008, the country has been voting along those lines on resolutions at the United Nations General Assembly."<sup>45</sup>
17. Cameroon is a *de facto* abolitionist country. It has not officially executed anyone since 1997 and the country has an unofficial policy of commuting death sentences by Presidential decree, although not in a regular or predictable fashion.<sup>46</sup> Nonetheless, Cameroon has rejected calls to abolish the death penalty *de jure* and continues to sentence people to death, one as recently as May 2012. Seventeen people were sentenced to death in 2010 alone,<sup>47</sup> and at least one in 2011.<sup>48</sup> Additionally, not all death sentences are commuted, nor is it clear that prisoners are actually informed when their sentences are commuted.<sup>49</sup>
18. Public support for the death penalty is the Government of Cameroon's asserted basis for retaining the practice *de jure*. In its report to the U.N. Human Rights Council in 2013, the Government of Cameroon observed that it has executed only one person since 1982, but defended the law allowing imposition of the death penalty: "The law [i]s the expression of the general will and the Government [i]s required to take into account its electorate,

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<sup>44</sup> African Commission on Human and Peoples' Rights (African Commission), Concluding Observations and Recommendations on the 2<sup>nd</sup> Periodic Report of Cameroon, para. 46; 3<sup>rd</sup> Periodic Report of Cameroon within the Framework of the African Charter on Human and Peoples' Rights, 53<sup>rd</sup> Session of the African Commission on Human and Peoples' Rights of the African Union, para. 14 [hereinafter 3<sup>rd</sup> Periodic Report] (acknowledging the African Commission recommendations).

<sup>45</sup> 3<sup>rd</sup> Periodic Report, para. 34.

<sup>46</sup> Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1> (Commutation decrees were issued in 2005, 2005, 2008, 2010 and 2011.)

<sup>47</sup> Amnesty International, Annual Report, Cameroon (2012), <http://www.amnesty.org/en/region/cameroon/report-2012>.

<sup>48</sup> Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1>; Hands Off Cain, <http://www.handsoffcain.info/bancadati/schedastato.php?idstato=17000076&idcontinente=25>.

<sup>49</sup> Amnesty International, Annual Report, Cameroon (2011), <http://www.amnestyusa.org/research/reports/annual-report-cameroon-2011?page=show>; Amnesty International, Annual Report, Cameroon (2012), <http://www.amnesty.org/en/region/cameroon/report-2012>; Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a14-2> (citing 2004 Penal Code of Cameroon) (last visited 11 July 2013).



regardless of its convictions. The death penalty [i]s not applied de facto and it w[ill] eventually be abolished but it [i]s important to take into account changes in society.”<sup>50</sup> During Cameroon’s 2009 Universal Periodic Review, the Government stated it had not fully abolished the death penalty due to “its dissuasive effect and public support for its retention.”<sup>51</sup>

### The International Community’s Response

19. The international community continues to urge Cameroon to abolish the death penalty *de jure*. In the 2013 Universal Periodic Review of Cameroon, 13 countries recommended that Cameroon take immediate steps toward abolishing the death penalty.<sup>52</sup> Also in 2013, the U.N. High Commissioner on Human Rights urged Cameroon to ratify the 2<sup>nd</sup> Optional Protocol to the International Covenant on Civil and Political Rights.<sup>53</sup>

### Cameroon’s Ad Hoc Death Penalty Practices Lack Transparency and Violate Human Rights

20. Legal procedures for reviewing and seeking commutation of a death sentence are inadequate because people sentenced to death lack adequate counsel and are unaware of their procedural rights. Persons convicted in the High Court have the right of appeal to the Court of Appeals and finally, the Supreme Court.<sup>54</sup> After final judgment, convicted persons may file an application for review by the Supreme Court if there is new evidence casting doubt on the person’s guilt.<sup>55</sup> An admissible petition will result in an automatic stay of execution.<sup>56</sup> A final death sentence automatically triggers a right to submit a clemency or mercy petition to the President of Cameroon, but it is unclear how many convicted persons are aware of this right. There is no jury system in Cameroon and case reporting is erratic. Legal representation is likely inadequate, due to a lack of trained lawyers, scarce court resources, and other deficiencies.<sup>57</sup>
21. The most common crimes that result in death sentences are aggravated robbery and murder, and persons convicted of those offenses are generally excluded from presidential pardons.<sup>58</sup> These people therefore remain under a sentence of death. Given these exclusions, it is unclear whether and to what extent Presidential pardons actually reduce the number of prisoners on death row in Cameroon. In some cases, pardons are not effectively implemented and

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<sup>50</sup> United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Cameroon, U.N. Doc. A/HRC/24/15, 5 July 2013, para. 58.

<sup>51</sup> United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Cameroon, U.N. Doc. A/HRC/11/21/Add.1, 9 June 2009, p. 5.

<sup>52</sup> United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Cameroon, U.N. Doc. A/HRC/24/15, 5 July 2013 (Italy; Spain; Australia; Czech Republic; Estonia; Montenegro; Uruguay; Belgium; Slovakia, Slovenia, Togo, France, Rwanda).

<sup>53</sup> Cameroon Daily Journal, UN Rights Chief wants abolition of death penalty, last visited, 12 Aug. 2013, <http://cameroonjournal.com/un%20rights%20chief.html>.

<sup>54</sup> Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1> (citing Criminal Procedure Code of Cameroon, secs. 407, 427, 436, 472). The Cameroon legal system is reportedly highly decentralized, incorporating a mixture of English common law and French civil law, and sometimes traditional tribal or Sharia law. Only the Cameroon Supreme Court has jurisdiction over all laws and areas of the country. See Charles Manga Fombad, Researching Cameroonian Law, GlobalLex, New York University Law School (February 2011), <http://www.nyulawglobal.com/globalex/Cameroon1.htm>.

<sup>55</sup> Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1> (citing Criminal Procedure Code of Cameroon, secs. 407, 427, 436, 472).

<sup>56</sup> *Ibid.* (citing Criminal Procedure Code of Cameroon, secs. 538, 541).

<sup>57</sup> *Ibid.* (citing Criminal Procedure Code of Cameroon, secs. 538, 541).

