

# The Implications of Criminal Responsibility on Law Enforcement Officers in Cameroon: Sanctions and Enforcement Mechanisms

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## Abstract

Let me be clear-no one is above the law. Not a politician, not a priest, not a criminal, not a police officer. We are all accountable for our actions. Over the past years, Cameroon has witnessed an increase in misconducts committed by Law Enforcement Officers especially in the Far North, North-West and South-West Regions. This has caused the government to take drastic measures in ensuring that they are accountable before the law. The State of Cameroon has put in place legal, policy and institutional frameworks as well as administrative platforms to sanction such Officers. These notwithstanding, the abusive functions of some officers have regrettably gained grounds at an alarming rate in Cameroon. This paper therefore dwells on the judicial and administrative sanctions which can be meted against recalcitrant Law Enforcement Officers in Cameroon. This paper does so through accessing some legal frameworks, court decisions, administrative acts taken by the Minister Delegate at the Presidency in charge of Defense, Delegate-General of National Security and other persons in authorities having control over these officers. The data thus collected constitutes the sources upon which this paper is founded. The findings revealed that the trial of these officers is basically hindered through the involvement of the executive amidst other factors. The findings equally reveal the dire need for the implementation of the penal laws. It recommends that there should be an independent body to police the investigation of crimes committed by them and thereby answering the question of who polices these officers, and the judiciary should be given free hand to act. All these is offered with the view of enhancing the criminal trial of Law Enforcement officers in Cameroon without hampering the smooth running of their duties.

**Keywords:** implications, criminal responsibility, law enforcement officers, sanctions, enforcement mechanisms

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## Introduction

Antonio Villaraigosa,

*"Let me be clear-no one is above the law. Not a politician, not a priest, not a criminal, not a police officer. We are all accountable for our actions."*

In similar reasoning, in the case of *The People of Cameroon v. Fon Doh Gah Gwanyii III and 11 others*<sup>1</sup>, Justice Demien Ambe, Vice President of the North West Court of Appeal, (As then he was) said “Cameroon is a state of law where the rights of everyone must be protected irrespective of his or her status in the society. The judiciary therefore remains the last hope of a hopeless and common man<sup>2</sup>”.

Law enforcement officers by their function, are anomaly in a free society. They are vested with a great deal of authority, under a system of government in which authority is reluctantly granted and when granted, sharply curtailed. <sup>3</sup>The horizon of ethical thought in our time is framed by the respect for human rights and the rule of law. Therefore, the yardstick for measuring the extent to which law enforcement officers respect human rights and the rule of law in the course of the performance of their duty is the consistency and conformity with which criminal trial procedure successfully hold agents accountable for abuses of human rights and the rule of law. The enormous power wielded by the police, their possession and use of firearms, and the inevitable practice of discretion in decisions relating to arrest, searches and pre-trial detention require that law enforcement officers operate within the law<sup>4</sup>.

The investigation and prosecution of crimes committed by law enforcement officers are done by officers of judicial police officers in like manner as they would be done if the crime was committed by a private individual. Contrarily when an offence is committed by a law enforcement agent, the question is raised: who will police them? Will the police apply the same resources, efforts, and commitments to the investigations of the crime allegation against the police as they would against the citizen? While such action might be expected in cases involving gross abuse of authority resulting in death, serious bodily harm of a big political figure or the perversion of justice, the same might not be expected in minor or borderline cases<sup>5</sup>. The fact that investigations of offences committed by law

enforcement agents are done by their colleagues and the interrogations done in police and Gendarmerie stations, greatly constitutes a problem. Haven seen the position of the law regarding the criminal responsibility of these agents, it is equally important to note that they are governed and regulated by different laws. The Gendarmerie in Cameroon was first governed by Ordinance No.60/20 of 22<sup>nd</sup> December 1960 which has been subsequently amended by Decree No.60/280 of 31<sup>st</sup> December 1960, Decree No.83/355 of 20<sup>th</sup> July 1983, Decree No.83/569 of 12<sup>th</sup> November 1983 and Decree No.2001/181 of 25<sup>th</sup> July 2001. The Police is regulated by Decrees No.2001/065 of March 2001 and 2002/003 of 4<sup>th</sup> January 2002. The Penitentiary is regulated by Decree No.92/052 of 27<sup>th</sup> March 1992.

