

INDIVIDUAL COMPLAINT TO THE HUMAN RIGHTS COMMITTEE UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Date: 20 June 2008

I. INFORMATION CONCERNING THE PETITION

THE AUTHOR

Name: **Akwanga**

First name(s): **Ebenezer Derek Mbongo**

Nationality: **Cameroonian**

Date of birth: Place of birth: **Tiko, Fako Division of Southwest Province, Southern Cameroons**

Present residential address:

Address for correspondence on this complaint: **c/o The Redress Trust, Ground Floor, 87 Vauxhall Walk, London SE11 5HJ**

THE VICTIM

Name: **Ebenezer Derek Mbongo Akwanga**

REPRESENTATION

Name: **Laue**

First name(s): **Kevin August Robert**

Nationality: **Italian**

Date of birth: **18 February 1949**

Place of birth: **Pietermaritzburg, South Africa**

Address: **The Redress Trust, Ground Floor, 87 Vauxhall Walk, London SE11 5HJ**

Authorisation: **The representative is acting by virtue of a power of attorney signed by the Author (Victim) on 12 November 2007.**

STATE PARTY

Cameroon

VIOLATIONS

Articles 7, 9, 10, 14

II. STATEMENT OF FACTS

A. CHRONOLOGY OF EVENTS

1) The Author was born on 18 November 1970 in Cameroon. He is represented in this communication by Mr Laue of the Redress Trust.¹ He was a political activist, campaigning peacefully for the rights of the people of Southern Cameroons since his student days as leader of the Southern Cameroons Youth League (SCYL), which worked together with the Southern Cameroons National Council (SCNC).

¹ See power of attorney signed by the Author, Annex A.

Arrest and detention at Gendarmerie Brigade, Jakiri

2) On the evening of 24 March 1997 the Author was travelling as a passenger in a car when it was stopped in Jakiri, Bui Division, North-West Province, Cameroon and without warning Cameroon security agents fired shots at the tyres of the vehicle, deflating them. One of the agents was a plain-clothed member of the political security network of the Yaounde police. Large numbers of people swarmed around the car and in the resulting chaos the Author and two other occupants of the car managed to escape. The Author was arrested later that night by about ten armed police officers and an administrator for Jakiri at the entrance to the Mantoum Palace of the Nso Kingdom, following information given by an informant. He was handcuffed and led towards a van without being told why he was being arrested, and when he asked what was going on he was hit with a rifle butt on the head and chin which knocked him unconscious for nearly twenty minutes.

3) When the Author regained consciousness he was in a cell at the Jakiri Gendarmerie Brigade. He was taken from the cell to the main hall, his legs were chained and he was briefly questioned regarding his identity. He was then kicked and beaten with batons all over his body and doused with stinking water. He was beaten until he passed out. He woke up in a different, very narrow cell. In total he was detained for about 13 hours at Jakiri.

Detention at Gendarmerie Brigade, Kumbo

4) On 25 March 1997, he was driven to the Kumbo Gendarmerie Brigade for what his captors said would be 'VIP treatment.' Kumbo is the capital of Bui Division. Here he was stripped naked and with his chained legs forcibly stretched out he was beaten about 150 strokes with a machete on the soles of his bare feet, and then forced to dance on sharp gravel singing in French in praise of President Biya. He was then placed in a very warm cell, 5' x 6' wide, and subjected to a constant loud thumping noise from somewhere outside the cell. He spent about five hours at Kumbo.

Detention at Gendarmerie Legion (Provincial Headquarters, Up-station), Bamenda

5) In the afternoon of that same day, 25 March 1997, he was driven to the Gendarmerie Legion at Up-station, Bamenda, where further torture was inflicted. These included melting plastic bags made to drip onto his bare thighs, being paraded naked in front of female officers, mocked, and denied food and water. He was also subjected to the "balancoir" which consisted of being suspended upside down from an iron bar between the backs of his knees, and beaten on the soles of his bare feet. During these periods of torture he was interrogated and asked to confess to crimes of trying to split the country. He was repeatedly accused of being part of an armed and violent secessionist movement, which was untrue and which he denied. The Author became very ill and had to bribe an official to get medicine. The next day, 26 March 1997, he was joined by 14 other political prisoners from Mbengwi, many of whom were covered in mud and blood and almost unrecognisable. He spent five days at this place of detention.

Detention at National Headquarters of the Gendarmerie, Yaounde

6) On the night of 29 March 1997 the Author and other prisoners were crammed into two pick-up Toyota vans and driven to the National Headquarters of the Gendarmerie, the Secretariat of the State for Defence (SED) in Yaounde, arriving on 30 March 1997. He was identified as “*element tres dangereux*”, separated from the others and put in a cell with hardened criminals who were instructed by the gendarmerie to make him “uncomfortable.” For 25 days he was forced to sleep near the toilet on a urine-soaked bare floor, and was not allowed to bathe during this time. Because of the way he was chained on both legs during this 25-day period he could only crawl as standing with the chains was too painful. After the third day at Yaounde interrogation began again, and continued on and off for many days. Again, he was consistently accused of being involved in an armed and violent secessionist movement.

Detention at Yaounde Maximum Security Prison of Kondengui

7) On 2 June 1997 the Author was taken to the Maximum Security Prison of Kondengui in Yaounde, accused of activities incompatible with state security, attempting to split Southern Cameroons from Cameroon. The allegations were confusing to the Author and constantly changing. He spent nearly three months at this prison. On the first night the warders slapped and insulted him. He was forced to share an over-crowded cell with forty to fifty-five men, with wood-plank bunks for only 15 people, the rest sleeping on the bare floor. The prison was infested with rats, cockroaches, body-lice, mosquitoes and bed-bugs, with the stench of rotten food and open sewers. After two weeks in this prison the Author became ill with a high fever and amoebic dysentery. The prison hospital where he was taken was both under-resourced and lacking in patient care, and the standard prescription for all illness was paracetamol. Basic prison food was wholly inadequate: about 200 grams of boiled dirty corn every 24 hours, five times a week, and on the other two days about 100 grams of boiled rice with warm coloured water as soup. Guard-on-prisoner and prisoner-on-prisoner brutality was routine. The Author was assaulted by guards and other prisoners on numerous occasions.

Detention at Mfou Special Prison

8) On 29 August 1997 the Author was taken to Mfou Special Prison in Mefou and Afamba Division and placed in a dark filthy cell with no windows. It was also very cold. A few hours later he was placed in a communal cell with other inmates, who when they discovered he was involved in Southern Cameroons activities abused him, forcing his head into the cell's pot container containing urine and faeces. He was made to wash his hands in the pot, which he was forced to clean out on a daily basis thereafter. This continued for the next twelve days. Food in the prison was always inadequate both in quantity and quality. After 10 months in this prison the Author became very ill on 6 June 1998, with the right side of his body and right leg difficult to move, and he had difficulty speaking. Two days later he was worse, vomiting and defecating blood with signs of partial paralysis. He managed to have some letters smuggled out of prison to colleagues who publicised his illness, and as result he was hospitalised, taken in a wheelbarrow to the Mfou District hospital, where a Doctor Ngassa diagnosed that he was suffering from excessive torture and trauma with partial paralysis. He also suffered from loss of vision. A month later he was returned to prison, where he could walk only with the help of a walking stick. During the whole of this 18-month period at Mfou the Author was held incommunicado with no access to family, friends or lawyers. On 4 February 1999 he was transferred back to the Maximum Security Prison of Kondengui in Yaounde.