<sup>58</sup> Amnesty International Report 2012, The State of the World’s Human Rights, p. 97 (2012), available at [http://files.amnesty.org/air12/air\\_2012\\_full\\_en.pdf](http://files.amnesty.org/air12/air_2012_full_en.pdf); Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1>.

prisoners are not informed that their sentence has been commuted.<sup>59</sup> The Cameroonian Government does not provide transparent data or statistics on the application of the death penalty, including the number of people sentenced to death and the number of individuals currently remaining on death row, as required by ECOSOC Resolution 1989/64. Unofficially, as of February 2012, there were 77 persons on death row in Cameroon.<sup>60</sup>

22. The ad hoc nature of Cameroon's commutation system violates the African Charter. Article 4 (establishing a right to respect for life and integrity of person) allows for no exceptions, and prisoners are not to be "arbitrarily deprived" of the right to respect for their lives and integrity of their persons. Yet the unpredictable practice of commuting sentences through presidential decree is arbitrary.
23. The unpredictability of commutations violates Article 3 of the Charter, which states that "[e]very individual shall be equal before the law" and "shall be entitled to equal protection of the law." It also violates Article 1(2) of the Constitution of Cameroon, which recognizes "equality of all citizens before the law."<sup>61</sup> The absence of a transparent procedure in the commutation process violates Article 6 of the African Charter, which requires that the law establish "reasons and conditions" for any deprivation of liberty. There is also little transparency regarding who has had their sentence commuted and who has not, and whether they or their legal counsel has been informed.<sup>62</sup> Remaining on death row subject to the complete discretion of the President harms an individual's mental health, in violation of Article 16(1) of the Charter, particularly when the President commutes the sentences of other prisoners. If Cameroon continues to implement its *de facto* moratorium through presidential commutations, the Government of Cameroon should institutionalize, formalize, and make more transparent its commutation practices and procedures.

#### The Government of Cameroon's Reliance on Public Opinion Is Unwarranted

24. The Government of Cameroon asserts that it must maintain the death penalty *de jure* because capital punishment enjoys popular support. Yet one NGO in Cameroon reports that no credible study or survey has been conducted on popular support for the death penalty, and that the argument used by the government is ill founded.<sup>63</sup> Moreover, the Government of Cameroon has not made efforts to educate the public about the death penalty or Cameroon's obligations under international human rights law. These shortcomings, especially viewed in light of the lack of transparency about death penalty practices in Cameroon, render the public ill-informed about the death penalty. And even well-informed public opinion cannot create an escape valve to allow State Parties to avoid their treaty obligations.

#### Security Forces Commit Extra-Judicial Killings with Impunity

25. Moreover, even though the Government of Cameroon does not officially execute prisoners, police and security forces commit extra-judicial killings, often with impunity.<sup>64</sup> The benefits

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<sup>59</sup> Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1>.

<sup>60</sup> *Ibid.* For a higher estimate of over 100 persons on death row at the beginning of 2013, see Hands Off Cain, Cameroon, <http://www.handsoffcain.info/bancadati/schedastato.php?idstato=17000076&idcontinente=25>. Some organizations estimate closer to 35, e.g., Written Correspondence with Droits et Paix, received on 10 Aug. 2013.

<sup>61</sup> African Charter on Human and Peoples' Rights, art. 3.

<sup>62</sup> Amnesty International, Annual Report, Cameroon (2012) <http://www.amnesty.org/en/region/cameroon/report-2012>.

<sup>63</sup> Written Correspondence with Droits et Paix, received on 10 Aug. 2013.

<sup>64</sup> See Ligue Camerounaise des Droits Humains/Cameroon Human Rights League, Rapport d'activite 2011, Les Defaillances Lamentables du Gouvernement Camerounaise Caracterise par des Violations Graves des Humains, pp. 12-13, LCDH/06A/31 /12/2011 (2011); and United States Department of State, 2011 Country Reports on Human

of Cameroon's *de facto* moratorium are undermined because government forces are able to carry out extra-judicial killings with complete or relative impunity. Prison guards, police, and military personnel—in particular the Rapid Intervention Battalion (BIR)—are reported to carry out these extra-judicial killings and other abuses.<sup>65</sup> The BIR is often implicated in the death of persons suspected of being bandits, or those suspected of being involved with organized crime.<sup>66</sup> The Government of Cameroon is failing to adequately prevent and prosecute these attacks. When those responsible are prosecuted for such executions, they often receive very minor sentences.<sup>67</sup>

**Suggested questions for the delegation from the Government of Cameroon:**

- What efforts has the Government of Cameroon made to educate the public about Cameroon's obligations under international human rights law as they pertain to the death penalty?

**Suggested recommendations for the Government of Cameroon:**

- Abolish the death penalty *de jure* and immediately announce a formal, comprehensive moratorium on the death penalty pending abolition.
- In the absence of *de jure* abolition, clarify publicly the procedure and standards for commuting death sentences through presidential decree, and provide formal notice of sentence status to all people whose death sentences have been commuted and to prisoners who remain on death row.
- Ensure that all detained persons who could potentially be charged with a death-eligible offense have immediate access to State-provided defense counsel during all interrogations and at all stages of any criminal proceedings.
- Create and fund an independent task force to conduct prompt and thorough investigations of all reported and suspected extra-judicial killings, and direct the Ministry of Justice to collaborate with the task force to ensure that the perpetrators of extra-judicial killings are held accountable.

**III. The Government of Cameroon Has Failed to Uphold Its Human Rights Obligations in Detention Facilities.**

26. In Cameroon's detention facilities, there are six main human rights concerns. First, many people face prolonged detention before trial, exacerbating prison overcrowding. Second, women and children in detention are not segregated from other offenders. Third, prison officials subject detainees to torture and other forms of cruel, inhuman, and degrading

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*Rights Practices - Cameroon*, 24 May 2012, available at <http://www.unhcr.org/refworld/docid/4fc75ab1c.html>, or <http://www.state.gov/documents/organization/186385.pdf>, (accessed 10 Aug. 2013) [hereinafter U.S. State Dept, 2011 Report].

