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Buea, Southwest Region, Cameroon**

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Contra Nocendi Cameroon : Contra Nocendi Cameroon is an independent section of Contra Nocendi International that was founded in April 2016 in Buea, Cameroon. The organisation’s mission is to promote the protection of human rights in Cameroon. CN Cameroon provide pro bono legal support to persons in detention and monitors detention centers in the Southwest region of Cameroon.

Contra Nocendi International : Contra Nocendi is an international Human Rights NGO. Our objective is the promotion of international human rights and the rule of law in Africa. Our work includes monitoring the treatment of detainees in detention centers, promoting the right to participate in the political process and promoting regional and international human rights mechanisms.

Freedom of expression and association

Background

The preamble of the 1972 Constitution (as amended in 1996) provides that: “[T]he freedom of communication, of expression, of the press, of assembly, of association, and of trade unionism, as well as the right to strike shall be guaranteed under the conditions fixed by law.” The legal framework regulating freedom of association is the Law No. 90/053 of 19 December 1990, while the regulations on NGOs,¹ political parties,² or public meetings³ are set down in other instruments.

In previous Universal Period Reviews, recommendations had been made to Cameroon on several issues, including those regarding freedom of association, expression, journalists and human rights defenders. *Contra Nocendi* notes in this regard that Cameroon accepted recommendations to: Provide adequate protection to human rights defenders at risk, especially involving the right to freedom of expression, peaceful assembly and association; Improve the conditions of workers and employers so as to enjoy their right to form their own organizations as well as to enjoy appropriate protection against any act of discrimination aimed at undermining freedom of association; Issue a standing invitation to all mandate holders and allow a visit by the Special Rapporteurs on Freedom of Opinion and Expression and on Human Rights Defenders; Continue to investigate acts of threats and aggression against human rights defenders and journalists and bring to justice those perpetrators; Provide active and immediate protection for all human rights defenders.⁴ Although some progress has been noted, several related issues have remained persistent.

Despite supporting recommendations to adopt measures to ensure protections in line with international standards as regards respecting the freedom of expression of journalists and human rights defenders (HRDs),⁵ as well as taking measures to recognize the legitimacy of HRDs and their work,⁶ *Contra Nocendi* is concerned that the authorities continue to show high levels of intolerance towards HRDs who are critical of the government or its policies.

¹ Law No. 99/014 of 22 December 1999 relating to Non-Governmental Organisations.

² Law No. 90/056 of 19 December 1990 relating to political parties.

³ Law No. 90/055 of 19 December 1990 to lay down regulations governing public meetings and processions.

⁴ See complete electronic document at https://www.upr.info/sites/default/files/document/cameroon/session_16_-_april_2013/recommendations_and_pledges_cameroon_2013.pdf

⁵ *Contra Nocendi* adopts the definition of HRDs as outlined in the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Adopted by General Assembly resolution 53/144 of 9 December 1998, as well as in the *Commentary to the Declaration on human rights defenders*, available electronically at

<http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>.

⁶ See for example, Cameroon’s 5th Periodic Report, CCPR/C/CMR/5, at 2.4, page 28.

Over the years, human rights defenders as well as other stakeholders have continuously voiced their concerns regarding members of the gendarmerie, security forces or police who enjoy relative impunity for acts amounting to human rights violations, including excessive use of force when policing, torture and other forms of cruel, inhuman or degrading treatment or punishment.

Restrictions on freedom of expression and association

The authorities have often been intolerant of criticism of the government and/or its policies human rights defenders. HRDs investigating or advocating against forms of abuse of office have been arrested and detained by members of the security forces, charged and/or imprisoned for defamation. Some of them have also been subjected to beatings and other forms of ill-treatment by members of the security forces.

Contra Nocendi notes in this regard that in Cameroon's 5th Periodic Report, it stated human rights defenders, including "Journalists and political opponents are not subject to intimidation, threats or legal harassment by public authorities. The State guarantees the exercise of their activities as long as they do not violate criminal law."