The Military Trial

9) On 8 April 1999 the Author was given papers in prison that he and others were to be arraigned at the Yaounde Military Court on 14 April 1999. The documents were all in French and although they couldn't understand them they all had to affix their signatures.² No lawyers were present. On the day of the trial a team of about twelve defence barristers were at the Military Court. The accused persons were made to stand for five hours while the papers of the examining magistrate were read. The original charges were: aggravated theft, assassination, hostilities against the nation, attempted secession, non-denunciation of criminal activities, insurrection, revolution and complicity. The presented evidence consisted of a map of Southern Cameroons, SCNC membership cards, fund-raising collection boxes, bows and arrows and four "den guns" (traditionally-made guns which do not use bullets but gun-powder are fired during traditional ceremonies). There was only one Southern Cameroonian officer on the bench as an assessor, and when he agreed with a defence objection regarding a translator imposed by the prosecutor, the said officer was dropped from the bench and replaced with a supporter of the government. The leader of the defence team withdrew in protest. On the second day of the trial the charges were changed and neither the accused nor the remaining defence could fully understand the new charges all the way through to the end of the trial.³ These new charges included offences under laws passed two years after the alleged offences were said to have taken place, and were based on the evidence of those gendarmes who had arrested and tortured the accused persons, including the Author. On 6 October 1999 the Author was sentenced to 20 years imprisonment for crimes which were never coherently explained. The Author denied and continues to deny that he committed any crimes.

Imprisonment

10) The Author remained in the Maximum Security Prison of Kondengui to serve his sentence. As a result of continued neglect and ill-treatment he became ill with a pulmonary infection and spent 9 months in the Prison Sick Quarters in 2001. In March 2003 he was admitted to the Yaounde Central Hospital for neurological treatment, under heavy guard.

Escape

11) The author escaped on 9 July 2003 to Nigeria, where he remained for just over two and half years.

Post-escape medical examination

12) In Nigeria the Author was hospitalised on 21 August 2003 and examined by Dr B. E. Okpere at the Iduna Specialist Hospital. The doctor recorded and referred to the physical and emotional torture.⁴ In Nigeria the UNHCR recognised the Author as a refugee by the UNHCR.⁵ He applied to be resettled in the USA.

Political asylum

² See Annex B which is one of the French documents the Author and others signed, without understanding it. The document apparently purported to be a record of his interrogation by officials in 1997, elicited after the extreme torture.

³ See Annex C being a general document on the proceedings produced for public circulation near the beginning of the trial; the Author is named on page 8.

⁴ See Annex D for Dr Okpere's medical report.

⁵ See Annex E being a letter from the UNHCR representative in Lagos dated 11 June 2004

13) The Author was admitted to the USA as a refugee on 21 February 2006.⁶ He recently underwent a medical evaluation with a USA doctor.⁷

Exhaustion of domestic remedies

14) During his incarceration petitions were made by political parties in Cameroon such as the Social Democratic Front (SDF), and Non-Governmental Organisations such as Amnesty International bearing on his torture and calling for his release, but these were all ignored. The Author was allowed no visits from family members or friends or lawyers who because of their genuine fear of intimidation could not take any steps to have access to him, nor was it possible to bring any legal actions from prison. Because the Author subsequently escaped from prison and fled abroad he cannot either return to the Cameroon or pursue any local remedy there.

15) The Military Trial sentence was confirmed by the Appeal Court of the Centre Province.⁸ Cameroonian lawyer Mr Nkafu was one of the defence lawyers at the trial. He has set out the theoretical procedure for somebody to follow to complain about torture and other abuses suffered in detention, and how it gets nowhere, whether brought while the person is still in detention or afterwards. The said lawyer was unable to even obtain the judgement or sentencing papers in regard to the Author, and all he could get hold of were Annexes 2 and 3 (see footnotes 4 and 5).

16) In any event domestic proceedings to challenge the jurisdiction of the Military Court and for the trial to be heard under the jurisdiction of the common law and in a language which the author and his co-accused could understand, filed before the Supreme Court on 10 December 1997, were ignored by the Military Court although it was pending before the Supreme Court and the Military court simply proceeded; further, the motion before the Supreme Court was never heard (and has still not been heard to date) for reasons which are unknown to the Author or his legal advisors, including Barrister Charles Taku who filed the motion.⁹

B. ADMISSIBILITY

17) It is submitted that this communication satisfies all of the admissibility requirements under the ICCPR.

18) Cameroon acceded to the ICCPR on 27 June 1984, and ratified the Optional Protocol on the same day. Both the ICCPR and Optional Protocol came into force on 27 September 1984. The facts alleged clearly took place after this date, so the Human Rights Committee is competent to examine the present case. Furthermore, all of the alleged facts took place within the territorial jurisdiction of Cameroon.

19) This complaint is not being examined (and has never been examined) by another procedure of international investigation and settlement, and thus complies with the

⁶ See Annex F being the entry permit on that basis.

⁷ See Annex G being the evaluation dated 28 November 2007

⁸ See Annex H dated 19 June 2007 being a statement by Mr Nkafu. In Cameroon, military tribunals still apply old French imported colonial laws such as the Code d'Instruction Criminale (Ordinance of February 1838), Ordinance No 59/91 of 31 December 1959 relating to the organization, competence and the functioning of military jurisdictions, and Ordinance 72/05 of 26 August 1972. According to Barrister Nkafu these laws, which have been repealed in France, are virtually void of human rights and freedoms. Mr. Nkafu has also averred that the domestic anti-torture law is ineffective, and that as the Author's case was regarded as political it was in reality not possible for him to avail himself of any remedies at all.

⁹ See Annex I being Mr Taku's motion dated 9 December 1997; the Author is listed as number 57 on page 3.

requirements of article 5(2) (a) of the Optional Protocol.

20) Regarding the exhaustion of domestic remedies (article 5(2) (b) of the Optional Protocol), it would be futile and/or dangerous for the Author to do any more than was attempted while he was in custody as set out above in paragraphs 14 -16. He cannot return to Cameroon, as he escaped from prison. Further, on the basis of his political activities, his case is and was regarded in a particular light by the authorities, as the Human Rights Committee jurisprudence on Cameroon shows.

21) Thus in other cases before the Human Rights Committee under the Optional Protocol concerning Cameroon the issue of domestic remedies has been closely examined. While the issue of domestic remedies must be considered in each case, the findings of the Human Rights Committee in other Cameroon cases are apposite. Thus it is well-established that domestic remedies must be effective:

“...the effectiveness of remedies against ill-treatment cannot be dissociated from the author’s portrayal...as a political opposition activist...[T]he case has been pending before the Supreme Court for over twelve years.”¹⁰

In paragraph 8.3 of that case (see footnote 10) the Human Rights Committee also referred to its Concluding Comments on the second periodic report of Cameroon, adopted on 7 April 1994.¹¹ This report stated, *inter alia*:

“The Committee deplores the multiple cases of torture, ill-treatment, extrajudicial execution and illegal detention, suffered in particular by journalists and political opponents. Torture and ill-treatment seem to be practised systematically by the security forces, and on several occasions their brutality has caused the death of the victims.