<sup>65</sup> Written Correspondence with Droits et Paix, received on 10 Aug. 2013. See e.g., U.S. State Dept, 2011 Report, 3, <http://www.state.gov/documents/organization/186385.pdf>; U.N. Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum : Observations on communications transmitted to Governments and replies received*, 27 May 2013, A/HRC/23/47/Add.5, available at: <http://www.refworld.org/docid/51b9947d4.html> [accessed 7 August 2013] (Reports of death threats to lawyers and human rights defenders and 3 deaths of men in Cameroon, either from persons/groups associated with the government, police, or military, or from other groups with no adequate response or protection from the government. The government failed to respond to inquiries regarding these events.); National Commission on Human Rights and Freedoms, Report on The Situation of Human Rights in Cameroon in 2011, at p. 99 [hereinafter NCHRF 2011 Report].

<sup>66</sup> Written Correspondence with Droits et Paix, received on 10 Aug. 2013.

<sup>67</sup> *Ibid.*

treatment. Fourth, detention facilities do not provide detainees with adequate medical services. Fifth, nutrition and shelter in detention facilities are inadequate. Sixth, people detained in unofficial detention centers face torture and other forms of ill treatment. This section discusses each issue in turn.

### **A. Lengthy and Unlawful Pretrial Detention Exacerbates Overcrowding.**

27. Pretrial detainees in Cameroon often have to wait years for their cases to go to trial, in violation of the right “to be tried within a reasonable time by an impartial court or tribunal” in Article 7 of the African Charter.<sup>68</sup> As a result, detention facilities operate far beyond their capacity, and detainees live in conditions that violate human rights standards.

28. In practice, the length of pretrial detention far exceeds legal limits. Under Cameroonian law, a person who is arrested and detained must be charged within 48 hours, but that period is renewable.<sup>69</sup> People are frequently detained incommunicado<sup>70</sup> and without charge for well beyond the legal limit.<sup>71</sup> Once a person is charged, the law imposes an eighteen-month limit on pretrial detention,<sup>72</sup> but many pretrial detainees are incarcerated for as long as a decade.<sup>73</sup>

#### The Government of Cameroon’s Position

29. In its 3<sup>rd</sup> Periodic Report, the Government of Cameroon discussed detention conditions in the government’s seventy-four prisons.<sup>74</sup> The report offered disaggregated statistics showing an overall reduction in detention facility congestion through a small decrease in the prison population combined with a marginal increase in total capacity.<sup>75</sup> NGOs on the ground in Cameroon, however, dispute these figures.<sup>76</sup>

30. The report identifies additional efforts to alleviate prison overcrowding. Under the Programme for the Improvement of Detention Conditions and Respect for Human Rights (PACDET) project,<sup>77</sup> the Government of Cameroon plans to expand existing correctional facilities and construct new ones.<sup>78</sup> The government is also encouraging magistrates to expand the use of non-custodial sentences; the PRIDE project<sup>79</sup> has organized four training sessions for the judiciary to attend.<sup>80</sup>

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<sup>68</sup> African Charter on Human and Peoples’ Rights, art. 7.

<sup>69</sup> Police may legally detain a person in connection with a common crime for up to 48 hours, renewable once. This period may, with the written approval of the state counsel, be exceptionally extended twice before bringing charges. See U.S. State Dept, 2011 Report, <http://www.state.gov/documents/organization/186385.pdf>.

<sup>70</sup> GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf).

<sup>71</sup> The law permits detention without charge--for renewable periods of 15 days--by administrative authorities such as governors and civilian government officials serving in territorial command. See U.S. State Dept, 2011 Report.

<sup>72</sup> U.S. State Dept, 2011 Report, <http://www.state.gov/documents/organization/186385.pdf>.

<sup>73</sup> GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf).

<sup>74</sup> See, e.g., 3<sup>rd</sup> Periodic Review, pp. 18–20.

<sup>75</sup> *Id.*, at 18. This leads to an occupancy rate of 159.6% (2008) to 139.8% (2010).

<sup>76</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>77</sup> Partly funded by European Union.

<sup>78</sup> The Government of Cameroon has recently built a new prison in Douala for 2k more prisoners (unconfirmed) (Voice of America, Prison Conditions in Cameroon Fuel Escape Attempts, updated 01 Nov. 2009, <http://www.voanews.com/content/a-13-2008-09-11-voa28/400522.html>). It has also expanded the Tchollire 1 facility (NCHRF 2011, p. 100).

<sup>79</sup> See 3<sup>rd</sup> Periodic Report, p. 18 (referencing Catholic Relief Service, Protect the Rights of Inmates and Detainees (PRIDE)); see also U.S. State Dept, 2011 Report, pp. 4, 6, 9.

<sup>80</sup> 3<sup>rd</sup> Periodic Report, p. 18.

## The Government of Cameroon's Response to Overcrowding Is Illusory and Ineffective

31. Prison congestion remains critical and the Government of Cameroon's attempted improvements are insufficient and fail to address the underlying problems. In 2010, the occupancy rate of Cameroonian prisons was running at 139.8%, with the largest, urban prisons such as Yaounde Kondengui Prison<sup>81</sup> and Newbell Central Prison<sup>82</sup> particularly congested, at nearly 500% capacity in recent years. The most obvious solution to the problem—building new prisons—has been inhibited by a lack of funding.<sup>83</sup> Over the years, the Government of Cameroon has announced ambitious plans to construct new detention facilities, only to see those plans fall by the wayside due to insufficient funds.<sup>84</sup>
32. Funding the construction of new prisons ignores the root cause of the overcrowding problem: the number of pre-charge and pretrial detainees being held and the duration of those incarcerations.
33. This pretrial detention problem arises primarily due to two factors: lack of magistrates to hear cases, and court procedures that limit trial days to just two per week, creating a backlog of trials.<sup>85</sup> The PACDET Project has modestly improved the efficiency of the criminal justice system, but it does not address the dearth of competent judges.<sup>86</sup> Moreover, judges rarely grant bail pending trial, even though Cameroonian law permits it,<sup>87</sup> creating, in many cases, needless congestion.
34. A further source of prison overpopulation is the unwarranted criminalization and prosecution of expressive conduct and private, consensual behavior. Such conduct, such as political speech and assembly, libel, and private sexual expression between consenting adults of the same sex, should not be criminalized under international human rights standards.
35. The problem of overcrowding exacerbates many of the other human rights violations in Cameroon's prisons.<sup>88</sup> For example, one grave consequence of prison congestion is that prison populations are not properly segregated. Detainees awaiting trial are often not segregated from convicted offenders. And, as the Government's Third Periodic Report acknowledges,<sup>89</sup> Cameroon's prisons often fail to segregate male prisoners from female prisoners and juveniles.<sup>90</sup>
36. The Government of Cameroon should institutionalize and expand the efforts of the Catholic Relief Service to improve prison recordkeeping<sup>91</sup> of the date, time, and reason for incarceration (especially for those held in temporary holding cells in law enforcement

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<sup>81</sup>Yaounde Kondengui Prison was running at 292.8% capacity in 2010 and 500% in 2013 (Amnesty International, Annual Report, Cameroon (2013), <http://www.refworld.org/docid/519f51ac18.html>).

