

Global Conscience Initiative

**Report on  
indication of  
Human Rights  
Violations in pre-  
trial detention in  
the Kumba  
Principal Prison**

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# I. About the Prisoners' Rights Project by GCI

Global Conscience Initiative (GCI) is an independent, registered not-for-profit association based in Kumba, Cameroon. GCI strives to create and sustain a peaceful civil society in Cameroon through the promotion and protection of human rights, democracy, good governance, and social justice.

One of GCI's projects is the Prisoners' Rights Project (PRP). The PRP aims to improve prison conditions and protect inmates' rights by collecting data on incarcerated persons, organizing education and training sessions for prison workers, mobilizing and coordinating civil society to support prison communities, and providing legal assistance and representation to indigent detainees and prisoners.

In 2008, GCI launched the first phase of the GCI Prison project. This phase consisted of GCI staff members conducting needs assessment of incarceration facilities and organizing consultative workshops with police/gendarme officers, current and retired prison workers, civil society activists, journalists, clergymen, ex-convicts, etc. to discuss basic standards for incarceration facilities and the treatment of inmates themselves. In August 2008, riots broke out in Kumba's prisons; GCI followed the development of the riots closely and wrote a detailed report of the abuses that occurred at the hands of security officers attempting to quell the unrest.

In 2009, GCI transferred the Prisoners' Rights Project to its newly-opened office in Buea, where the PRP met with considerable success in petitioning the release of several inmates who had been lengthily detained while awaiting trial. In general, the Project found that its work was more effective in Buea, where both the law enforcement and the judiciary were more flexible and appreciative of its efforts. Meanwhile, GCI's Kumba office continued to conduct small initiatives within the project, mostly concerning general prisoners' rights advocacy.

Despite past misfortunes, major improvements were made in 2011 attracting a new Intern eager to proceed with the project. February 2012 marks the beginning of a new chapter for

the PRP and its reinstatement. We hope within the coming months, GCI can once again gain prison access and make an impact in improvement of prison conditions and once again provide detainees with much needed access to legal support.

## II. Procedure of gathering information

This report is based on the evaluation of ten interviews, conducted from the 3<sup>rd</sup> of April 2012 to the 16<sup>th</sup> of May 2012. The focus of the interviews was to gather information about the living conditions in pre-trial detention and to find out about the standard time of detention. Therefore, GCI staff contacted lawyers, relatives and friends of ten detainees who are incarcerated in the pre-trial cells Ward C, Ward B and Ward H. Those contact persons then filled out a questionnaire by GCI which asked about personal details of the specific detainee, about the detention, the health conditions, the living conditions, the relationship to the staff and other detainees, legal representation and the contact between the detainee and the outside world. If the interviewee didn't know the answer, the question was either not answered or the interviewee asked the prisoner himself the question in the next visit and told GCI the result later.

We would prefer to be able to present you first-hand information of more than ten detainees, but under the current circumstances we unfortunately can only offer you second-hand information about a small number of detainees. However, even with this small number of interviews some grievances could be detected which ask for further investigations. Those grievances are presented in the following sections.

### III. Indications of Human Rights violations

#### 1. Excessive times of detention

##### a) Legal Requirements

The Preamble of the Cameroonian Constitution as well as International Treaties (for example Article 11 of the Universal Declaration of Human Rights) states that every pre-trial detainee is presumed innocent until found guilty. This means, they must be treated with respect and the prison time should restrict their personal freedom as little as possible. Furthermore, each pre-trial detainee has a right to trial within reasonable time, or a release. The Cameroonian Criminal Procedure Code specifies this international rule in Section 221:

*(1) The Examining Magistrate shall specify the period of remand in custody in the remand warrant. It shall not exceed six (6) months. However, such period may, by reasoned ruling of the Examining Magistrate be extended for at most twelve (12) months in the case of a felony and six (6) months in the case of a misdemeanour.*

*(2) Upon expiry of the period of validity of the warrant, the Examining Magistrate shall, under pain of disciplinary action against him, order the immediate release on bail of the defendant, unless he is detained for other reasons.*

This means, that unless the detainee isn't detained for other reasons, no detainee should be kept in pre-trial detention for longer than one year if the suspected crime is a misdemeanour or one and a half year if the suspected crime is a felony.