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Based on information received from HRDs on the ground as well as relevant partner organisations, *Contra Nocendi* has found several acts of violations of HRDs rights which are of grave concern.

The arrest, detention and imprisonment of Jean Marc Bikoko

Although he has since been released, Mr. Bikoko, executive president of the Central Trade Union of the Public Sector and focal point for Dynamique Citoyenne, a network of Cameroonian civil society organisations, had been arrested in together with his colleagues at a workshop organised to mark the International Day of Democracy in September 2015 by security forces in Yaoundé. The police had ordered the suspension of an event they organised, alleging that it could not be held because it had not been authorized by the divisional office, even though the law only required such prior notices for demonstrations.

The case of Nasako Besingi

In January 2016, the Court of First Instance of Mundemba sentenced Mr Besingi to either pay a fine or serve one year imprisonment, on charges of conducting unlawful assemblies, and organising and inciting protests. Mr Besingi is an environmental rights defender and the director of Struggle to Economize the Future Environment, an NGO which has asserted the land rights of local communities in the context of the development of palm oil plantations by the American agribusiness company. He has also previously been subjected to acts of intimidation, threats, arrests, beatings and judicial harassment in relation to his work. On 25 September 2017, Nasako Besingi

⁷ *Ibid*, paragraph 124

was arbitrarily arrested by local police officers, gendarmes and army officers in his office in Mundemba, Ndian Division. On 28 September 2017, he was brought before the Buea Military Tribunal where he was questioned by the investigating judge, following which he was taken back to Buea prison. While the investigation is still ongoing, the initial charges against him include allegations of insurrection, threats, hostility and promoting false information. This is not the first time Mr. Besingi is being targeted for his work in promoting and defending human rights. Previously in January 2016, the Court of First Instance of Mundemba sentenced Mr Besingi to either pay a fine or serve one year imprisonment, on charges of conducting unlawful assemblies, and organising and inciting protests. Mr Besingi is an environmental rights defender and the director of Struggle to Economize the Future Environment, an NGO which has asserted the land rights of local communities in the context of the development of palm oil plantations by the American agribusiness company. He has also previously been subjected to acts of intimidation, threats, arrests, beatings and judicial harassment in relation to his work.

The case of members of Esu Youth Development Association

Although five of the members that were detained since May 2016 were released in May 2017, they, and others were arrested in relation to their opposition to land-grabbing in the Esu community. The Bamenda Appeal Court granted bail to the youth leaders following several adjournments, however, it did not set a date for their appeal hearing regarding the lack of jurisdiction.

The above cases are of particular concern, given that these rights violations were clearly related to their work in the defence and promotion of human rights. Furthermore, it is noted that besides actual violations that occur towards HRDs in violation of their civil and political rights, other HRDs in Cameroon have faced acts of threats⁸ and intimidation, as well as other acts of judicial harassment.⁹

Security concerns and human rights obligations

In early 2015, President Paul Biya ratified an anti-terrorism legislation¹⁰ that allowed for Cameroonian citizens to be charged in military courts and to face the death penalty if they, either as individuals or in a group, carried out, abetted, or sponsored terrorism. The designation of military tribunals to try civilians contravenes the non-derogable right to fair trial under the International Covenant on Civil and Political Rights. Military tribunals do not qualify as independent and impartial courts, as

⁸ Executive Director of REDHAC, Maximilienne Ngo Mbe, a coalition of human rights defenders active in eight countries in central Africa, based in Douala, for example, recently received death threats in relation to her human rights work, and more particularly for speaking out on the repression of a social protest movement under way in English-speaking Cameroon since November 2016.

⁹ *Contra Nocendi* notes here for example the reports received regarding the ongoing judicial harassment targeting members of the Organic Farming for Gorillas (OFFGO), a group of farmers promoting organic farming, environmental protection, opposing land grabbing in the North-West Region of Cameroon.