<sup>82</sup>Newbell Central Prison was running at 437.5% in 2009.

<sup>83</sup>The Government has shelved its 2006 commitment to build new prisons (Voice of America, Prison Conditions in Cameroon Fuel Escape Attempts, updated 01 Nov. 2009, <http://www.voanews.com/content/a-13-2008-09-11-voa28/400522.html>).

<sup>84</sup>Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>85</sup>Voice of America, Prison Conditions in Cameroon Fuel Escape Attempts, updated 01 Nov. 2009, <http://www.voanews.com/content/a-13-2008-09-11-voa28/400522.html>.

<sup>86</sup>Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>87</sup>U.S. State Dept, 2011 Report, <http://www.state.gov/documents/organization/186385.pdf>.

<sup>87</sup>Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>88</sup>*E.g.*, people escaping from prison and lack of segregation for men/women/minors.

<sup>89</sup>3<sup>rd</sup> Periodic Report, para. 43.

<sup>90</sup>GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf) p6.

<sup>91</sup>Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

stations). These practices enhance accountability and reduce the risk that prisoners will become “lost in the system.”

37. The Government should collaborate with the bar and legal training institutions to increase the number of qualified lawyers and magistrates to meet the demand in the detention system.

**Suggested questions for the delegation from the Government of Cameroon:**

- What funds has the Government allocated to ensure that prison construction projects will be completed?
- When will the Government complete its reform of the Penal Code to give judges and magistrates more non-custodial sentencing powers?
- What efforts will the Government undertake to ensure that more pretrial detainees are granted release pending trial, with appropriate attention to ensuring the safety of alleged victims?

**Suggested recommendations for the Government of Cameroon:**

- Build new prisons and expand existing facilities to reduce congestion and ensure that women, minors, and pre-trial detainees are segregated from other prisoners.
- Enforce the law regarding limits on detention before charge and before trial by requiring all detention facilities to create and maintain systematic data on the date, time, and reason for each incarceration, and by requiring each facility to conduct weekly audits to determine whether individuals are being held unlawfully.
- Collaborate with civil society to sensitize detainees about the laws establishing time limits for detention before charge and before trial and the procedures available to detainees to challenge their detentions.
- Provide training to all magistrates on the availability of bail and encourage magistrates to release more pretrial detainees pending trial.
- Improve record keeping in prisons to ensure that no inmates are detained longer than the legal limit
- Reform the Penal Code to include more non-custodial sentencing options and train more judges and magistrates to impose non-custodial sentences.
- Allocate more resources to improve the administration of justice and increase the number and enhance the quality of magistrates.
- Decriminalize political speech and assembly, libel, and same-sex sexual conduct.

**B. Detention Conditions for Women and Children Violate Human Rights Standards.**

38. As a consequence of overcrowding, women and children are forced to share cells and wards with adult male inmates.<sup>92</sup> As a result, these vulnerable groups face sexual abuse and other mistreatment.

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<sup>92</sup> *Ibid.*

### The Government of Cameroon's Position

39. Article 29 of the Penal Code states that minors should be imprisoned in special institutions or, if they are to be kept in the same prisons with adults, should be in segregated living quarters. Yet in its 3<sup>rd</sup> Periodic Report, the Government of Cameroon conceded that only fifty-one of the country's seventy-four prisons have separate facilities to accommodate women and minors.<sup>93</sup> These groups are therefore frequently housed with adult males, as confirmed by Cameroon's National Commission on Human Rights and Freedoms.<sup>94</sup>
40. The Government's Report does not offer any prospect for addressing the segregation problem. Nonetheless, the Government has recently expanded some prisons, such as Tchollire, and in so doing, has constructed special cells for women and minors with quality toilet facilities.<sup>95</sup>

### Failure to Segregate Women and Children Violates the Right to Safety and Security

41. Failure to provide separate facilities for women and minors violates the Penal Code of Cameroon<sup>96</sup> and the African Charter.<sup>97</sup> The Government's Report ignores the human rights consequences of this failure: Women incarcerated alongside men are not afforded the basic dignity of privacy when washing or using the lavatory. Many also suffer sexual abuse, in violation of Article 3(4) of the Protocol on Women's Rights.<sup>98</sup> And even if women report abuse, prison officials do not consistently investigate or punish the perpetrators, in violation of Article 4(2) of the Protocol.<sup>99</sup> The failure to segregate also exposes minors to sexual abuse, in violation of Article 27 of the African Charter on the Rights and Welfare of the Child.<sup>100</sup> The lack of segregation also exposes women and children to the violent weapon and drugs trade that thrives in the adult male prison environment. Such exposure is inconsistent with the goal of rehabilitation and is a violation of the Government of Cameroon's positive obligation to protect children.
42. The construction of new segregated facilities in prisons such as Tchollire is a positive step, and the Government of Cameroon should accelerate these efforts. But it is troubling to note that government officials, particularly those convicted for corruption, are afforded segregated quarters and facilities.<sup>101</sup> The Government of Cameroon should prioritize the safety and security of imprisoned women and children over the comfort of government or white collar criminals.

### **Suggested questions for the delegation from the Government of Cameroon:**

- How much prison space would be available to women and children if the quarters currently given to government and white collar criminals were redistributed?

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<sup>93</sup> 3<sup>rd</sup> Periodic Report, para. 43.

<sup>94</sup> NCHRF 2011, p. 100.

<sup>95</sup> *Ibid.*

<sup>96</sup> Penal Code of Cameroon, art.27.

<sup>97</sup> African Charter, Chapter One Art. 17(2)(c).