Today in Cameroon law enforcement officers are appearing before the ordinary courts and the military for crimes they have committed. Currently the Special Criminal Court on the 1<sup>st</sup> of February 2023 found Colonel Elie Mboutou guilty of embezzling about 26 million dollars and was sentenced to 25 years imprisonment while Former Minister of Defense and Transport was given 30 years in imprisonment. On the evening of 17<sup>th</sup> January 2023, human rights defender and journalist Martinez Zogo was abducted by unknown men. His body was found on the morning of 22<sup>nd</sup> January 2023 in the Soa neighbourhood. As result of his assassination, the Head of State through the Secretary General of the Presidency issued a communique on the 2<sup>nd</sup> of February 2023 opening investigations against the suspects. This led to the arrest of over 31 members of the Cameroon’s General Directorate for External Investigations (DGRE). DGRE boss Leopold Maxime Eko Eko an officer is one of them Lt. Colonel Danwe is equally involved in the arrest. The case is currently before the Yaoundé military tribunal as they made their first appearance on the 15<sup>th</sup> February 2023 to undergo preliminary inquiry to seek for sufficient evidence to be able to indict them before the court for justice to take its course.

President Paul Biya ordered investigations into the 14 of February 2020 killings in Ngarbuh a village in Ndu sub-division, Donga-Mantung Division of the North West Region of Cameroon. On April 2020, the president released a summary of the investigation’s findings, identifying a sergeant, a gendarme and a soldier as responsible for the incident. He ordered

<sup>1</sup> HCND/2C/2005-2006, (unreported).

<sup>2</sup> Christian Outreach Ministries Inc v. Cobham (2006) 16 NWLR p. 283.

<sup>3</sup> Goldstein, H. (1977). *Policing a Free Society*. Ballinger Publishing Co. Cambridge.

<sup>4</sup> Dermot PJ Walsh. (1998). *The Irish Police: A Legal and Constitutional Perspective*. Round House, p. 345.

<sup>5</sup> Brown N. and Bell. J. (1998). *French Administrative Law*. Clarendon Press, Oxford.

disciplinary sanctions against the battalion commander, who oversaw the operation and the arrest of the three suspects. Their trial was conducted before the military court of Yaoundé.

### **The Sanctions Against Law Enforcement Officers in Cameroon**

Considering Law No.67/LF/9 of 12<sup>th</sup> June 1967 on the General Organization of Defense, Looking at Decree No.68/DF/33 of 29<sup>th</sup> January 1968 establishing the Defense Missions of the regular auxiliary and auxiliary forces, together with Presidential Instruction No.7/CAB/PR of 9<sup>th</sup> April 1968 establishing the Missions of the National Security in the context of Defense. In line with article 89 of Decree No.2012/539 of 19<sup>th</sup> November 2012 bearing on the Special Status of the Corps of National Security Civil Servants, these civil servants can be held accountable for their actions with possible sanctions. Such officers can appear before the competent court or the competent Disciplinary Council. But it should be noted that in the event of an ongoing action before the court, any other sanction from the disciplinary council will be stayed until the court's decision becomes final.<sup>1</sup> Any National Security officer subject to legal proceedings must as a duty send a detailed report to the Head of the National Security<sup>2</sup>.

The same disciplinary offence cannot be sanctioned twice<sup>3</sup> based on the Principle of Double Jeopardy captured in Latin as "*Ne Bis Ad Idem*" as provided for under section 395(3) of the Criminal Procedure Code. The Head of the National Security has the powers to change disciplinary sanctions imposed on his collaborators.<sup>4</sup> The said disciplinary sanctions must be justified<sup>5</sup>. Any decision imposing disciplinary sanctions must be filed with the individual file of the official in question.<sup>6</sup> Such decisions may be made public however, publicity is mandatory for the sanction or revocation<sup>7</sup>. Law No.2007/199 of 7<sup>th</sup> June 2007 on the General Regulations of Discipline within the Defense Forces, brings out the different ranks in the defense force and enumerates the possible sanctions which can be meted upon them. All

punishments inflicted on officers other than reprimands shall be transmitted to the Minister in charge of Defence while the reprimands are transmitted to the Head of the unit of the said officer. Meanwhile sanctions meted against non-officers shall be transmitted hierarchically.<sup>8</sup>

