

## **ADMINISTRATIVE DETENTION AS A HUMAN RIGHTS VIOLATION IN CAMEROON**

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The liberty of every human being has always been considered in criminal law and by human rights activists across the globe as fundamental. The Universal Declaration of Human Rights adopted by resolution 217 A (111) of 10th December 1948 of the General Assembly of the UN states in its article 8 thus: No one shall be subjected to arbitrary arrest, detention or exile.

The Cameroon Constitution and the harmonized Criminal Procedure Code has clearly defined the conditions under which any individual being suspected of having committed any offence can be arrested and detained. This consists of pretrial detention and post trial period. Criminal investigation is the prerogative of the Legal Department and the forces of law and order or some public servants who have been assigned judicial police duties by a special instrument. Is there any such instrument?

However, Law No. 90/054 of December 19, 1990, on the Maintenance of Law and Order clearly spelt out when and how law and order should be maintained by administrative authorities.

Section 2 states that Administrative authorities may at all times and depending on the circumstances, take the following measures within the framework of operations for the maintenance of law and order:

- Control the movement of persons and goods;
- Requisition persons and goods according to law;
- Requisition the police and the gendarmerie to maintain or restore order;

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- Take measures to detain persons for a renewable period of 15 days in order to fight banditry.

Succinctly speaking, while the law authorizes administrative authorities to control the movement of persons and their property, requisition of the forces of law and order, the powers to order the arrest and detention of any individual is strictly limited to cases of fighting banditry. Therefore the arrest and subsequent detention of any person by an overzealous administrative authority under the guise of maintenance of law and order to my mind is illegal. Maintenance of law and order does not per se require arrest and detention.

Meanwhile, the above cited law sounds like a mockery of the entire Cameroon criminal judicial system. Banditry or organized robbery is a very serious offence punishable under Cameroon's penal code. The legal department is charged with the responsibility of directing criminal investigation. Can the administrative authorities direct investigation under the Cameroon law? What happens to the bandits arrested pursuant to the instructions after the statutory renewal period?

It is for this reason and in a bid to check over-zealousness that the new Criminal Procedure Code has provided for a special and speedy procedure before the competent High Court to hear applications for the immediate release of persons arrested or illegally detained without observing the formalities prescribed by law or against administrative remand measure.

This Procedure is commonly referred to as HABEAS CORPUS. A writ of *Habeas Corpus ad Subjiciendum* is a Latin maxim meaning, "that you have the body to submit to" or a writ directed to someone detaining another person and commanding that the detainee be brought to court. Frequently, it is used to ensure that the party's imprisonment or detention is not illegal.

Section 584 of the Criminal Procedure Code states:

- 1) The President of the High Court of the Place of arrest or detention of a person or any other judge of the said court shall have jurisdiction to hear applications for the immediate release based on grounds of illegality of arrest or detention or failure to observe the formalities provided by law”.
- 2) He shall also have jurisdiction to deal with applications filed against administrative remand measures. Administrative authorities have no immunity against criminal prosecution.

Therefore, any administrator who, without just cause illegally cause or deprives another of his liberty may face the arm of justice under section 291 of the penal code without prejudice to civil action for the claim of damages. The penalty for any deprivation of liberty is between five to ten years in prison and with a fine from FCFA 20,000 to 1 000, 000 and where the loss of liberty last for more than a month, the penalty is between 10 to 20 years.