<sup>98</sup> U.S. State Dept. 2011 Report, <http://www.state.gov/documents/organization/186385.pdf>; African Protocol on Women's Rights, art. 3(4).

<sup>99</sup> United States Department of State, *2012 Country Reports on Human Rights Practices - Cameroon*, p. 3, available at, <http://www.state.gov/documents/organization/204309.pdf> [hereinafter U.S. State Dept. 2012 Report], (Documenting the rape of female merchant Ngono Obia after being placed in a cell with men.); African Protocol on Women's Rights, art. 4(2)(e).

<sup>100</sup> Voice of America, Prison Conditions in Cameroon Fuel Escape Attempts, updated 01 Nov. 2009, <http://www.voanews.com/content/a-13-2008-09-11-voa28/400522.html>; Rights of the Child, art. 27.

<sup>101</sup> U.S. State Dept. 2011 Report, <http://www.state.gov/documents/organization/186385.pdf> p. 5.

### **Suggested recommendations for the Government of Cameroon:**

- Build new prisons and expand existing facilities to reduce congestion and ensure that women and minors are segregated from other prisoners.
- Immediately release all women and children who are detained in facilities that lack segregated accommodations and direct those facilities not to receive additional women or children until they have constructed additional, adequate segregated accommodations with quality toilet facilities.

### **C. Detainees Are Subjected to Torture and Other Cruel, Inhuman, and Degrading Treatment.**

43. The Government of Cameroon's efforts to combat torture and other cruel, inhuman, and degrading treatment have been largely ineffective. Detainees are routinely subjected to torture and other ill-treatment, while their abusers act with impunity under the guise of taking "disciplinary measures." Security forces target suspected sexual minorities and supporters of political opposition groups for torture and other cruel treatment subsequent to arrest.

#### The Government of Cameroon's Position

44. The Constitution of Cameroon, revised by Law No. 96/06 of 18 January 1996, prohibits torture and cruel, inhuman or degrading punishment and treatment, and Article 121 of the Code of Criminal Procedure also bans torture in Cameroon.<sup>102</sup>
45. In its concluding observations during the last review, the African Commission recommended that Cameroon "[c]ollaborate with the African Commission with the view to implementing the Robben Island Guidelines, some of the provisions of which focus on torture and cruel, inhuman and degrading punishments." In response, the 3<sup>rd</sup> Periodic Report notes that the Government of Cameroon organized a seminar on prevention and punishment for torture in January 2012.<sup>103</sup> As of 2013, however, the Government of Cameroon has not implemented the Robben Island Guidelines. And because the Compensation Committee under Article 236 of the Criminal Procedure Code is not yet effective, victims of torture are unable to claim compensation owed to them under the Guidelines and under Article 14 of the Convention Against Torture.<sup>104</sup> NGOs in Cameroon report that the Government's seminar has had only a minimal effect on detention conditions because the senior officials who attended either have not relayed its message to prison staff or are not enforcing compliance.<sup>105</sup> The Government of Cameroon also notes that human rights training is now taking place at Advanced Institutes and Training Centres of the National Gendarmerie as well as at the Law and Order Technical Development Centre, the Police Detective Training Centre, the Yaounde Training Centre, the National Advanced Police Training Academy, and the Police Training and Policing Centre at Mutengene.<sup>106</sup> In addition, 1,734 disciplinary measures were taken against national security personnel in 2009, 2010, and 2011.

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<sup>102</sup> GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), at p. 19, [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf).

<sup>103</sup> 3<sup>rd</sup> Periodic Report, para. 36. Noted in the U.S. Department of State, Cameroon Human Rights Report, 4 (2012), <http://www.state.gov/documents/organization/204309.pdf>.

<sup>104</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013; Convention Against Torture art.14.

<sup>105</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>106</sup> 3<sup>rd</sup> Periodic Report, para. 90–91.



A Culture of Impunity Allows Law Enforcement Authorities and Prison Officials to Continue to Engage in Torture and other Cruel, Inhuman, and Degrading Treatment

46. The government has taken some steps toward holding perpetrators accountable for torture and degrading treatment by taking disciplinary action against offenders. The Government prosecuted ten security force members in 2011 for alleged torture; two were convicted while the rest of the cases remain pending.<sup>107</sup> The Government prosecuted nine additional officers for murder, again with two convictions and the remaining cases pending.<sup>108</sup> The Government's data, however, are inconsistent. For example, the Government of Cameroon contended that it took some form of disciplinary action against 173 national security personnel in 2011,<sup>109</sup> but the Report of the Ministry of Justice on Human Rights in Cameroon in 2011 stated that authorities sanctioned or prosecuted for misconduct a total of 89 personnel.<sup>110</sup> The same Report stated that a total of 19 disciplinary measures were taken against national security staff members in 2011.<sup>111</sup> Even if these two sets of numbers reported by the Ministry of Justice are non-overlapping, the total number of actions (both disciplinary and criminal/sanctions) is 108. Even adding the 19 security force members mentioned above (those prosecuted for torture and murder), the total would be only 127 disciplinary actions, far short of the number reported in the Government's 3<sup>rd</sup> Periodic Report. The Government has offered no explanation for these discrepancies.
47. These accountability measures appear to be ineffective, as torture is still a serious problem both in and out of prison.<sup>112</sup> Security forces are still reportedly torturing, beating, harassing, and otherwise abusing members of the public (including women, children, and elderly) and detainees.<sup>113</sup> Security forces have detained and tortured people "at specific sites, including temporary holding cells within police or gendarme facilities and cells located at the Directorate General for External Intelligence (DGRE)."<sup>114</sup> As of 2012, human rights groups such as Journalistes en Afrique pour le Developpement, Prison Fellowship, and Amnesty International, as well as some prison workers, reported that torture is widespread.<sup>115</sup> Similarly Droits et Paix reports that, as of 2013, torture and inhuman and degrading treatment in detention facilities are widespread and perpetrators act with impunity under the guise of taking "disciplinary measures."<sup>116</sup> Prison guards reportedly beat prisoners, and in minimum-security detention centers, including Douala's New Bell Prison, "authorities reportedly chained prisoners or at times flogged them in their cells."<sup>117</sup> The Cameroon National Commission on Human Rights and Freedoms reported that although there has been a reduction in the more brutal forms of torture (severe beatings, chaining, simulated drowning, burns, rape, etc.), there may now be an increase in psychological forms of torture. These techniques include "long pre-trial detention, systematic denial of access to adequate healthcare, deprivation of external visits, reductions in internal circulation, tailored chores, lock-ups in punishment cells, degrading sleeping conditions, inadequate food quality and

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<sup>107</sup> U.S. State Dept. 2012 Report, 2, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>108</sup> *Ibid.*

<sup>109</sup> 3<sup>rd</sup> Periodic Report, para. 94.