By Virtue of Decree No.2004/320 of 8<sup>th</sup> December 2004 to organize the Government, the Penitentiary Administration was attached to the Ministry of Justice under a Secretary of State for Penitentiary Administration. Pursuant to Order No.080 of 16<sup>th</sup> May 1983 to lay down the disciplinary system in force. Sanctions ranges from detention to delay in promotion, without prejudice to criminal proceedings.

Sanctions against Law Enforcement can be classified into judicial and administrative as elaborated in seriatim.

### **Judicial Sanctions**

Pursuant to section 59 CPC, the commission of any offence may lead to the institution of criminal proceedings and as the case may be, to a civil action. The institution of criminal proceedings aims at procuring a sentence or a preventive measure against an offender as provided by law. A law Enforcement officer who commits an offence, may attract the following penalties or sanctions as provided for under the Penal code.

### **Principal Sanctions**

#### **-Death**

Pursuant to section 18 of the Penal code, principal penalties for natural persons shall be death, imprisonment and fine. Section 23 of same, empowers the Presiding Judge who finds a convict guilty to either pass a death sentence by firing squad or by hanging. Section 22 of the Penal code presents Conditions Precedent to Execution to wit;

-Every sentence of death shall be submitted to the President of the Republic for his decision on commutation.

- No death sentence may be executed until the President shall have signified his decision not to commute.

- No woman with child may be executed until after her delivery.

- No execution may take place on Sunday or on a public holiday.

<sup>1</sup> Article 89(2) special status.

<sup>2</sup> Article 89(3) Ibid.

<sup>3</sup> Article 90 Ibid.

<sup>4</sup> Article 91 Ibid.

<sup>5</sup> Article 92(1) Ibid.

<sup>6</sup> Article 92(2) Ibid.

<sup>7</sup> Article 93(1-2) Ibid.

<sup>8</sup> Article 109 Ibid.

Currently before the Yaounde Military tribunal in the case of *The People of Cameroon and the Estate of Arsene Salomon Mbani Zogo* ( popularly known as *Martinez Zogo*) vs. *Jean Pierre Amougou Belinga, Leopold Maxime Eko Eko, (Divisional Commissioner of Police) head of the General Directorate for External Investigations (DGRE) and its director of operations, Justin Danwe, (Lieutenant Colonel) and 14 others*, Law Enforcement officers ranging from the rank of Lt.Colonel to Gendarme in the military and the rank of a Divisional Commissioner are charged for capital murder which is actionable punishable under section 276 of the Penal code with the death sentence. This may mean that if they are found guilty, the court may slammed them with a death sentence.

They include the following;

- Danwe Justine (Lt.Colonel)
- Eko Eko Leopold Maxime (Divisional Commissioner)
- Ebo'o Clement Jules (Adjoudant Chef)
- Nzockmenping Martial Theodore (First Class soldier)
- Lenor Dawa Bosco (Sergeant)
- Bakaiwe Sylvain (Sergeant)
- Tongue Nana Stephane (Marshal de logis)
- Daouda (Sergeant)
- Lamfu Johnso Ngam (Adjoudant)
- Godje Oumarou Vincent (Marshal de logis)
- Saiwang Yves (Police)
- Heudji Guy Serge's (Police)

The court has gone pass the level of handling preliminaries to the trial as we see in the last sessions. The long awaited trial of 17 persons in connection with the torture and capital murder of renowned Cameroonian journalist, Martinez Zogo started on Monday March 25, 2024 without any of the accused arraigned yet, that is, formally informed of what they are being accused of so that they could plead whether "guilty" or "not guilty". The close to four hours audience at the Yaoundé military tribunal, presided by the President, Colonel Misse Njone Jacques, assisted by two other judges, was mainly devoted to pre-trial observations and objections and counter observations that dragged on and on.