##### b) Information of actual practise

The interviews concerning a number of ten pre-trial detainees in the Kumba Principal Prison raise suspicion that in a high number of cases detainees are kept much longer in prison than the above mentioned rules allow. Seven of ten of the prisoners about whom our interviewees gave testimony are imprisoned longer than one and a half years:

ITOE Ivo, detained on the 18<sup>th</sup> of September 2008

BESONG Fritz, detained on the 23<sup>rd</sup> of April 2010

NGALA Candy, detained on the 17<sup>th</sup> of January 2010

MBULA Kenedy, detained on the 6<sup>th</sup> of September 2010

NGOE Clifford Itoe, detained on the 17<sup>th</sup> of January 2010

NJI David, detained on the 11<sup>th</sup> of November 2008

MBONGAYA Samuel, detained on the 7<sup>th</sup> of March 2009

### c) Recommendations how to treat this issue

We ask the NCHRF to investigate into the mentioned cases. If our suspicions are verified, we recommend to the NCHRF to inform the responsible officials and pressurise them to release the illegally detained immediately. Furthermore, a general inspection of the times of detention of all pre-trial detainees in the Kumba Principal Prison is inevitable. Reviewing the high number of excessive times of detention out of such a small number of detainees, it must be feared that the Kumba Principal Prison faces a structural problem of illegal detention instead of isolated cases. If so, a well-arranged mass release will be necessary. Furthermore, the ones responsible for illegal detention need to be called to account.

## **2. Insufficient health care**

### a) Legal requirements

Another Constitutional and International Principle is that every person has a right to life, to physical and moral integrity and to humane treatment in all circumstances. Under no circumstances shall any person be subjected to torture, to cruel, inhumane or degrading treatment. As a result of this principle some procedures have been developed which should ensure those rights. To ensure the physical integrity, the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* states that

*“A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge. [Principle 24]” .*

Prisoners should generally have the right to request a second medical opinion. All prisoners and detained persons have the right to the highest attainable standard of physical and mental health.

#### b) Information of actual practice

Seven of ten prisoners asked by our interviewees stated that they received no medical examination upon entering the prison. None of them stated he is in a good health condition, every single one of them was complaining about some sort of illness. They complained that illnesses are not properly treated and the doctor is often not available when needed. Seven of ten prisoners said no specialist health care, like a dentist, is available. Some said they don't ask to see the doctor because they can't afford to pay him, which means, medical treatment seems to be not free of charge in the Kumba Principal Prison. Another mentioned problem is that prisoners with contagious illnesses and diseases are not always separated from the other prisoners, which leads to the spread of those illnesses and diseases.

#### c) Recommendations how to treat this issue

This problem needs further investigation as well. If the health conditions are really as severe as our findings suggest, we recommend building a committee to discover the reasons for those bad conditions and draft a plan for how to improve them. The medical officer, the prison superintendent or his/her substitute, representatives of staff and representatives of the prisoners as well as consultants from the NCHRF and/or GCI should be part of this committee. It should also be considered to involve civil hospitals for advice and specialist health care.