<sup>110</sup> U.S. State Dept. 2012 Report, 2, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>111</sup> *Id.*, at 8.

<sup>112</sup> *Id.*, at 2; 2011 NCHRF report on the situation of human rights in Cameroon, at p. 98.

<sup>113</sup> U.S. State Dept. 2012 Report, 2, <http://www.state.gov/documents/organization/204309.pdf>; GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), at pp. 19–20, [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf).

<sup>114</sup> U.S. State Dept. 2012 Report, 3, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>115</sup> *Id.*, at 4.

<sup>116</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>117</sup> U.S. State Dept. 2012 Report, 4, <http://www.state.gov/documents/organization/204309.pdf>.

quantity, indecent body searches, false accusations with consequences of corporal punishment, etc.”<sup>118</sup> These techniques are not only pervasive throughout Cameroon—they are also rarely punished.<sup>119</sup> Such impunity persists because, although Cameroon has taken steps towards ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), it has failed to deposit the instruments of ratification with the Secretary General of the United Nations, and has failed to establish a domestic visiting body as part of the National Preventative Mechanism (NPM) required under Article 3.<sup>120</sup>

48. Security forces often target suspected sexual minorities for torture and degrading and inhuman treatment. Law enforcement extortion and harassment of LGBTI<sup>121</sup> persons is reported to be a serious problem. On July 16, 2011, for example, law enforcement detained and arrested three men because two of them “appeared effeminate.”<sup>122</sup> All three were detained without charge for a week, and the two “effeminate” ones were “beaten on the soles of their feet until they confessed to being gay.”<sup>123</sup> They were convicted based on these coerced confessions and sentenced to five years’ imprisonment and fined 200,000 CFA francs.<sup>124</sup> A recent asylum-seeker from Cameroon reported that police subjected him to horrendous torture and abuse in detention after he admitted he was gay.<sup>125</sup> Police struck him on the back of his knees with a rigid rubber baton, beat him for hours at a time, tied his hands and hung him on an iron rod, chained his legs, hit him on the bottom, genitals, hands, and feet, and struck him on the face with a gun, breaking his teeth.<sup>126</sup> A medical report corroborates these injuries.<sup>127</sup>
49. These abuses targeting LGBTI persons find no justification under domestic law. Cameroon’s laws prohibiting homosexual conduct call for fines or incarceration, not harassment and torture without trial. This law enforcement abuse is particularly misplaced because there is evidence that people conspire to make false accusations of homosexuality against individuals in order to harass or extort them.<sup>128</sup> Cameroon must take immediate action to identify and punish the perpetrators of this torture and degrading treatment, and to train law enforcement to respect the human rights of people suspected of being LGBTI.
50. Political opponents of the current government also face torture and cruel, inhuman, and degrading treatment. A recent asylum-seeker reported that he was arrested for involvement in a peaceful political demonstration.<sup>129</sup> He was locked in a dark cell with other supporters for three days without water, food, or toilet facilities. He was released and later arrested again, when he was beaten and lost vision in one of his eyes.<sup>130</sup> Another recent asylum-seeker reported facing torture, and cruel and degrading treatment for being involved with a minority political party. In 2011, he was arrested with hundreds of other political activists, held

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<sup>118</sup> NCHRF 2011 Report, at p. 99.

<sup>119</sup> *Ibid.*

<sup>120</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>121</sup> Lesbian, Gay, Bisexual, Transgender, Intersex.

<sup>122</sup> U.S. State Dept. 2012 Report, 34, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> Asylum case 1.

<sup>126</sup> *Ibid.*

<sup>127</sup> *Ibid.*

<sup>128</sup> U.S. State Dept. 2012 Report, 33, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>129</sup> Asylum case 2.

<sup>130</sup> *Ibid.*

without charge, forced to sleep on wet ground, and was refused food and sanitary facilities.<sup>131</sup> In detentions prior to 2011, he had faced physical violence requiring hospital care.<sup>132</sup>

**Suggested questions for the delegation from the Government of Cameroon:**

- What is the reason for the discrepancy between the State Report's number of disciplinary actions against national security personnel in 2011 (173) and the Ministry of Justice figures for the same year (between 89 and 127)? How are these data maintained?
- What changes have you seen between 2011 and 2012 in the number of disciplinary actions against national security personnel?
- What measures have been taken to ensure that the officials who attended the January 2012 seminar on the prevention and punishment of torture are conveying information from the seminar to prison staff and enforcing compliance?
- What steps will the Government of Cameroon take to implement the Robben Island Guidelines?
- How are detainees informed of their rights to redress if they are subjected to torture or cruel, inhuman, or degrading treatment in detention? How often do detainees exercise these rights?

**Suggested recommendations for the Government of Cameroon:**

- Fully implement the Robben Island Guidelines by adopting implementing regulations and by providing comprehensive training to all law enforcement officials and prison staff.
- Collaborate with civil society to ensure that detainees are aware of their right to redress if they are mistreated in detention and to facilitate detainee efforts to obtain redress by an impartial adjudicator.
- Facilitate the efforts of civil society organizations to monitor the treatment of detainees by encouraging them to conduct unannounced visits of all detention facilities and to interview all detainees in a confidential setting.
- Establish an independent civilian review board to take and investigate complaints about law enforcement use of torture and cruel, inhuman, and degrading treatment.
- Direct law enforcement to immediately cease all harassment and abuse of people suspected to be sexual minorities.
- Remove any officer from public patrol duties who has engaged in harassment or abuse of actual or suspected sexual minorities until such time as the officer receives training about the human rights of sexual minorities.
- Direct law enforcement to immediately cease arrests of people participating in peaceful political demonstrations.
- Deposit the necessary instruments of ratification of OPCAT to the Secretary General of the United Nations immediately.