¹⁰ Law No. 2014/028 of 23rd December 2014 on the suppression of acts of terrorism in Cameroon.

being part of the armed forces, they fall under the executive branch of the government. This said law contains vague definitions of “terrorism” including disturbing the normal functioning of the public services, or the provision of essential services to the population, or creating a situation of crisis within the population, and has been criticised as being capable of being used as a means to criminalize opponents of the government. Starting from October 2016, lawyers, teachers and other HRDs initiated a series of protests against discrimination in the Anglophone regions of Cameroon. In response to the protests, the internet was shut off in Anglophone parts of the country for a number of months. HRDs leading the call to respect the human rights of citizens in these regions were the first to be targeted and charged by the authorities under the 2014 anti-terrorism law.

Several of these HRDs, including Nkongho Felix Agbor-Balla, were recently released and had the charges against them dropped. Many of them, including human rights lawyer and President of the now-banned Cameroon Anglophone Civil Society Consortium (CACSC), Nkongho Felix Agbor-Balla had been in detention since January 2017 for their involvement in organising non-violent civil disobedience to protest conditions in schools and to demand the release of imprisoned students and teachers in late 2016 and early 2017. In line with the anti-terrorism law, Nkongho Felix Agbor-Balla and other human rights defenders were charged in a military court with offences including hostility against the government and secession.

While *Contra Nocendi* recognises State security and stability to be very important factors shaping a country’s policy and governance structure, it is nevertheless weary of the infringement the anti-terrorism law has on human rights and freedoms protected under international human rights law, as has been seen in the case of Nkongho Felix Agbor-Balla and other HRDs where there is a pressing need for distinguishing between persons whose actions or declarations are directly intended to terrorise the public or create widespread insurrections, and persons who advocate for the exercise their rights and freedoms in a peaceful and lawful manner. Furthermore, the competence given solely to military tribunals under this law is problematic under international human rights law, given that being part of the armed forces, they neither qualify as independent or impartial courts.

Recommendations/solutions

- Advance the right to freedom of expression and freedom of the press by ensuring that national press legislation is in conformity with international human rights standards.
- Enact a law specifically protecting the rights of HRDs
- Revise the relevant parts of the anti-terrorism bill to make it consistent with international human rights obligations.
- Remove punitive and restrictive laws, policies and practices that undermine the rights to freedom of association and assembly.

- Initiate dialogue and consultation with human rights defenders by recognizing them publicly and supporting their work by means of communication and information campaigns.
- Respect its obligations under the 1998 United Nations Declaration on Human Rights Defenders, the 1999 Grand Bay Declaration and the 2003 Kigali Declaration.
- Adopt legislative policies and measures for better protection of human rights defenders.
- Establish appropriate mechanisms for reparation for the harm suffered by human rights defenders in the course of carrying out their duties.

Administration of Justice and rule of Law

Background

Cameroon is a state party to important human rights treaties such as the ICCPR. The preamble of the Constitution of the Republic of Cameroon¹¹ guarantees the proper administration of justice in line with international human rights standards. In her last UPR report submitted to the Human Rights Committee, the Cameroon government accepted recommendations including the continuation of review of national laws with a view of bringing them in line with international human rights obligations, strengthening the independence of the National Human Rights Commission as an oversight body, to guarantee equal treatment of persons before the law, to commit to ending impunity by security forces.¹² While noting some progress towards fulfilling recommendations, Contra Nocendi is of the view that the government has not fully committed to translating such recommendations into reality. As a result, abuse and impunity by security forces has continued amid allegations of torture, arbitrary arrest and detention. In general, human rights abuses

¹¹ Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972.

¹² See complete list of recommendations in link https://www.upr-info.org/sites/default/files/document/cameroon/session_16_-_april_2013/recommendations_and_pledges_cameroon_2013.pdf

especially by forces of law and order have often gone without proper investigation and prosecution.

The judiciary in Cameroon is not fully independent as the president of the Republic remains the head of the Higher Judicial Council with powers to appoint and dismiss judges and magistrates, impose disciplinary sanctions and transfers. The National Commission for Human Rights which is meant to be an oversight body is not a truly independent institution as per its limited mandate and appointments procedure. The Constitution of Cameroon does not expressly place any limits on the scope of this power or its exercise.