It also deplores the fact that such brutality is practised in prisons, as well as non-respect for the provisions of article 10 of the Covenant in detention centres where men and women, convicted and unconvicted prisoners, adult and juvenile offenders are held in the same, generally insalubrious, cells.”

22) Further on admissibility and the exhaustion of local remedies, it is submitted that another Cameroonian case is apposite, where it was said:

“With regard to exhaustion of domestic remedies, the Committee takes note of the author’s argument that, following his escape from house arrest in 1988, he was not in a position to seek redress at the domestic level, as a person who was wanted in Cameroon. In the light of its jurisprudence (see, e.g., Communications Nos. 210/1986 and 225/1987, *Earl Pratt and Ivan Morgan v. Jamaica*, Views adopted on 6 April 1989, para. 12.3.) that article 5, paragraph 2 (b), of the Optional Protocol does not require resort to remedies which objectively have no prospect of success...the Committee is satisfied that the author has sufficiently demonstrated the ineffectiveness and unavailability of domestic remedies in his particular case.”¹²

¹⁰ *Mukong v Cameroon*, Communication No. 458/1991: Cameroon. 10/08/94. CCPR/C/51/D/458/1991. (1994), at para 8.2. (Annex 1)

¹¹ CCPR/C/79/Add.33 (18 April 1994). (Annex 2)

¹² *Gorji-Dinka v. Cameroon*, Communication No. 1134/2002: Cameroon. 10/05/2005. CCPR/C/83/D/1134/2002 (2005) at para 4.11. (Annex 3)

23) The report from Barrister Nkafu also avers that the Author “was isolated in prison from common law offenders as the regime considered his case a political matter so he could not even avail himself of remedies or at all.”¹³ It was never realistic to take legal steps in regard to any breaches of his rights while he was still in the country, as he was at all times detained under inhuman conditions and without access to the outside world, his family or lawyers – these were all denied him. Further, even if he had been allowed proper access any attempt to sue or challenge the State would have been futile; the judiciary is not independent, and especially in politically sensitive cases such as clearly applied to the charges against the Author no court would objectively entertain a suit arising from a case of this political nature - it would be regarded as a challenge against President Biya who effectively controls the judiciary. As stated by the US State Department *Report on Human Rights 1997*:

“The Constitution provides for an independent judiciary; however, the judiciary remains subject to political influence, with few signs that it is becoming more independent. The court system remains technically part of the executive branch, subordinate to the Ministry of Justice...Some politically sensitive cases are never heard...Corruption and inefficiency in the courts remain serious problems. Justice is frequently denied or delayed. Powerful political or business interests appear to enjoy virtual immunity from prosecution, while critics of the Government are sometimes jailed under libel statutes considered by observers as unduly restrictive of press freedom. Prisoners may be detained indefinitely during pretrial proceedings.”¹⁴

The US State Department *Report on Human Rights 1999* reiterated that the judiciary remains highly subject to political influence and corruption.¹⁵ The *Report of the Special Rapporteur on Torture*,¹⁶ who visited Cameroon in 1999, also stated that “according to judicial sources cited by one NGO, judges consult the authorities on the approach to adopt in sensitive cases. Hence it has been noticed that politically sensitive trials are handled with care and generally in a manner favourable to the authorities.”¹⁷

24) Further, there was no independent mechanism to investigate torture, as found by the Human Rights Committee in its *Concluding Observations* in 1999:

“The Committee is concerned about the continued practice of torture by police officials and about the absence of an independent organ for investigation...[I]t regrets that the Delegation did not provide any information regarding the number of complaints of torture, the methods of investigating such reports, or the remedies offered to the victims.”¹⁸

As Barrister Nkafu has explained, although the Criminal Procedure Code¹⁹ allows a civil claim for damages to be attached to a pending criminal case²⁰, this would not

¹³ See footnote 8 above, Annex H.

¹⁴ http://www.state.gov/www/global/human_rights/1997_hrp_report/cameroon.html

¹⁵ http://www.state.gov/www/global/human_rights/1999_hrp_report/cameroon.html

¹⁶ *Sir Nigel Rodley*, E/CN.4/2000/9Add.2, 11 November 1999. (Annex 4)

¹⁷ *Ibid*, paragraph 58.

¹⁸ *Concluding observations of the Human Rights Committee: Cameroon. 04/11/99. CCPR/C/79/Add.116*, at para 20. (Annex 5)

¹⁹ Law No 2005/007 of July 2005 which came into force on 1 January 2007.

²⁰ Section 61.

apply to the Author because this law only came into effect long after the events concerned and is not retrospective; further, for such a claim to be made the perpetrator must be standing trial for the offence of torture.²¹ As he clearly states:

“It is virtually impossible for a detainee undergoing a criminal trial to bring a claim of compensation for torture and ill-treatment under the said law. *Primo*, for the claim to be made the author of the torture must be standing a criminal trial for the offence of torture. *Secundo*, the detainee must provide medical evidence to sustain the claim as torture per section 132 bis²² must result in death, physical injury and or illness. *Tertio*, torture being a felony, the allegations must be investigated upon which end up with a preliminary inquiry before the Examining magistrate before trial. A detainee undergoing trial will not be allowed to do all that has been mentioned above.”²³

For all of the above reasons, therefore, any application for damages is and would at all times have been ineffective, and there is and was neither an adequate nor an available domestic remedy in Cameroon either in law or in practice. The Author therefore asserts that this communication complies with the admissibility requirements of article 5 of the Optional Protocol. It has also been brought before the Committee as soon as reasonably possible. The Author commenced after his safe arrival and when he was somewhat settled in the USA, and he was able to approach his present representative. Thereafter it was necessary to assemble all the relevant documentation and materials from a variety of dispersed sources and to liaise with a range of necessary individuals and experts inside and outside of Cameroon at a distance, as the Author has not been able to travel outside of the USA, neither was it possible for his representative to attend on him in the USA.

C. DISCUSSION OF RELEVANT PROVISIONS OF THE ICCPR

25) Article 7 of the ICCPR states that: “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*”

26) General Comment 20 of the Human Rights Committee states that: “*The aim of the provision of Article 7 of the [ICCPR] is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through the legislative and other measures as may be necessary against the acts prohibited by Article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity...The prohibition in Article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim.*”

27) It is submitted that the jurisprudence of the Human Rights Committee regarding Article 7 should be influenced by the jurisprudence of the Committee against Torture. In this regard there are a number of cases where the Committee against Torture has found acts to constitute torture:

- a) a victim was handcuffed to a radiator then kicked and punched by several police officers, who also racially insulted him, he was also stuck with a big metal bar, later handcuffed to a bicycle and punched further and beaten with

²¹ Annex H.

²² The law which makes torture a criminal offence is Law No 97/009 which has been incorporated into the Criminal Procedure code as 132 bis.

²³ Annex H.