### **3. Inhuman living conditions**

#### a) Legal requirements

As mentioned above, no person shall ever be subjected to torture, to cruel, inhumane or degrading treatment<sup>1</sup>. Concerning prisons, that means also, that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the

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<sup>1</sup> Article 5 of the *Universal Declaration of Human Rights*.



human person<sup>2</sup>. Furthermore, everyone has the right to a standard of living adequate for [his] health and well-being ... including food, clothing, housing and medical care and necessary social services, and the right to security in the event of ... lack of livelihood in circumstances beyond his control<sup>3</sup>. The legally binding *International Covenant on Economic, Social and Cultural Rights* ensures the right to adequate food as a component of the right of everyone to an adequate standard of living in Article 11. The *UN Standard Minimum Rules for the Treatment of Prisoners* give specific advice on the treatment of prisoners:

*“10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation”*

*“19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.”*

*“20. Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.”*

#### b) Information of actual practice

Sadly, the actual conditions in the pre-trial cells of the Kumba Principal Prison are far from meeting those principles. The cells are highly overcrowded as nine of ten prisoners stated, they had no own bed or mattress and have to sleep on the floor. Some of the prisoners complained that the general physical state of the prison is very poor, it is dirty, there are not enough toilets for the high number of detainees and there is just one window, supplying not enough light and fresh air for the cell. There is also a lack of possibilities to go outside for fresh air, one interviewee mentioned that his imprisoned relative hasn't been outside his cell

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<sup>2</sup> Article 10 of the *International Covenant on Civil and Political Rights* (binding law!).

<sup>3</sup> Article 25 of the *Universal Declaration of Human Rights*.

for more than three months. We received information that prisoners get only one meal per day, which is of poor quality and quantity.

#### c) Recommendations how to treat this issue

The living conditions also need to be fully analyzed and ideas of improvements need to be found, if necessary in a committee and with the help of specialists like *Penal Reform International*<sup>4</sup> or the *OHCHR*<sup>5</sup>. The main problem seems to be the overcrowding, which directly leads to the problems of the insufficiency of bedding, food and sanitary conditions. This problem might be resolved after releasing those ones illegally detained. Furthermore, it need to be stressed out that imprisonment of people suspected of committing a crime is only a tool of last resort and shouldn't be the standard procedure, the standard procedure should be release on bail. It is alarming that 60% of the inmates in Cameroonian prisons are pre-trial detainees, which means people who are presumed innocent<sup>6</sup>.

However, even if the number of detainees can't be decreased rapidly, there are possibilities to improve the living conditions. To ensure a sufficient nutrition it should be considered to found a prison farm where the detainees can grow their own food. There are a lot of other possibilities which could be discussed in such a committee as proposed above.

### **4. Relationships of the detainees to other detainees and the staff**

#### a) Legal requirements

It is important that prisons are safe places, where neither staff nor prisoners are endangered of aggressions against them. Therefore, a good concept of security, good order and control and discipline and punishment is necessary. Of course, this concept has to be aligned on the human rights of the people it addresses. Some principles had been developed to ensure that prisons are safe places. One of them is the absolute prohibition of torture<sup>7</sup>, another one that instruments of restraint, such as handcuffs, chains, irons and straitjackets, shall never be

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<sup>4</sup> <http://penalreform.org/>

<sup>5</sup> [www.ohchr.org](http://www.ohchr.org)

<sup>6</sup> International Centre for Prison Studies, *World Prison Brief Cameroon*, [http://prisonstudies.org/info/worldbrief/wpb\\_country.php?country=7](http://prisonstudies.org/info/worldbrief/wpb_country.php?country=7).

<sup>7</sup> Article 5 of the *Universal Declaration of Human Rights*.

applied as a punishment<sup>8</sup> and another one is that prisoners who have to share a cell should be carefully selected as being suitable to associate with one another in those conditions<sup>9</sup>.

#### b) Information of actual practice

The statements of the prisoners regarding the relationships to each other and to the staff differ. Most of them stated, that in general, the relationships between the prisoners are good. However, one mentioned, that it occurred that older prisoners extracted money from newly arrived prisoners and three said that it comes to aggressions from time to time. The relationships to the staff were perceived more negative, it was described as “not too friendly” “relationship of master and servant” but also by a few prisoners as “okay”. Four prisoners reported on aggressions by staff members against prisoners without specifying it, one prisoner said he had been tortured.