The forces of law and order have continued to act with relative impunity. As seen in the ongoing crisis in the English-speaking regions characterized by a heavy-handed police and gendarmes response, massive arrests, detention and killing of protesters in some cases. Up till date the government has not taken responsibility for the acts of the forces. On the contrary, the government has maintained that the forces acted within the confines of the law. The case of the arrest and detention for 231 days of Justice Ayah Paul Abine, a sitting Attorney General of the Supreme Court is a glaring example of weakness in the administration of justice in Cameroon. Allegations of his arbitrary arrest and detention were never refuted by the State. In an interview after release from detention he claimed his arrest undermined the rule of law in Cameroon as all establish procedures were flagrantly flouted. He stated that he was arrested on a Saturday, without a warrant of arrest and without the approval of tutelage authority (the president of the Supreme Court), all of which violate established procedure in CPC.

Contra Nocendi notes that in a recent incident of extrajudicial killing by a gendarme officer in Kumbo in the Northwest region the government responded by instantly dismissing the Company Commander of the Gendarmerie. Contra Nocendi encourages this gesture of accountability as a means to improve the administration of justice in the country.

Recommendations

- Government should take action to ensure that all forces of law and order be held accountable for their actions.

- Proper investigations should be carried out on acts committed by forces of law and order to ensure that no one is above the law.
- Necessary training and resources must be allocated to provide for mechanisms for accountability that are objective and transparent while also protecting the rights of the accused in line with international standards.

Treatment in detention

Background

In its previous UPR, the government of Cameroon accepted recommendations to improve conditions in prisons and detention centres and in particular to address infrastructural needs, limit overcrowding, improve health, hygiene and sanitation conditions, reduce duration of pretrial detention, etc.¹³ But so far very little has been done in line with their commitments. Contra Nocendi notes that the prison conditions in Cameroon remain very poor, characterised by overcrowding and poor sanitation. The Yaounde Kondengui prison for example houses 4000 detainees, more than twice its capacity, while the prison in Maroua where many boko haram suspects are detained houses 1,400 detainees, more than thrice its capacity.¹⁴ The government's efforts to improve prison capacity have remained very slow.¹⁵

Recent video footages and testimonies from Contra Nocendi Cameroon sources into the prisons conditions revealed the deplorable state of the prisons infrastructure, the unhygienic and inhumane conditions in which the detainees are kept. Released detainees arrested during the ongoing Anglophone crisis complained of lack of proper sleeping space, poor feeding and hygiene causing spread of diseases. They recounted

¹³ See complete list of recommendations in the link https://www.upr-info.org/sites/default/files/document/cameroon/session_16_-_april_2013/recommendations_and_pledges_cameroon_2013.pdf

¹⁴ Amnesty International Report on Cameroon 2016/2017, <https://www.amnesty.org/en/countries/africa/cameroon/report-cameroon/>

¹⁵ Contra Nocendi notes that the government's actions towards ameliorating prison conditions have been very slow and limited. The government had made promises of building new prisons but according to Amnesty International Report 2016/2017, only about a dozen new cells have been constructed for the Maroua prison which houses a large number of persons arrested in the fight against boko haram. This effort is seen to be limited in view of the number of detainees. In her 2016 report to the Human Rights Committee, the government acknowledges a small amount of rehabilitation of some prisons in the country and little regarding the expansion of capacity to accommodate the large number of prisoners.

that sometimes they would go for days without bathing due the recurrent water cuts. Similar remarks were made by the recently released Chief Justice Ayah Paul Abine when recounting his two days ordeal in a detention cell in SED. He complained of being locked up for two days in a near air tight cell where he almost lost his life.

Recommendations

- Continue efforts towards constructing new prison infrastructure in the country especially in areas with higher prisons populations
- Government should continue efforts to improve on the living standards in the prisons
- Government should ensure strict respect for the legal limits for pre-trial detention and apply the maximum limits in felony cases only in extreme cases of necessity.