By 10 am at the Headquarters Brigade and precisely at the "Camp de Génie Militaire"

where the Court premises are found, security was tight, under a scorching sun. No cell phones were allowed in, although this measure turned out not to be systematic. On some of the benches in the front of the court room, one could easily spot the accused. Two of the most emblematic of them Amougou Belinga and Police Commissioner Maxime Léopold Eko Eko wore blue- black suits, sky-blue shirts and a tie, while the others appeared in their service Uniforms. Martin Savom and Bruno Bidjang were in casual attire.

Eko Eko and Amougou Belinga sat on the same bench, but at no time was they seen speaking to each other as Eko Eko continually drank a hot unidentified liquid from a silver cup. Each of the accused had a lawyer or team of lawyers for their defence except accused number 11, Godge Oumarou who claimed that his lawyer was absent. The widow or companion of the slain Zogo also appeared in court, in a black mourning laced Kaba and a red head scarf, symbolic of the violent nature of his death. By the time the panel of three Magistrates, led by military Magistrate, Colonel Misse Njone Jacques Baudouin-a visibly fair, calm but firm judge-started sitting at 10:45 am, the Court room was full like an egg, with an overflowing courtroom.

After the accused had all been identified and had taken their seats in front of the duck, the marathon legal shenanigans began. The submissions and counter submissions were intended to deal with any peripheral issues of procedure to pave the way for the trial itself in earnest lawyers for some of the accused, led by Barrister Charles Tchougang, raised a number of preliminary concerns: the fact that some procedural documents have not been communicated to them, the need for further publicity on the trial and even an appeal for the trial to be broadcast on one or two national television channels "so that the entire nation will be abreast of what is happening in this trial" he argued. Surprisingly, other lawyers for some of the accused instead suggested that since the trial is very sensitive from a national security stand point, access to the. Court room should be restricted or at worst some of the audiences should take place behind closed doors, if not "people will be forced to spill the beans here" one defence lawyer quipped.

This proposal was vehemently challenged by the lawyer defending the state, Barrister Claude



Assira. “I am surprised that you as defence lawyer is reluctant to accept publicity in this trial” he demurred. “People’s lives are at stake, they have nothing to hide at this point, everything must be brought out”, he continued. “In any case, we the state are those who are supposed to have misgivings about an open-door hearing, but we want it because the entire truth must come out” he concluded. The body language of the judge showed that he too was uncomfortable with the request for restricted publicity and when he had clarified a misunderstanding that Claude Assira was representing Cameroon’s Spy service (DGRE), he immediately asked the lawyer who had proposed secrecy, “so do you now want to withdraw your earlier request of an in camera trial?” and the lawyer immediately answered, “Yes I withdraw”, my Lord.

One other issue that appeared peripheral at this stage, but which may be a big deal towards the final stage of the proceedings and that also led to a considerable back and forth and time consuming among the lawyers was the status of the heirs, descendants and eventual beneficiaries thereof, of the estate of Martinez Zogo. First of all, it was instructive that the civil party representing the heirs of Martinez Zogo, was represented by two sets of lawyers, instead of one as should be ordinarily expected. Second, even Martinez Zogo’s real identity is also in dispute. A national identity card purported to be his, was presented with the name, “Martinez Zogo”, prompting some defence lawyers to question “whether Martinez Zogo and Arsene Salomon Mbami Zogo are one and the same person”. The famous media man seemed to have a large “family”. But there are also many loose ends. The status of his widow is in contention. Was she married to him or was she not? These questions were raised. Then a list of other probable descendants was presented, two of them minors and represented in court by their adult mother.

Although it was premature to raise this issue at this stage, nevertheless, in this melee, lawyers of the accused argued forcefully that they were at a loss determining who their opponents are in the civil party because of a lack of settled identity among the apparent heirs and descendants. The military prosecutor, Lt. Col. Cerline Belinga also expressed his frustrations, at not being able to lend a hand to the civil party because of the confusion. “Whom am I dealing with? Who is of

the civil party and who is not, that is my worry”, Lt. Col. Belinga demurred, before informing the judge that he needed time to come. Back to make his remarks on some of the issues raised by the defence lawyers and civil party.