#### c) Recommendations how to treat this issue

There should be an investigation on cases of torture. If such cases are found, the officials which were involved need to be called to account. To improve the relationship of detainees and staff, a Human Rights Training for Prison Officials might be useful. GCI would be honored if their offer to conduct this training, using the Training package by the United Nations, would be considered.

### **5. Access to lawyers**

#### a) Legal requirements

Article 14 of the International Covenant on Civil and Political Rights describes some legal rights of detainees. One of them is the right to be tried without undue delay. To enforce their legal rights, prisoners have a right of access to a lawyer<sup>10</sup>. The *Robben Island Guidelines* further mention, that “States should ensure that all persons deprived of their liberty can challenge the lawfulness of their detention” (Guideline 32).

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<sup>8</sup> Rule 33 of the *Standard Minimum Rules for the Treatment of Prisoners*.

<sup>9</sup> *Standard Minimum Rules for the Treatment of Prisoners*, Rule 9 (2).

<sup>10</sup> Paragraph 20c of the *Robben Island Guidelines*.

### b) Information on actual practice

As we saw above, there seems to be a severe problem of illegal detention in the Kumba Principal Prison. One reason for that might be that most of the prisoners have no lawyer who could examine the legality of their detention: Eight from ten prisoners interviewed are not represented by a lawyer.

The Republic of Cameroon showed its awareness of that problem by adopting the Law on Legal Aid (Law No 2009/004 OF). This law allows people with no own means to pay a lawyer to apply for legal aid. Unfortunately, this law is broadly unknown by prisoners and lawyers as well as officials. There is no case of an application for legal aid in the Southwest region which is known by GCI so far.

### c) Recommendations how to treat this issue

We encourage the authorities of the Kumba Principal Prison to inform the current detainees as well as the new arrivals on their right to apply for legal aid and give them assistance in doing so. An information sheet and an application form could facilitate this procedure. GCI offers to give assistance in working out those materials, informing prison staff as well as detainees on that issue and recommending lawyers to the detainees.

## **6. Contact to the outside world**

### a) Legal requirements

Even though prisoners are deprived of their liberty, they do have a right to have contact with their family and friends and the outside world. The *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* provides:

*“A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.”* (principle 19).

Rule 39 of the Standard Minimum Rules for the Treatment of Prisoners says that

*“prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration....”*

#### b) Information on actual practice

Our interviewees informed us that visits in the Kumba Principle Prison are possible once or twice a week. All of them told their interview partners, that the visits are not free of charge. They have either to give soap and toilet paper or pay 3000 CFA. Because of this fee, some stated they don't visit their imprisoned relative/friend as often as they wish to. It is possible to bring goods voluntarily. Most of the interviewees complained that there is no reasonable privacy during the visits. The situation concerning sending and receiving letters was unclear. Some said, sending and receiving letters is not possible, some didn't know and one said, it is possible but the letters are read by the prison staff. To the knowledge of our interviewees, none of the prisoners has the possibility to use the media (like newspapers, TV or radio).

#### c) Recommendations how to treat this issue

As receiving visits is a right of every detainee, it should be free of charge. As long as it is not free of charge, it must be written down who sets this regulation and with which authority. Transparency is the main issue concerning the contact possibilities of the prisoner to the outside world anyway: Prisoners and their relatives and friends need to be informed about the regulations concerning visits, letters and phone calls. Also, there must be a possibility for the prisoner to keep himself informed about things of importance which happen outside the prison. This is essential for his integration after his release.

## IV. Conclusion

The discovered information is highly alarming and requires fast action. The suffering in the prison needs to be stopped and conditions which are according to the unimpeachable human rights need to be established. GCI would be glad to play an important role in the process in making the prison a secure and dignified place for everyone who has to deal with it – the prisoners as well as the staff.