- nightsticks and the metal bar; the beatings were so bad they caused the victim to bleed from his ears; the detention lasted 5 and a half hours²⁴
- b) a victim was repeatedly beaten with a baseball bat and steel cable, and kicked and punched all over his body; he lost consciousness on several occasions; the treatment lasted, with only a few breaks, for 13 hours, leaving him with numerous injuries on his buttocks and left shoulder; as a result he spent the next ten days being nursed in bed²⁵
 - c) a victim was stripped to his underwear, handcuffed to a metal bar whilst being beaten with a police club for approximately one hour, and spending the next three days in the same room without access to food, water, medical treatment or toilet facilities²⁶

The CAT Committee has also specified in Concluding Observations that the following treatment constitutes torture:

- a) a combination of restraining in painful positions, hooding, sounding of loud music for prolonged periods, prolonged sleep deprivation, threats including death threats, using cold air to chill, and violent shaking²⁷
- b) beating by fists and wooden or metallic clubs, mainly on the head, the kidney area and on the soles of the feet, resulting in mutilations and even death in some cases²⁸

28) The author submits that state of Cameroon has breached the Author's rights under Article 7 of the ICCPR in the following ways which constitute torture:

- (i) In assaulting him by knocking him unconscious at the time of his arrest in Jakiri, and in kicking and beating him until he was unconscious and dousing him with stinking water at Jakiri Gendarmerie Brigade
- (ii) In stripping him naked and beating him on the soles of his feet and subjecting him to other ill-treatment at Kumbo Gendarmerie brigade
- (iii) In dropping molten plastic on his bare thighs, parading him naked in front of female officers, denying him food and drink, suspending him upside down and beating him on the soles of his bare feet, and subjecting him to other ill-treatment at Bamenda Gendarmerie Legion Up-station
- (iv) In placing him in a cell with hardened criminals instructed to abuse him, who did abuse him in a variety of ways, and keeping him shackled in a painful manner, over a period of twenty-five days at the Yaounde Gendarmerie National Headquarters
- (v) In assaulting him and detaining him in overcrowded and unhygienic conditions, and depriving him of proper and adequate food, and failing to provide proper medical care and medical treatment when he became ill as a result of the conditions, and exposing him to assaults from other prisoners, at Yaounde Maximum Security Prison of Kondengui over a period of nearly three months
- (vi) In being held incommunicado for some 18 months, during which time he was exposed to and subjected to physical abuse from other prisoners as well as guards, and kept in unsuitable prison conditions, without proper and adequate food, resulting in serious illness including partial paralysis, at Mfou Special Prison
- (vii) After sentence being held in unsuitable prison conditions, without proper food, during which time he was frequently hospitalised, at Yaounde Maximum Security Prison of Kondengui over some four years until he escaped.

²⁴ *Dragan Dimitrijevic v. Serbia and Montenegro* (CAT 207/02), para 2.1, 5.3.

²⁵ *Dimitrov v. Serbia and Montenegro* (CAT 171/00), para 2.1,7.1

²⁶ *Danilo Dimitrijevic v Serbia and Montenegro* (CAT 172/00), para 2.1, 2.2, and 7.1

²⁷ Concluding Observations on Israel, (1997) UN doc. A/52/44, para 257

²⁸ Concluding Observations on Yugoslavia, (1999) UN doc. A/ 54/44, para 47.

29) In addition, and in the alternative, it is argued that the above circumstances amount to a breach of Article 10 of the ICCPR (see below paragraph 49).

First Breach of Article 7: Treatment at Jakiri

30) The Author submits that the individual incidents and/or accumulation of his treatment when arrested and thereafter at Jakiri amounts to torture, contrary to Article 7 of the ICCPR.

31) The Author was subjected to assaults with a rifle butt when arrested, and severe beatings with batons and kicking at Jakiri Gendarmerie Brigade. In *Bailey v. Jamaica*²⁹ the Human Rights Committee held that severe and systematic beatings with clubs, iron pipes and batons, which caused severe physical trauma, breached Article 7. As noted above in paragraph 28 (i), the Author was first knocked unconscious and then later beaten unconscious, which was found to breach Article 7 in *Linton v. Jamaica*.³⁰ The Author was severely traumatized, both physically and mentally, as a result of his detention and treatment at Jakiri.

Second Breach of Article 7: Treatment at Kumbo

32) The Author submits that the individual incidents and/or accumulation of his treatment when at Kumbo amounts to torture, contrary to Article 7 of the ICCPR

33) The Author was subjected to beating on the soles of his bare feet with a blunt instrument and then forced to dance on sharp gravel, praising the regime while doing so; the degrading nature of the treatment is exacerbated by the fact that the Author was naked and chained at the time, adding to the extreme vulnerability of his situation. He was also subjected to extremes of heat and noise in a very small cell. The Author was severely traumatized, both physically and mentally, as a result of his detention and treatment at Kumbo.

Third breach of Article 7: Treatment at Bamenda

34) The Author submits that the individual incidents and/or accumulation of his treatment when at Bamenda amounts to torture, contrary to Article 7 of the ICCPR.

35) The treatment the author was subjected during interrogation included having molten plastic dropped on his bare skin, paraded naked in front of female officers, and beaten on the bare soles of the feet while suspended, deprived of food and water, and deprived of medical treatment.

36) Article 7 is a non-derogable right and consequently Cameroon is obliged, in all circumstances, to respect its obligations under Article 7. In General Comment 20 at paragraph 3, the Human Rights Committee stated that “no justification or extenuating circumstances may be invoked to excuse a violation of Article 7 for any reasons, including those based on an order from a superior officer or public authority.” Furthermore, Article 2 of the CAT underlines that torture is not permitted in any circumstances. The prohibition of torture is not only a non-derogable right under ICCPR but widely recognized as a peremptory norm (*jus cogens*) of international

²⁹ *Communication No.334/1988: Jamaica.12/05/93. CCPR/C/47/D/334/1988. (Annex 6)*

³⁰ *Communication No. 255/1987: Jamaica.22/10/92. CCPR/C/46/D/255/1987. (Annex 7)*

law.³¹ The Author was severely traumatized, both physically and mentally, as a result of his detention and treatment at Bamenda.

Fourth breach of Article 7: Treatment at Yaoundé Headquarters

37) The Author submits that the individual incidents and/or accumulation of his treatment when at Yaounde Headquarters of the Gendarmerie amounts to torture, contrary to Article 7 of the ICCPR.

38) The Author was subjected to serious abuse at the hands of prison guards and fellow prisoners to whom he had been deliberately exposed by the prison guards for that purpose, and made to sleep in sordid conditions while chained for 25 days. The authorities not only failed to intervene but purposely made use of the other inmates to torment him physically and mentally. In a case which went before the Human Rights Committee in the matter of *Wilson v. Philippines* which dealt with comparable treatment the following testimony was made:

“This sixteen by sixteen foot cell held 40 prisoners with a six inch air gap some 10 foot from the floor... [I]nmates struck him [the victim] on the guards’ orders. He was ordered to strike other prisoners and was beaten when he refused to do so. He was also constantly subjected to extortion by other inmates with the acquiescence and in some instances on the direct instruction of the prison authorities, and beaten when he refused to pay or perform the directed act(s)”³²

Combined with other mistreatment these acts were found to constitute a combination of violations of both Articles 7 and 10 (1). The author was severely traumatized, both physically and mentally, as a result of his detention and treatment at Yaounde Headquarters of the National Gendarmerie.