All along, all the accused just sat, like innocent bystanders, watching the verbal volleys, ruminations and intellectual ejaculations from the different defence counsels. It was at exactly 2:33 Pm that Magistrate Colonel Misse Njone Jacques Baudouin adjourned hearing for April 15, to listen to the reply of the military prosecutor, give a ruling on the totality of observations and applications made as well as for the parties to exchange their list of witnesses. The court, on the adjourned date, rejected the application for the publication of the trial. A new application was filed for the court to cause the legal to give them a copy of the file. The matter was further adjourned to the 25<sup>th</sup> day of May 2024 wherein the application was further rejected for counsel failed to cite the proviso of the law to that effect and admitted the appearances of two counsel for the vicarious State of Cameroon. The matter was adjourned on this day to the 17<sup>th</sup> day June 2024. The State of Cameroon is now a vicariously liable person over the acts of DGRE. As of today, all the accused persons have pleaded not guilty to the counts and the hearing will be opened on the 23<sup>rd</sup> September 2024.

### **- Imprisonment**

In line with section 24 of the Penal code, Imprisonment shall mean loss of liberty during which the offender shall be obliged to work, subject to any contrary order of the court for reasons to be recorded in the judgment. A good number of Law Enforcement officers have committed crimes which saw them into jail over a period of time. The Special Criminal Court on the 1<sup>st</sup> of February 2023 found Colonel Elie Mboutou guilty of embezzling around 26 million dollars and was sentenced to 25 years imprison while Former Minister of Defense and Transport was given 30 years in imprison.

Police Constables Eroume À Ngong and Mvoutti Alexandre and Superintendent of Police Moutassie Bienvenue, were convicted of torture and sentenced to five years’ imprisonment;<sup>1</sup>

Superintendent of Police Nsom Bekoungou

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<sup>1</sup> Judgment No.176 Crim of 5<sup>th</sup> June 1998.

was convicted of torture and sentenced to six years' imprisonment in (High Court of Mfoundi);<sup>1</sup>

Superintendent of Police Menzouo Simon and Senior Police Constable Saboa Jules Oscar were convicted of torture and sentenced to five years' imprisonment each by the High Court of Upper-Nkam on 27 February 2002;

John Brice, Mimoga Louis Legrand and Greboubai Michel were convicted of torture of a detainee and sentenced to five years imprisonment each by the High Court of Mfoundi;<sup>2</sup>

*The People of Cameroons vs. Epote (warrant officer) and Kaigama (Sergeant)*<sup>3</sup> sentenced by the Military Tribunal, Douala to three years imprisonment suspended for five years on the charges of torture.

#### **- Fine**

Fine mean a financial penalty by virtue of which a convict pays an amount of money specified by law into the public treasury. Some Law Enforcement officers have been convicted by paying a fine into the public treasury for instance; Desecration of a sick or injured serviceman; any medical officer, military health worker or serviceman who conducts or causes the conduct of a medical test on a serviceman without his/ her informed consent or discloses the illness or medical status of a sick or infected serviceman shall be punished with imprisonment as from 1–3 months and fine of from 100, 000 frs cfa to 1,000,000 frs cfa; any serviceman who uses the medical status of a sick serviceman to discriminate upon him shall be punished with imprisonment as from 1 month to 1 year and a fine as from 100,000frs cfa to 1,000,000 frs cfa.<sup>4</sup>