Arbitrary Arrests and Detention in Cameroon

Arbitrary arrests and detention in Cameroon are prohibited by the law and the Constitution¹⁶. The law provides that a person may only be arrested immediately if they are caught in the act of committing a felony or misdemeanour in which case the person making the arrest shall disclose his identity and inform the person arrested of the reason. Despite the presence of a legal framework to fight against arbitrary arrest and detention in Cameroon, there still exists a gap between national laws and international standards, and national laws and practice. For example, the extension of detention by the judicial police or State Prosecutor as per Article 119(2) of the Cameroon Criminal Procedure Code(CPC) doesn't appropriately constitute extension by an independent judge as required by article 9(3) of the ICCPR given that these entities function as part of the executive arm of government. Equally, the case of remand in custody by the examining magistrate for period of six months renewable once or twice for misdemeanors and felonies under article 218 of the CPC, and the 15

¹⁶ Principle N° 8, Preamble of the Constitution of Cameroon revised in 2008

days renewable detention without limitation under article 11 of the 2014 anti-terrorism laws constitute a major setback to the principle of promptness.

In Cameroon's last Periodic Review in 2013, the State accepted the recommendation to Refrain from arbitrary arrest and detention, and enforce existing Criminal Procedure Code provisions to limit pre-trial detention, in compliance with ICCPR obligations¹⁷.

According to the country's last human rights report of 2015, Cameroon's commitment to its human rights issues was visible through cooperation with international institutions like the Human Rights Council and their response to litigation brought against the State before international and local judicial bodies¹⁸.

In 2016, Amnesty International reported that more than 1,000 people, many arrested arbitrarily, were being held in horrific conditions with many dying from disease and malnutrition, or tortured to death, as part of the Cameroonian government and security forces crackdown on Boko Haram.¹⁹ Conditions in the Kondengui central prison located in the capital city of Yaounde, and which houses most political offenders, are also deplorable with overcrowding and poor hygiene as just a few of the problems.

On January 17, 2017, a ministerial order signed by Minister of Territorial Administration and Decentralisation banned the Southern Cameroon National Council (SCNC) and the Cameroon Anglophone Civil Society Consortium.²⁰ This also led to the arrest of some prominent persons amongst others for inciting or committing violence in the English-speaking regions of the country. On August 30, 2017 however, the President of the Republic ordered the discontinuance of proceedings pending before the Yaounde Military Tribunal against Messrs. Nkongo Felix Agbor, Fontem Neba, Paul Ayah Abine and others in relation to the violence

¹⁷ Par 131.06 of the Report of the Working Group on the Universal Periodic Review at the Human Rights Council Twenty-fourth session by the United States of America)

¹⁸ A number of cases have been brought against Cameroon before International Human Rights mechanisms but only three have so far been settled: Working Group on Arbitrary Detention Opinion No. 46/2014 in the case of YEN EYOUM, Annette Lydienne; Communication No.389/10 Mbiankeu Genevieve v. Republic of Cameroon and Communication No. 416/12 Jean Marie Atangana Mebara v. Republic of Cameroon Before the African Commission on Human and Peoples' Rights.

¹⁹ Right cause, wrong means: Human rights violated and justice denied in Cameroon's fight against Boko Haram. Amnesty International, 2016

²⁰ See Publication of Order from the Cameroon national radio and television station webpage <http://crtv.cm/fr/latest-news/top-news-24/scnc-and-the-cameroon-anglophone-civil-society-consortium-banned--18545.htm>

committed in the English-speaking regions of Cameroon. While some of them have been released, others remain in detention without any charge against them.