Fifth breach of Article 7: Treatment at Yaoundé Maximum Security Prison

39) The Author submits that the individual incidents and/or accumulation of his treatment when at Yaoundé Maximum Security Prison of Kondengui amounts to torture, contrary to Article 7 of the ICCPR.

40) The Author was subjected to serious abuse by the warders and other inmates, including being slapped and insulted, and made to share over-crowded accommodation and grossly inadequate sleeping facilities; food, hygiene and living conditions generally were grossly inadequate and in particular the food was insufficient for basic levels of sustenance. As a direct result of the combination of these conditions the Author fell seriously ill but was not properly treated, adding to his pain and suffering. In a number of cases the Human Rights Committee has found that abuses in detention amount to a breach of Article 7:

a) a person was held for 10 months incommunicado including solitary confinement chained to a bed spring for three and a half months with minimal clothing and severe food rations, followed by a further month’s detention

³¹ See, e.g., *Prosecutor v. Furundzija*, ICTY Trial Chamber, IT-95-17/1-t (10 December 1998) 38 ILM 317, § 144; *Cantoral Benavides case* (Peru), Series C No. 69, judgment of the Inter-American Court of Human Rights of 18 August 2000, § 96; *Doebbler v. Sudan*, African Commission, Communication No. 222/99, (15 Jul 2003) Relevant decisions of the European Court of Human Rights include *Tomasai v. France*, No. 12850/87, Eur. Ct. of Hum. Rts (17 August 1992), § 115; *Aksoy v. Turkey*, No. 21897/96, Eur. Ct. of Hum. Rts. (18 December 1996), § 62; *Chahal v. UK*, No. 22414/93, Eur. Ct. of Hum. Rts. (15 November 1996), § 79.)

³² *Communication No. 868/1999, CCPR/C/79/D/868/1999*, para 2.1 (Annex 8)

incommunicado in a tiny cell, followed by detention with another in a three by three metre cell without external access for eighteen months³³

b) use of interrogation techniques such as prolonged stress positions and isolation, sensory deprivation, hooding, exposure to cold or heat, sleep and dietary adjustments, 20 hour interrogations, removal of clothing and all comfort items including religious items, forced grooming, and exploitation of a detainee's personal phobias³⁴

c) withholding food and water for five consecutive days³⁵

d) over a two year period the victim was variously subjected to incommunicado detention, threats of torture and death, intimidation, food deprivation, being locked in a cell for days without any possibility of recreation³⁶

e) deprivation of food and drink for several days³⁷

f) detention in a cell for fifty hours measuring 20 by 5 metres, where approximately 125 persons accused of common crimes were being held, and where, owing to lack of space, some detainees had to sit in excrement; the victim received no food or water until the following day³⁸

The author was severely traumatized, both physically and mentally, as a result of his detention and treatment at Yaoundé Maximum Security Prison.

Sixth breach of Article 7: Treatment at Mfou Special prison

41) The Author submits that the individual incidents and/or accumulation of his treatment when at Mfou Special Prison in Mefou and Afamba Division amounts to torture, contrary to Article 7 of the ICCPR.

42) During the whole 18-month period from 29 August 1997 to 4 February 1999 the Author was held *incommunicado* without access to family friends or lawyers. The Human Rights Committee has stated that '[p]rovisions should be made against incommunicado detention'.³⁹ The shortest period of *incommunicado* detention that has been found to breach Article 7 is eight months⁴⁰ but the Committee Against Torture has held that *incommunicado* detention of up to thirty-six hours, without being brought before a judge, is of concern.⁴¹ At the least, the combination of *incommunicado* detention with the ill treatment suffered during that confinement should be found to breach Article 7.⁴²

43). Furthermore, incommunicado detention facilitates the practice of torture and ill-treatment. As noted by the Human Rights Committee in a case, "the disappearance of persons is inseparably linked to treatment that amounts to a violation of article 7."⁴³

³³ *Wight v. Madagascar, Communication No. 115/1982: Madagascar.01/04/85. CCPR/C/22/D/115/1982*, at para 15.2 - 17. (Annex 9)

³⁴ Concluding Observation on the U.S., (2006) CCPR/C/USA/CO/3 para 13. It is not clear if each of these techniques individually breaches Article 7 but the combination of a few of these techniques at the same time does.

³⁵ *Bee and Obiang v. Equatorial Guinea, Communications Nos. 1152/2003 and 1190/2003: Equatorial Guinea.30/11/2005. CCPR/C/85/D/1152 and 1190/2003*, at para 6.1 (Annex 10)

³⁶ *Mukong v Cameroon, Communication No 458/1991, UN Doc CCPR/C/51/1991 (1994)* at para 9.4 (Annex 1)

³⁷ *Tshisekedi wa Mulumba v. Democratic Republic of Congo. Communication No. 242/1987: Democratic Republic of Congo. 29/11/89. CCPR/C/37/D/242/1987*, para 13b, (Annex 11) and *Miha v. Equatorial Guinea, Communication No. 414/1990: Equatorial Guinea.10/08/94. CCPR/C/51/D/1990*, para 6.4. (Annex 12)

³⁸ *Portorreal v. Dominican Republic, Communication No. 188/1984: Dominican Republic.05/11/87. CCPR/C/31/D/188/1984*, para 9.2. (Annex 13)

³⁹ General Comment 20 at paragraph 11

⁴⁰ *Shaw v. Jamaica, Communication No. 704/1996: Jamaica. 04/06/98. CCPR/C/62/D/704/1996*. (Annex14)

⁴¹ Concluding Observation on Colombia, CAT, A/59/44 (2003) 32 at § 67.

⁴² See, e.g., *Tekin v. Turkey*, No. 22496/93, Eur. Ct. of Hum. Rts. (9 June 1998). Detention for four days in total darkness with blindfold, combined with beatings, breached Article 3, the European equivalent of Article 7.

⁴³ *Mojica v. Dominican Republic, Communication No. 449/1991: Dominican Republic. 10/08/94. CCPR/C/51/D/449/1991*, at para 5.7. (Annex 15)

Indeed, the Author's incarceration for 18-months without access to friends, family or lawyers facilitated gross breaches of his rights under Article 7.

44) The exposure to cold, the placing in a cell with inmates who ill-treated him and made him wash his hands in a pot of urine and faeces because of political activities, the lack of proper and adequate food, all traumatized him physically and mentally. Eventually he became seriously ill in June 1998 as result of the cumulative effect of all the mis-treatment he had endured over long periods.