Sexual Harassment; any serviceman who uses his authority conferred on him by his position to harass another by issuing orders, uttering threats, imposing constraints or exerting pressure in order to obtain sexual favours, shall be punished with imprisonment for from 6 months to 2 years and a fine of from 200,000frs cfa to 1,000,000 frs cfa, where the offence is committed within a military training, or course,

the penalties shall be doubled.<sup>5</sup>

Misappropriation; Any serviceman who misappropriates military effects, under section 52 above, shall be punished with life imprisonment, where the military effects concerned are worth more than 500,000frs Cfa, with imprisonment as for from 15 years to 20 years the misappropriation is more than 100,000frs and not above 500,000frs<sup>6</sup> Theft of Military Effects; Servicemen who abstracts, fraudulently obtains or pledges military effects shall be punished with imprisonment for from 5 to 10 years and a fine as from 5-10 with a fine as from 100,000frs-1,000,000 Frs. The sentence shall be aggravated use of violence, weapon, breaking in, scaling or using a false key, using a motor vehicle.<sup>7</sup>

Unlawful transfer of Military Effects; Any serviceman who illegally transfers military effects shall be punished with imprisonment as from 5-10 years and with fine from 100,000frs to 1,000,000 frs<sup>8</sup>.

-Inspector of Police Meigari Beda of Meiganga was sentenced by the Adamawa Court of Appeato two years' imprisonment, suspended for three years, and a fine of CFA 90 000, for torture, threats, blackmail and false arrest;

- Police Inspector Roger Zameyo and Police Constable Thomas Nyamekong were sentenced by the Court of First Instance, Yaoundé, on charges of abuse of office, refusal of service and torture, to two years' imprisonment and damages in the sum of CFA 2 090 000.

- Inspector of Police ATEP was sentenced to a fine of CFA 10 000 for slight harm (Mokolo Court of First Instance);

- Police Constable Effa Ngono Akame Geoffrey was convicted of unintentional killing by the Military Tribunal of Yaoundé and sentenced to two years' imprisonment, suspended for three years, and CFA 3 000 000 in damages;

#### **Accessory Penalties**

These sentences are described as accessories because they are added to the main sentences. These are in particular first-class and second-type forfeitures. Forfeitures: After

<sup>1</sup> Judgment No.195/Crim of 26<sup>th</sup> June 1998.

<sup>2</sup> Judgment No.318/Crim of 26<sup>th</sup> August 2003.

<sup>3</sup> Judgment No.31/00 of 27<sup>th</sup> April 2000.

<sup>4</sup> Section 44 Ibid.

<sup>5</sup> Section 49 Ibid.

<sup>6</sup> Section 53 Ibid.

<sup>7</sup> Section 54 Ibid read together with Section 320 of the Penal Code.

<sup>8</sup> Section 56 Ibid.

having pronounced the main sentence against the officer, the judge can also pronounce forfeitures which will make the convict to lose certain qualities or the exercise of certain functions. Section 30 of the PC lists a number of forfeitures. These consist in the removal and exclusion from any public service, employment or office; incapacity to be a juror, assessor, expert referee or sworn expert; incapacity to be guardian, curator, deputy guardian or committee, save of the offender's own children, or member of a family council. Forfeitures may include prohibition on wearing any decoration, prohibition on serving in the armed forces; prohibition on keeping a school, on teaching in any educational establishment, and in general on holding any post connected with the education or care of children. Other accessory penalties.

Publication of judgment and confiscation of "corpus delicti". The publication of a judgment is a measure intended to make the public aware of the conviction of an individual by a court. By its nature, the measure is likely to tarnish the image of the person being prosecuted and ends up discrediting them in society. In cases where the competent court has ordered the publication of its judgment, it shall be posted in a manner to be prescribed by decree for up to two months in the case of felony or misdemeanour or 15 days for a simple offence. Confiscation of the "corpus delicti", according to section 35 of the PC, on conviction for any felony or misdemeanour, the competent court may order confiscation of any property, moveable or immovable, belonging to the offender and attached, which was used as an instrument of its commission, or is the proceeds of the offence.

### **Civil Sanctions**

According to the provisions of Article 1382 of the Civil Code, "any act whatever of man, which causes damage to another, obliges the one by whose fault it occurred, to compensate it". This compensation takes the form of damages and interest against the guilty officer. With regard to the illegal detention of the suspect, Section 236 of the CPC provides that any person who has been illegally detained may, when the proceeding ends in a no case ruling or an acquittal which has become final, obtain compensation if he proves that he actually suffered injury of a serious nature as a result of such detention. Illegal detention within the context in subsection (1) above shall mean:

Detention by the JPO in disrespect of the provisions of sections 119 to 126 of this code and detention by the State Counsel or the examining magistrate in disrespect of the provisions of section 218 to 235, 258 and 262 of this code. In this regard how do we fight against illegal detention ordered by the State Counsel?