Recommendations

Contra Nocendi International recommends that the government:

- Works with the judicial system to ensure that detention periods are not excessive and create effective remedies against arrests which are clearly arbitrary
- Subject the conduct of arrests to strict conditions as provided by national law
- Work to ensure that national criminal legislation and practices on arrest and detention are compatible with international human rights standards
- Release all the other persons unlawfully arrested regarding the Anglophone issue
- Strengthen the capacity of prison staff notably with the emphasis on human rights training
- Continue their efforts to improve detention conditions and considerably shorten detention periods without trial

Torture and cruel treatment in Cameroon

Torture is prohibited in Cameroon by the Constitution²¹, the penal laws, the Convention against Torture and other international instruments which Cameroon ratified and thus has the obligation to uphold the standards set by these instruments. Despite these prohibitions, there have been reports that security forces tortured, beat, harassed, or otherwise abused citizens under varied circumstances.

In Cameroon's last periodic review in 2013, the State accepted recommendations to: Establish a national mechanism for the prevention of torture²²; take effective and concrete measures to eradicate torture in prison bodies; Investigate allegations of human rights abuses by the security forces and take measures to eliminate this practice, if required; to Further enhance the human rights training programmes for

²¹ Principle 12 of the Preamble of the Constitution of Cameroon as revised in 2008 (page 335, 2015 Human Rights Report)

law enforcement officials and other relevant stakeholders and to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment²³.

Some progress was achieved as seen in the 2015 human rights report by the Ministry of Justice²⁴, which showed proof of judicial and disciplinary sanctions imposed on 13 Police Officers for assault on users, colleagues or for violation of freedom of movement. According to the report, only 5 cases of torture were reported which does not seem proportional to the instances reported by other channels. The National Commission on Human Rights and Freedoms on its part reported in January 2017 that in collaboration with the United Nations Center for Human Rights and Democracy in Central Africa, and the High Commission for Refugees, about 750 judicial police officers were trained on the prevention of Torture. It is also worth noting that the recommended mechanism to prevent torture has not been created but some of its functions have been carried out by the Department of Human Rights and International Co-operation in collaboration with the National Commission for Human Rights and Freedoms and some NGOs who visited some prisons and made recommendations.

Amnesty International's July 2017 report on Cameroon²⁵ alleges that 101 individuals were held incommunicado, tortured, and sometimes killed by Cameroonian security forces in facilities run by the military and intelligence service between March 2013 and March 2017.

Also, in November 2016, peacefully protesting students in the University of Buea were assaulted by Police and Gendarmes with a force that was not proportionate to the actions of the students. Videos of these acts of torture surfaced online showing the different injuries suffered by the victims of these acts. In January 2017, The President of the Republic promised that an investigation would be carried out as concerns these allegations of violence against students which has proven inconclusive till date.

²³ Paragraphs 131.30, 131.98, 131.171 and 131.24 respectively of the Report of the Working Group on the Universal Periodic Review, Human Rights Council Twenty-fourth session of 5 July 2013

²⁴ Pages 28-34 of the Report of the Ministry of Justice on Human Rights in Cameroon in 2015. Available at

http://minjustice.gov.cm/pdf_download/droit_homme/English/Rapport_Minjustice_2015_Ang.pdf

²⁵ Amnesty International. (2017). Cameroon's secret torture chambers: Human rights violations and war crimes in the fight against Boko Haram. Available at

<https://www.amnesty.org/en/documents/afr17/6536/2017/en/>

Over the years, several cases of activists being tortured for speaking against government in the exercise of their rights to freedom of expression have been reported. Prisons and police stations are also a fertile ground for acts of violence against detainees.

Recommendations

Contra Nocendi recommends that the Government of Cameroon should:

- Carry out independent investigations on suspected acts of torture in a timely manner, and provide immediate redress to victims.
- Continue efforts to create an independent mechanism for the prevention of torture
- Bring to the notice of the public, sanctions against perpetrators of violence and cruel treatment as a means of dissuasion
- Uphold the rule of law by respecting the right to acknowledgment, justice and rehabilitation of victims
- Continue its efforts to ratify the OPCAT
- Provide necessary training for security officers to educate them on the illegality of the use of torture as well as public campaigns so that the people are aware that torture is prohibited without exception