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<sup>131</sup> Asylum case 3.

<sup>132</sup> *Ibid.*

- Establish a domestic visiting body as part of the National Preventative Mechanism required under Article 3 of OPCAT.
- Ensure that the Compensation Committee under Article 236 of the Criminal Procedure Code is fully funded and staffed.

#### **D. Detainees Lack Access to Adequate Medical Treatment and Facilities.**

51. Detainees lack access to adequate medical treatment and facilities. These facilities are inadequately staffed and funded. Moreover, the available treatment does not meet the special needs of the prison population.

##### The Government of Cameroon's Position

52. The 3<sup>rd</sup> Periodic Report discusses improvements to health and medical services in penitentiaries. The Government has established infirmaries in Yaounde, Bafoussam Mbouda, Bertoua, and Ebolowa which are expected to benefit the five other central prisons.<sup>133</sup> The total budget outlay for the purchase of medicines has grown considerably since 2008,<sup>134</sup> and the number of medical staff in prisons has increased.

##### Inadequate Medical Care Violates Detainees' Rights to Health and Causes Unnecessary Deaths

53. The Government of Cameroon continues to make progress in bringing prison medical services up to an acceptable standard. Nonetheless, the Government has permitted the medicine appropriation budget, which doubled from 2008-2010, to slide dramatically in the past two years,<sup>135</sup> resulting in a number of unnecessary deaths.<sup>136</sup> The prison population has decreased slightly over this period, but the reduction in the budget is disproportionate. Moreover, the total number of medical staff servicing prisons—just 111 in 2010<sup>137</sup>—is inadequate for Cameroon's 74 detention facilities, particularly because disease and drug abuse are rife in those places.<sup>138</sup> Of these 111 staff, there are only 18 doctors, just four of whom are female; women in most detention facilities are therefore denied treatment by someone of their own sex. Medical services are devoted almost exclusively to physical injuries, and therefore people who suffer from psychological illnesses, including those who have suffered torture at the hands of the State, remain undiagnosed or untreated.<sup>139</sup>
54. These inadequacies violate the right to health and the right to life, with one report estimating negligent treatment or lack of medical treatment is the sole cause of five deaths per month in detention facilities.<sup>140</sup>

#### **Suggested questions for the delegation from the Government of Cameroon:**

- What steps will the Government take to ensure that detainees suffering from mental or psychological illness receive appropriate treatment?

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<sup>133</sup> 3<sup>rd</sup> Periodic Report, p. 19.

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*

<sup>136</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>137</sup> 3<sup>rd</sup> Periodic Report, p. 19.

<sup>138</sup> IRIN News, Cameroon: "Inhuman" conditions, denial of justice for detainees,

<http://www.irinnews.org/report/85872/cameroon-inhuman-conditions-denial-of-justice-for-detainees>.

<sup>139</sup> Amnesty International, Annual Report, Cameroon (2013), <http://www.refworld.org/docid/519f51ac18.html>.

<sup>140</sup> *Ibid.*

### **Suggested recommendations for the Government of Cameroon:**

- Increase medical staff in correctional facilities and recruit more female doctors to treat female detainees.
- Improve funding for medical services in prisons.
- Improve access to psychiatric treatment, especially to diagnose and treat detainees who are victims of torture and other forms of cruel, inhuman, or degrading treatment.

### **E. Detainees Lack Adequate Nutrition and Shelter.**

55. Many prisoners die because they lack nutritious food, access to water, or proper shelter.

#### The Government of Cameroon's Position

56. The Government offered no comment on prisoners' access to essentials such as water, drainage, light, and toilet facilities in its 3<sup>rd</sup> Periodic Report. It did, however, extol the improvements made in prisoner nutrition which was achieved largely through an increase in rations.<sup>141</sup> As part of this effort, various "food farms" have been established in Garoua, Buea, Ebolowa and Bertoua including poultry farms in Yaoundé, Ngaoundéré, Bamenda, Bafoussam, and Buea, and a pig farm has been set up in Maroua.

#### Government Efforts to Provide Detainees with Proper Nutrition, Water, and Shelter Are So Inadequate That Prisoners Risk Their Lives to Escape

57. The Government of Cameroon has committed to increasing the daily food ration to 0.76 Euros.<sup>142</sup> Yet this increase translates into only one meal per day.<sup>143</sup> Moreover, the Cameroonian Government rarely takes action unless prompted by a tragedy. For example, it increased the food ration after forty prisoners died in Maroua Central Prison<sup>144</sup> in 2010.

58. Prisoners' access to essentials such as water, light, drainage, and toilet facilities vary greatly across the country. Temporary police and gendarme holding facilities, which exist throughout the country, are particularly under-equipped. Some prisoners suffer for want of some of these essentials,<sup>145</sup> while others live in completely unsheltered sections of detention facilities and are exposed to the elements. The African Commission during its last review noted, among other things, poorly maintained and unsound facilities with leaking roofs, insufficient toilets and beds, lack of water<sup>146</sup> and electricity, scarcity of pharmaceuticals, lack of appropriate kitchens, absence of drainage, and lack of disinfectants.<sup>147</sup> Prison overcrowding exacerbates the effects of these conditions.

59. The increase in daily rations for prisoners is welcome and the "food farms" through which it has been achieved—provided they are run in the correct manner—offer opportunities for detainees to learn new skills and build self-esteem. But these steps are inadequate. Malnutrition is endemic, and prison officials consider it the prisoner's family's responsibility

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<sup>141</sup> The daily food ration increased from 0.16 Euros in 2006 to 0.35 Euros in 2011 (3<sup>rd</sup> Periodic Report, p. 20).

<sup>142</sup> 3<sup>rd</sup> Periodic Report, p. 20.

<sup>143</sup> Written Correspondence with Droits et Paix, received on 13 Aug. 2013.

<sup>144</sup> GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED\\_Cameroon\\_HRC99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf) (p. 23).

<sup>145</sup> NCHRF 2011 Report (hard copy only).

<sup>146</sup> For example in New Bell Prison there are just 7 taps for around 2,000 prisoners (U.S. State Dept. 2012 Report).