As mentioned above, in practice, the state counsel often signs police warrants. And when they are abusive, can the suspect hold the state counsel responsible? We believe that this is possible even if the law does not expressly specify it. Returning to Sec 236, we can note that the suspect who has spent more than 08 days in custody cannot claim compensation if he was released after. He can only do so when the proceeding ends in a no case ruling or an acquittal which has become final. This situation makes the application of section 236 very difficult. In addition, the compensation shall be paid by the State which may recover same from the JPO, the state counsel or the examining magistrate at fault. What makes it more difficult is that this allowance is allocated by decision of a commission which statute over the matter. The commission is seized by an application, within 06 months from the day the custody came to an end, when the proceeding ends in a no case ruling or an acquittal which has is likely to be perceived as violations of the rights of the human person, which can give rise to civil responsibility on the part of judicial police officers.

### **Administrative Sanctions**

Law Enforcement Officers could equally be subject to administrative sanctions or to both judicial and administrative sanctions as the case may be. These administrative sanctions may be equally be applicable to student Law Enforcement in Training like we have cited one or two cases within this chapter. These sanctions shall be treated taking into consideration three principal categories of the Law Enforcement officers to wit, the Military, Police, and Warders. The following administrative sanctions are applicable to some professional faults which can be committed by law enforcement officers provided by Decree No.2012/539 of 19<sup>th</sup> November 2012 bearing the Special Status of the Corps of National Security Civil Servants.

### **–Administrative Sanctions against Forces of National Security in Cameroon**

By Forces of National Security here, we are

referring to the Police in their respective ranks. The Civil servants of the National Security are regulated by Decree No.2012/539 of 19<sup>th</sup> November 2012 bearing the Special Status of the Corps of National Security Civil Servants. In line with article 4 (4), of the Special Status cited supra, the corps of National Security Civil Servants in Cameroon is into to four categories comprising of Police Commissioners, Officers of Police, Inspectors of Police and Constables. The Commissioners made up 5%, Officers 15%, inspectors 30%, Constables 50% as per article 4(5) of same. These sanctions are divided into two three categories as stated below;

**- First Category of sanctions<sup>1</sup>**

- Reprimand
- Additional Hours added
- Remanding in a cell or Prison
- Arrest
- Lay-off without pay for a period of 1-7 days

**-Second Category**

- Written warning
- Reprimand with entry into the file
- Layoff without pay for a period f of 8-20 days
- Removal from the Advancement Table or Aptitude List
- Delay in Advancement for a period of one year

**-Third Category**

- Temporary exclusion from the service for a period of 3 months to one year
- Lowering of Scale
- Lowering of Grade
- Revocation without suspension of pension rights
- Revocation with suspension of pension rights
- Revocation with the Ceasing of the person's rights some of the possible faults or crimes committed by the police shall include the following;

The Delegate General for National Security Martin Mbarga Nguélé dismissed 8 new police trainees undergoing training at the Police Training Centre in Mutegene for falsifying documents.

The decision disclosed in a communique signed

on Saturday 27<sup>th</sup> August 2016 excluded these trainees from the final list, a few days to the end of the training. It is worth noting that, two other police students were laid off from the training on 3<sup>rd</sup> August 2016 for unruly behaviours that are considered unhealthy to the National security corps' similar act was reported on 18<sup>th</sup> August 2016 when an Inspector of Police was fired from the school in relation to indiscipline. According to the Patron of the police force, the fake documents of these eight trainees were uncovered thanks to a commission put in place to review the status of each trainee and ensure order at the training Centre. The elements excluded from the police force were admitted after a competitive entrance exam launched on 18<sup>th</sup> April 2015 to recruit 3000 police officers and reinforce peace in the country.<sup>2</sup>