45) The Author submits that the conditions of his incarceration at Mfou Special Prison (as well as Yaoundé Maximum Security Prison) amounted to a breach of Article 7. The Human Rights Committee has held that for punishment to be degrading, the humiliation or debasement involved must exceed a particular level and must, in any event, entail other elements beyond the mere fact of deprivation of liberty.⁴⁴ As such, in order for detention to violate Article 7 of the ICCPR, it is not sufficient for a prisoner to only be deprived of their liberty; there must be an added element of 'humiliation or debasement' in the treatment of the individual. The Author submits that the conditions of his detention went far beyond those inherent in the deprivation of liberty, and amounted to a breach of Article 7. In another case the author of the Communication was locked in his cell for twenty-three hours a day, without a mattress, bedding, adequate sanitation, natural light, recreational facilities, decent food or adequate medical care, and this amounted to cruel and inhuman treatment.⁴⁵ The conditions of detention in that case are analogous to the conditions of detention suffered by the Author in the instant case. The conditions are also similar to those described in three other cases in which the Human Rights Committee found that the relevant prison conditions breached Article 7.⁴⁶

In respect of all torture allegations

46) If the Committee finds that any of the mistreatment covered in paragraphs 30-45 above fall short of a necessary finding of torture, then it is submitted that they constitute at least cruel, inhuman or degrading treatment. For the avoidance of doubt, however, it is submitted that in each and every case they constitute torture.

47) The Author submits that a range of reputable human rights bodies have confirmed the widespread practice of torture and other abuses in Cameroon, and relies on the same in support of his averments:

- a) The Medical Foundation for the Victims of Torture has produced a comprehensive 54-page analysis of the practice of torture in Cameroon which is the Report as a whole.⁴⁷ The Report also analyses and documents the lack of independence of the judiciary;⁴⁸ denial of access to lawyers during pre-trial detention and trial before non-independent and non-impartial military tribunals;⁴⁹ the failure of the National Commission on Human Rights to play an effective role in protecting human rights⁵⁰
- b) The UN Commission on Human Rights Special Rapporteur on Torture visited Cameroon in 1999 and produced a comprehensive 26-page

⁴⁴ In *Vuolanne v. Finland*, Communication No.265/1987: Finland. 02/05/89. CCPR/C/35/D/265/1987 (Annex 16)

⁴⁵ *Deidrick v. Jamaica*, Communication No.619/1995: Jamaica.04/06/98.CCPR/C/62/D/619/1995 (Annex 17)

⁴⁶ *Mukong v. Cameroon* (458/91) (Annex 1), *Edwards v. Jamaica* (529/93), and *Brown v. Jamaica* (775/97)

⁴⁷ *Every morning, just like coffee*, Torture in Cameroon, Medical Foundation for the Victims of Torture, London, 26 June 2002. (Annex 18)

⁴⁸ *Ibid*, page 9

⁴⁹ *Ibid*, page 11

⁵⁰ *Ibid*, page 11

Report.⁵¹ He noted that: officials admitted torture was common in the past;⁵² the practical difficulties of detainees lodging complaints;⁵³ the deplorable prison conditions and practice of torture;⁵⁴ the serious weaknesses of the judicial system;⁵⁵ the condonation of torture at ministerial level relating to events in Southern Cameroons in 1996-1997;⁵⁶ the inadequacy of remedial channels.⁵⁷ The Author respectfully acknowledges that the Committee is fully aware of this Report, and he relies on it as a whole.

- c) The UN Against Torture in 2004⁵⁸ noted that reports of systematic torture persist⁵⁹ and the continued existence of extreme over-crowding in prisons.⁶⁰
- d) In the recent case of *Philip Afuson Njaru v Cameroon*⁶¹ the Human Rights Committee adopted Views regarding multiple breaches of the ICCPR including torture, covering the period 1997-2003. The representations in that case drew the Committee's attention to a variety of authorities which the Author in the instant case also relies on.⁶²

Breach of Article 9 of the ICCPR

48) Article 9 details the rights of persons to liberty and security of their person and their right not to be deprived of liberty except on lawful grounds, for arrested persons to be informed at the time of arrest as to the reason therefore, the right to be brought promptly before a judge or authorized officer, the right to trial within a reasonable time, and the right to *habeas corpus*. The Author submits that on the facts as set out above all of these rights were breached: he was never informed of the reason for his arrest at the time; he was not taken promptly before any judicial officer but was severely tortured; he was deprived of his liberty for more than two years before being brought before a military tribunal; during this period he had no opportunity to challenge any aspect of his detention.

Breach of Article 10 of the ICCPR

⁵¹ Report of the Special Rapporteur on Torture, Sir Nigel Rodley, E/CN.4/2000/9Add.2, 11 November 1999. (Annex 4)

⁵² Ibid, para 6

⁵³ Ibid, para 20

⁵⁴ Ibid, para 25

⁵⁵ Ibid, para 58

⁵⁶ Ibid, para 70

⁵⁷ Ibid, para 74

⁵⁸ Conclusions and recommendations of the Committee Against Torture: Cameroon. CAT/C/CR/31/6 (Concluding Observations/Comments), 5 February 2004. (Annex 19)

⁵⁹ Ibid, para 4 (a)

⁶⁰ Ibid, para 4 (b)

⁶¹ Communication No. 1353/2005: Cameroon. 14/05/2007. CCPR/C/89/D/2005, 14 May 2007. (Annex 20)

⁶² Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1998/38, Addendum, Visit by the Special Rapporteur to Cameroon, 11 November 1999, Annex II; Concluding Observations of the Human Rights Committee on the Third Periodic Report of Cameroon, 67th Session, 4 November 1999; the Conclusions and Recommendations of the Committee against Torture: Cameroon, 21st Session, 5 February 2004, to the report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1998/38, Addendum, Visit by the Special Rapporteur to Cameroon, 11 November 1999, and to the interim report by the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment, 3 July 2001; the Committee's jurisprudence in Communication No. 1208/2003 *Kurbonov v. Tajikistan* Views adopted 16 March 2006, Communication No. 760/1997 *J.G.A. Diergaardt et al. v Namibia* Views adopted 25 July 2000 paragraph 10.2, Communication No. 821/1998 *Chongwe v. Zambia* Views adopted 25 October 2000, Communication No. 195/1985 *Delgado Paez v. Colombia* Views adopted 12 July 1990, Communication No. 711/1996 *Dias v. Angola* Views adopted 18 April 2000, Communication No. 916/2000 *Jayawardena v. Sri Lanka* Views adopted 22 July 2002 Communication No. 458/1991 *Mukong v. Cameroon* Views adopted 21 July 1994.

49). Article 7 is supplemented by Article 10, which details the rights of detainees to receive humane treatment in detention. It is submitted that the above mistreatment set out in paragraphs 30-45 also breach Article 10 for the additional reasons set out below in paragraphs 50-53.

Prison Conditions

50) Numerous statements by the Human Rights Committee indicate that the Standard Minimum Rules for the Treatment of Prisoners are effectively incorporated within Article 10.⁶³ The conditions at the different detention centres in which the author was held breach numerous provisions of the Standard Minimum Rules. For example, Rule 9 states that each prisoner should, in general, have his or her own cell. Though exceptions are permitted, it is clearly inappropriate to have 55 people in one cell, sharing 15 beds. The overcrowding alone amounts to a breach of Article 10. Contrary to Rules 10-21, adequate bedding, clothing, food and hygiene facilities were not supplied. Adequate medical care was not provided, contrary to Rules 22-26.

51) In its Concluding Observation on Uganda, the Human Rights Committee expressed concern about the overcrowded conditions, the lack of food, the poor sanitary conditions and inadequate material available to inmates.⁶⁴ Similar conditions prevailed in the instant case.