<sup>147</sup> U.S. State Dept. 2012 Report, pp. 3-4, <http://www.state.gov/documents/organization/204309.pdf>.

to provide food.<sup>148</sup> Ration increases, particularly for minors, owe their roots to the efforts of private donors, rather than concerted government efforts.<sup>149</sup> Lack of potable water is another serious concern and, due to inadequate medical facilities, is one with deadly consequences.<sup>150</sup>

60. The untenable conditions in detention facilities frequently prompt detainees to attempt to escape. These escape attempts are dangerous and even fatal for the people attempting to escape, as well as for other inmates. In an incident in 2009, several innocent prisoners died when their fellow inmates started a fire as part of an escape mission.<sup>151</sup> And persons attempting to escape are regularly executed on the spot.<sup>152</sup>

**Suggested questions for the delegation from the Government of Cameroon:**

- What efforts has the Government made to expand detainees' access to potable water?
- Does the government have plans to expand the prison "food farm" system to all detention facilities?

**Suggested recommendations for the Government of Cameroon:**

- Build new prisons and repair and expand existing facilities to reduce congestion and improve conditions.
- Desist from executing prisoners who attempt to escape.
- Allocate more State resources to the prison system to ensure it meets basic international standards regarding:
  - Food rations and access to portable water; and
  - Shelter and hygiene facilities.

**F. Individuals Detained in Unofficial Detention Facilities Face Torture and Inhuman Treatment.**

61. Many citizens, unaware of their rights under domestic or international law, are held in degrading conditions in local prisons that operate largely outside of Government control.

The Government of Cameroon's Position

62. The Government of Cameroon's 3<sup>rd</sup> Periodic Report focused only on official, central detention facilities. A substantial minority of citizens are held in inadequate and largely unregulated temporary police and gendarme prisons as well as—especially in the north of the country—private facilities run by local "Lamibes."

Unofficial, Unregulated Detention Facilities Are Prone to Abuse and Detainees in These Facilities Are Particularly Vulnerable and Lack Access to Redress

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<sup>148</sup> U.S. State Dept. 2012 Report, p. 4, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>149</sup> 3<sup>rd</sup> Periodic Report, p. 20.

<sup>150</sup> It has been reported that prisoners in Ngaoundere died of cholera (Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon#a4-1>).

<sup>151</sup> Voice of America, Prison Conditions in Cameroon Fuel Escape Attempts, updated 01 Nov. 2009, <http://www.voanews.com/content/a-13-2008-09-11-voa28/400522.html>.

<sup>152</sup> In two months in 2009, 30 inmates either died or were executed as a result of attempting to escape from Cameroonian jails. *Ibid.*

63. Little information is available about these private prisons. Some “Lamibes” have asserted that they no longer engage in practices such as tying prisoners to posts by their wrists and ankles, but other sources suggest these practices persist.<sup>153</sup>
64. These local and private prisons are particularly afflicted by the problems of overcrowding and inhuman treatment. In police prisons, conditions are so poor and corruption is so rife that inmates willing and able to pay bribes are often detained in the main staff office.<sup>154</sup>
65. The unregulated conditions in private prisons warrant particular concern. The customary law of the “Lamibes” remains the first port of call for local residents seeking dispute resolution. In theory, accused persons are detained in the local prisons for a short period of time before being sent to an official government facility. In reality, however, many prisoners are held for very long periods of time without trial, while others die as a result of the inadequate conditions. Many people in these rural areas are not aware of their rights under Cameroonian and international law, and therefore they endure this treatment without seeking redress.

**Suggested questions for the delegation from the Government of Cameroon:**

- What regulations exist for monitoring and improving conditions in “Chief” or “Lamibe” prisons?
- Can “Lamibes” or “Chiefs” be held responsible under Article 213 for unlawful detention if they hold a detainee illegally?
- What mechanisms are in place to determine whether a person is being unlawfully detained in a temporary police or gendarme prison and to secure the person’s release?

**Suggested recommendations for the Government of Cameroon:**

- Document and improve conditions in local police, gendarme, and “Lamibe” prisons.
- Direct all temporary, informal, and customary detention facilities to maintain accurate records of the date and time each detention is initiated and the reason for the detention.
- Facilitate the efforts of civil society organizations to monitor the treatment of detainees in these informal, customary, and temporary detention facilities by encouraging them to conduct unannounced visits and to interview all detainees in a confidential setting.
- Collaborate with civil society organizations to ensure that all detainees are aware of the laws limiting detention before charge and before trial as well as their remedies if they are detained beyond the legal limit.
- Create a regulatory framework for the inspection of temporary, informal, and customary detention facilities.
- Investigate and prosecute the people who are responsible for ordering and enforcing detentions that exceed the legal time limits.

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<sup>153</sup> U.S. State Dept. 2011 Report, p. 5, <http://www.state.gov/documents/organization/186385.pdf>; U.S. State Dept. 2012 Report, pp. 6, 10, <http://www.state.gov/documents/organization/204309.pdf>.

<sup>154</sup> U.S. State Dept. 2011 Report, p. 5, <http://www.state.gov/documents/organization/186385.pdf>; U.S. State Dept. 2012 Report, pp. 6, 10, <http://www.state.gov/documents/organization/204309.pdf>.

#### **IV. Conclusion**

66. The Government of Cameroon should abolish the death penalty *de jure*. Cameroon's ad hoc death penalty practices create a system of uncertain and arbitrary justice, violating Cameroon's international human rights obligations. Despite a *de facto* moratorium on the death penalty, the Government of Cameroon continues to sentence persons to death, still has prisoners on death row, and has not agreed to end its practice *de jure*. The process of commuting sentences by presidential decree lacks transparency. Prisoners often do not know of their legal right to seek commutation, nor do they receive notice that their sentence has been commuted.
67. Cameroon's detention facilities are rife with serious human rights violations. In Cameroon's detention facilities, many people face prolonged and unlawful detention before trial, exacerbating prison overcrowding. As a result of overcrowding, women and children are not segregated from other offenders. Moreover, prison officials and other security forces subject detainees to torture and other forms of cruel, inhuman, and degrading treatment. Detention facilities rarely offer adequate medical services or proper nutrition and shelter. Detainees in temporary, unofficial, and customary detention facilities are often ill-treated and face prolonged detention without governmental oversight.