

TORTURE AS A HUMAN RIGHTS VIOLATION IN CAMEROON

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There has been a gradual trend towards the protection of human values by the State of Cameroon as can be seen in the ratification of international instruments dealing directly or indirectly with issues of human rights or adopting such instruments into local legislation. Besides these international conventions, the Cameroon Constitution of 18th January 1996 states its preamble that:

“Every person has the right to life, to physical and moral integrity and humane treatment in all circumstances. Under no circumstance shall any person be subjected to Torture, to Cruel, Inhuman or Degrading Treatment”.

Also, pursuant to the provision of section 45 of the 1996 Cameroon constitution;

“Duly approved or ratified treaties and international agreements shall, following their publication, override national laws, provided the other party implement the said treaty or agreement”

One of the international conventions dealing directly with the above subject is the Convention Against Torture, Cruel and Other Inhuman or Degrading Treatment or Punishment (CAT) of 10th December 1984 which defines torture in its article 1 as:

“Any act by which severe pain or suffering, whether physical or mental, is internationally inflicted on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity, it does not include pain or suffering arising only from inherent in or incidental to lawful sanction. ”

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To show her commitment towards the protection of human rights and values and pursuant to the provisions of law No. 97/007 of 10th January, 1997 the State of Cameroon through the President of the Republic ratified the above cited UN Convention. To further compliment issues, Cameroon promulgated law No. 97/009 of 10th January 1997 to modify certain provisions of the Cameroon Penal Code by revising section 132 and 133 relating to torture to meet up with international standards. It is on this basis that the definition of torture as per the Cameroon Penal Code is mutatis mutandis to that referred to in the Convention Against Torture supra.

Section 132 of the Cameroon Penal Code prescribes the penalty for torture as follows:

“Where torture results in the unintentional death of the victim, it shall be imprisonment for life; where as a result of torture, the victim is permanently deprived of the use of the whole of part of the limb, organ or sense, the punishment shall be imprisonment from ten to twenty years. Exceptional circumstances, such as a State of War, Internal Political Instability or any other public emergency may not be invoke as a justification for torture or the orders of a superior or public authority“.

Section 122(2) of the new Criminal Procedure Code (CPC) promulgated pursuant to Law No. 2005/007 of 27th July 2005 states that:

“The suspect shall not be subjected to any physical or mental constraints, or to torture, violent, threats or any pressure whatsoever, or to deceit, insidious manoeuvres, false proposal, prolonged questioning, hypnosis, the administration of drugs or to any other method which is likely to comprise or limit his freedom of action or decision or his memory or sense of judgment”.

Section 315 (2) of the CPC further states that:

“A confession shall not be admissible in evidence if it is obtained through duress, violence, or intimidation or in exchange of a promise for any benefit whatsoever or by any other means contrary to the free will of the maker of the confession”.

The above notwithstanding, the use of torture and other forms of cruel and inhuman degrading treatment by government forces of law and order on suspects, accused persons, and defendants is still a major concern to human rights advocates in Cameroon. In most cases, their atrocities go unpunished because they are actually implementing an intimidation policy of the government. It is hoped that the above delineation of the law prohibiting the commission and punishing the crime of torture would be a useful step toward addressing the prevalence of torture in Cameroon.