52) Cameroon was also in clear violation of Article 10(2) (a) as remand prisoners, such as the author, were not segregated from convicted prisoners.

Incommunicado Detention

53) The Author submits that his *incommunicado* detention is also in breach of Article 10 of the ICCPR. In a case two weeks' *incommunicado* detention was found to breach Article 10.⁶⁵ It is submitted that even shorter periods of *incommunicado* detention breach Article 10, as *incommunicado* detention is simply an unacceptable and inhumane way of treating prisoners. *A fortiori*, there is no conceivable justification for denying the author access to the outside world for eighteen months. Therefore, the eighteen months of *incommunicado* detention in this case constitute a violation of Article 10.

Breach of Article 14 of the ICCPR

54) The right to a fair trial is an absolute right that may suffer no exception. Article 14(2) of the ICCPR provides that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law." The Human Rights Committee's General Comment specifies that: "By reason of the presumption of innocence, the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty

⁶³ See, e.g., *Mukong v. Cameroon* (458/91), paragraph 9.3. (Annex 1); Concluding Observations on the USA, CCPR/C/79/Add. 50, paragraph 34.

⁶⁴ Concluding Observation on Uganda, (2004) CCPR/C/80/UGA.)

⁶⁵ *Arutyunyan v. Uzbekistan*, Communication No. 917/2000: *Uzbekistan*. 13/05/2004. CCPR/C/80/D/917/2000. (Annex 21)

for all public authorities to refrain from prejudging the outcome of a trial.”⁶⁶ The fairness of trial was vitiated because of procedure as well as the use of information that was used by the prosecutor obtained through torture.

55) The Author submits that the composition of the court and the conduct of the trial also violated his rights to a fair trial in that the Military Tribunal was neither independent nor impartial, for the reasons set out hereafter. An Amnesty International report details the flaws in the proceeding.⁶⁷

- i) many of the defendants were tortured during interrogation and some died as a result ⁶⁸
- ii) a law passed in 1998 extended the jurisdiction of military tribunals in Cameroon to offences involving firearms – after the alleged events in 1997 which formed the basis of the charges
- iii) the military tribunal which tried the case operated under the authority of the Minister of Defence and the prosecution was under the direction and supervision of the Minister of State in charge of Defence; thus the defendants were tried by the same military force which detained and charged them
- iv) the defendants had no access to defence lawyers throughout the period of pre-trial detention, and even after the start of the trial had little opportunity to communicate with their lawyers; they had no access to the indictment against them, and were therefore unable to prepare their defence adequately or to challenge the charges against them.
- v) prosecution witnesses – members of the security forces who conducted preliminary investigations – claimed that the defendants had confessed to their guilt, but some of them (including the Author) told the tribunal that that they had been tortured and ill-treated during interrogation
- vi) although prosecution witnesses said that written evidence was seized proving that armed attacks had been planned, no such documents or other evidence was reported to have been produced in court.

56) The Human Rights Committee itself has recommended in respect of Cameroon that the jurisdiction of military tribunals should not extend to civilians, at the very time of the trial:⁶⁹

“The Committee is concerned about the jurisdiction of military courts over civilians and about the extension of that jurisdiction to offences which are not per se of a military nature, for example all offence involving firearms... The State Party should ensure that the jurisdiction of military tribunals be limited to military offences committee by military personnel.”

57) Amnesty International has released further reports on the unfairness of the proceedings in which the Author was one of those unfairly tried:

“More than 50 people from Cameroon's English-speaking provinces were detained for over two years in connection with violent events in North-

⁶⁶ Equality before the courts and the right to a fair and public hearing by an independent court established by law (Art. 14): 13/04/84. CCPR General comment 13, par. 7.

⁶⁷ *Cameroon: Lengthy prison terms after unfair trial trial before military court*, AI INDEX: AFR 17/10/99, 7 October 1999. (Annex J)

⁶⁸ *Ibid.* At least 10 of the group died between March 1997 when the arrest took place and the sentencing in October 1999, either as a result of torture and ill-treatment at the time of arrest or as a result of lack of medical care while in detention.

⁶⁹ *Concluding observations of the Human Rights Committee: Cameroon. 04/11/99. CCPR/C/79/Add.116* at paragraph 21. (Annex 5)

West Province in March 1997 before finally being brought before a military tribunal in the capital, Yaoundé. At least 10 of those arrested subsequently died as a result of torture or lack of medical care. The trial of these prisoners and some 20 other defendants before the military tribunal was neither independent nor impartial and failed in several other fundamental respects to conform to international fair trial standards, including the ICCPR. The HRC has recommended that the jurisdiction of military tribunals should not extend beyond military disciplinary matters and has recommended that all trials concerning civilians be held before civilian courts. At the conclusion of the trial on 6 October 1999, 36 defendants were convicted and sentenced to terms of imprisonment ranging from one year to life.”⁷⁰

“In October 1999, 36 civilians were convicted and sentenced to terms of imprisonment ranging from one year to life after an unfair politically-motivated trial before a military tribunal.”⁷¹

58) The Author’s experience of being subjected to the jurisdiction of the Military Tribunal was consistent with the aforesaid trenchant criticism expressed by human rights bodies of the use by Cameroon’s authorities of this process to ‘try’ civilians and to do so for a wide variety of crimes that have nothing to do with the military.

D. MEDICAL EVIDENCE

59) When examining the test for torture and/or other breaches of Article 7 the Human Rights Committee has not issued specific definitions of the three types of prohibited behaviour under Article 7.⁷² In cases where a breach of Article 7 has been found, the Committee has not always specified which part of Article 7 has been breached. In General Comment 20, the Committee remarked at paragraph 4:

“The Covenant does not contain any definition of the concepts covered by article 7, nor does the Committee consider it necessary to draw up a list of prohibited acts or to establish sharp distinctions between the different types of punishment or treatment; the distinctions depend on the nature, purpose and severity of the treatment applied.”

Article 1 of the Convention Against Torture provides a more specific definition of torture and although this definition is not binding upon the Committee in its application of Article 7, it “can be drawn upon as an interpretational aid.”⁷³ Although the Committee does not always differentiate between the types of prohibited behaviour in Article 7, it has specified the relevant limb of Article 7 on some occasions. For example, combinations of the following acts have been explicitly found by the HRC to constitute “torture”:

Systematic beatings, electric shocks to the fingers, eyelids, nose and genitals when tied naked to a metal bedframe or in coiling wire around fingers and genitals, burning with cigarettes, extended burns, extended hanging from hand and/or leg chains, often combined with electric shocks,

⁷⁰ *Cameroon’s human rights record under scrutiny by the United Nations*, AI Index: AFR 17/03/99, 26 October 1999. (Annex K)

⁷¹ *Cameroon fails to protect the fundamental human rights of its citizens*, AI Index: 17/06/99, 9 November 1999. (Annex L).

⁷² The European Court of Human Rights takes a different approach in discussing violations of its equivalent provision, Article 3 of the ECHR and generally indicates in its decisions which category of mistreatment has occurred.

⁷³ M.Nowak, *U.N. Covenant on Civil and Political Rights, CCPR Commentary*, 2nd edition, N.P. Engel, Publisher, 2005, p 161. See also the Committee against Torture jurisprudence referred to in paragraph 27 above.

repeated immersion in a mixture of blood, urine, vomit and excrement (“submarino”), standing naked and handcuffed for great lengths, threats, simulated executions and amputations⁷⁴

Beatings, electric shocks, mock executions, deprivation of food and water and thumb presses⁷⁵

Beatings to induce confession, as well as beatings of and ultimately the killing of the victim’s father on police premises⁷⁶

It is submitted that the severity of pain inflicted and as specified in paragraphs 30-45 above constitute torture as the mistreatment is of a severity and nature analogous to the above cases.

60) The Medical Report of 5 September 2003, compiled shortly after his escape to Nigeria, lists some of the physical torture to which he was subjected, including beatings, drops of molten plastic on his body, stokes, solitary confinement and nutritional deprivation.⁷⁷ The Author’s averment of having suffered paralysis and loss of vision as a result of the torture was also referred to by Amnesty International in August and October 1998 i.e. a few months after it took place.⁷⁸

61) The more recent Initial Evaluation Report by a psychotherapist in November 2007 records the psychological impact of the torture and refers to persistent nightmares, extreme anxiety, fear, panic attacks, depression and insomnia.⁷⁹

III. CONCLUSION

62) In light of all the above, the Author respectfully requests that the Committee:

- *Declare* that the State Party, Cameroon, has breached the following Articles of the International Covenant on Civil and Political Rights: 7,9,10 and 14.

- *Recommend* that Cameroon adopt all necessary action to:

- a) Fully investigate the circumstances of the torture and/or ill-treatment of the Author and, based on the results of such investigation, take appropriate measures against those responsible for that treatment;

- b) Adopt measures to ensure that the Author receives full and adequate compensation for the harm he has suffered.

⁷⁴ Nowak, above note 62, p. 162, drawing from the cases of *Grille Motta v. Uruguay* (11/1977), *Bleier v. Uruguay* (30/1978), *Lopez Burgos v. Uruguay* (52/1979), *Sendic v. Uruguay* (63/1979), *Angel Estrella v. Uruguay* (74/1980), *Arzuaga Gilboa v. Uruguay* (147/1983), *Caribon v. Uruguay* (159/1983), *Berterretche Acosta v. Uruguay* (162/1983), and *Rodriguez v. Uruguay* (322/1988).

⁷⁵ Nowak, above note 62, p. 163, citing *Muteba v. Zaire* (124/82), *Miango Muiyo v. Zaire* (194/85) and *Kanana v. Zaire* (366/89).

⁷⁶ *Khalilova v. Tajikistan*, Communication No. 973/2001: Tajikistan. 13/04/2005. CCPR/C/83/D/973/2001, para 7.2. (Annex 22)

⁷⁷ See Annex D

⁷⁸ AI Index: AFR17/11/98 and AI Index: AFR 17/14/98, dated 29 October 1998. (Annexes M and N) See paragraph 8 above for the Author’s account of his paralysis in June 1998.

⁷⁹ See Annex E

Dated the 20th day of June 2008.

.....
Mr. Kevin Laue
Counsel for Victim

ANNEXURES

i)

- A. Power of attorney dated 12 November 2007
- B. Court document Author forced to sign
- C. Legal report dated 27 April 1999
- D. Medical report dated 5 September 2003
- E. UNHCR document dated 11 June 2004
- F. Admission document dated 21 February 2006
- G. Initial evaluation dated 28 November 2007
- H. Legal report Mr Nkafu dated 19 June 2007
- I. Court motion dated 9 December 1997
- J. Amnesty International Index: AFR 17/10/99
- K. Amnesty International Index: AFR 17/03/99
- L. Amnesty International Index: AFR 17/06/99
- M. Amnesty International Index: AFR 17/11/98
- N. Amnesty International Index: AFR 17/14/98

ii)

1. Mukong v Cameroon, Communication No. 458/1991: Cameroon. 10/08/94. CCPR/C/51/D/458/1991 [1994]
2. Second periodic report of Cameroon, adopted on 7 April 1994. CCPR/C/79/Add.33 [1994]
3. Gorji-Dinka v. Cameroon, Communication No. 1134/2002: Cameroon. 10/05/2005. CCPR/C/83/D/1134/2002 [2005]
4. Report of the Special Rapporteur on Torture, Sir Nigel Rodley, E/CN.4/2000/9/Add.2, 11 November 1999
5. Concluding observations of the Human Rights Committee: Cameroon. 04/11/99. CCPR/C/79/Add.116, 4 November 1999
6. Bailey v. Jamaica, Communication No.334/1988: Jamaica.12/05/93. CCPR/C/47/D/334/1988 [1993]
7. Linton v. Jamaica, Communication No. 255/1987: Jamaica.22/10/92. CCPR/C/46/D/255/1987 [1992]

8. Wilson v. Philippines, Communication No. 868/1999: Philippines. CCPR/C/79/D/868/1999 [2003]
9. Wight v. Madagascar, Communication No.115/1982: Madagascar.01/04/85. CCPR/C/22/D/115/1982 [1985]
10. Bee and Obiang v. Equatorial Guinea, Communications Nos. 1152/2003 and 1190/2003: Equatorial Guinea.30/11/2005. CCPR/C/85/D/1152 and 1190/2003 [2005]
11. Tshisekedi wa Mulumba v. Democratic Republic of Congo, Communication No. 242/1987: Democratic Republic of Congo. 29/11/89. CCPR/C/37/D/242/1987 [1989]
12. Miha v. Equatorial Guinea, Communication No. 414/1990: Equatorial Guinea.10/08/94. CCPR/C/51/D/414/1990 [1994]
13. Portorreal v. Dominican Republic, Communication No. 188/1984: Dominican Republic.05/11/87. CCPR/C/31/D/188/1984 [1987]
14. Shaw v. Jamaica, Communication No. 704/1996: Jamaica. 04/06/98. CCPR/C/62/D/704/1996 [1998]
15. Mojica v. Dominican Republic, Communication No. 449/1991: Dominican Republic. 10/08/94. CCPR/C/51/D/449/1991 [1994]
16. Vuolanne v. Finland, Communication No.265/1987: Finland. 02/05/89. CCPR/C/35/D/265/1987 [1989]
17. Deidrick v. Jamaica, Communication No.619/1995: Jamaica.04/06/98. CCPR/C/62/D/619/1995 [1998]
18. "Every morning, just like coffee." Torture in Cameroon, Medical Foundation for the Victims of Torture, London, 26 June 2002
19. Conclusions and recommendations of the Committee Against Torture: Cameroon.CAT/C/CR/31/6 (Concluding Observations/Comments), 5 February 2004
20. Philip Afuson Njaru v. Cameroon, Communication No. 1353/2005: Cameroon.14/05/2007. CCPR/C/89/D/2005 [2007]
21. Arutyunyan v. Uzbekistan, Communication No. 917/2000: Uzbekistan. 13/05/2004. CCPR/C/80/D/917/2000 [2004]
22. Khalilova v. Tajikistan, Communication No. 973/2001: Tajikistan. 13/04/2005. CCPR/C/83/D/973/2001 [2005]