The Police Commissioner for Limbe, Lawrence Tang Enow, who was suspected of shooting a taxi driver Elvis Sigala Tasama during a police operation to death on April 7, 2005, was dismissed. A Presidential decree signed on Wednesday, April 13, 2005, relieved Tang of his functions, replacing him with Senior Superintendent, Aloysius Alemnge, hitherto Inspector General at the Delegation for National Security, Yaoundé. Tang's dismissal came just a day after the Delegate General for National Security, Edgar Alain Mebe Ngo'o, signed a communiqué suspending him and four other police officers in the Centre Region for a period of three months without salaries.<sup>3</sup>

On March 25, Police Commissioner Japhet Bello Miagougoudom shot and killed Jean-Pierre Mpohede during a night search of his residence in the South Province town of Kribi. The reasons for the shooting remained unclear. On March 30, the president signed an order relieving Bello of his duties, and on April 1, police arrested Bello and transferred him to Ebolowa, South Province, where the judicial investigation continued at year's end.<sup>4</sup>

On January 31, a Yaounde police officer with the last name of Baba shot and killed Denis Serge Etoundi while responding to a call about a domestic dispute at Etoundi's residence; Etoundi reportedly resisted arrest and asked to see an

<sup>1</sup> Article 95 of the Special Status of Civil Servants of the National Security.

<sup>2</sup> CRTV News reported at 7:30 PM on Saturday 27<sup>th</sup> August 2016.

<sup>3</sup> The Post News Paper reported on the 14<sup>th</sup> April 2005 by Francis Tim Mbom.

<sup>4</sup> Ibid.



arrest warrant. At year's end Baba was in detention and a judicial investigation was ongoing.<sup>1</sup>

On April 9, police officers from the Yaoundé Mobile Intervention Unit No. 1 (GMI) shot and killed Aurelien Mayouga Noundou, a young student who was inside his car with a girlfriend; the motive for the killing was unknown. On April 11, 2005 the DGSN suspended for three months Denis Serges Ndongo, Benoit Ossobo, Serges Hemery Nsili, and Jean Lereste Atangana, the four Yaounde police officers involved in the shooting. On April 14, the Yaounde prosecutor interrogated the four officers and placed them under preventive detention at the Kondengui Central Prison, pending trial.

On April 16, police officer Herve Touodo Djomo shot and killed his police colleague Claude Obam Ndoum in Ndoum's Douala residence following a dispute. Littoral Province's judicial police arrested Touodo and detained him. On April 18, 2005 the DGSN, who directed the national police, suspended Touodo from his duties and ordered that he be stripped of his rank and benefits. At year's end, Touodo was being detained at the Douala New Bell prison and the case had not been tried.<sup>2</sup>

On 16 September 2021, an amateur footage received and analysed by CHRDA which has been circulating on social media networks depicts about 5 policemen, severely beating a group of young men, using the flat side of a machete on the sole of their feet during a police investigation for an alleged act of theft.

Reacting to this, the Delegate General for National Security, Martin Mbarga Nguelle Confirm that the facts are true and did happen at the 18<sup>th</sup> District Police Station in Yaoundé. He further promised judicial sanctions to be taken against the five police officers identified as:

- 1) Aroh Andre Anatole, 1<sup>st</sup> grade assistant superintendent of police.
- 2) Kweyo David, 2<sup>nd</sup> grade police inspector.
- 3) Kolwe Patrick, Senior Police Constable.
- 4) Ngo Kouya Marguerite, 2<sup>nd</sup> grade police constable.
- 5) Ndjea Foaleng Jean Marie, 1<sup>st</sup> grade

police constable.<sup>3</sup>

The cases of Jean Fai Fungong Bello equally throws more lights on sanctions against the Police. Fai Fungong assaulted and severely tortured during an investigation on 11 February 2021 in Ndu in Donga-Mantung Division of the Northwest Region, by two (2) Gendarmes, two (2) Soldiers and Four (4) Police officers who were caught on camera and later detained at the Ndu territorial Gendarmerie Brigade according to a government statement.<sup>4</sup> Equally, in the case of Ibrahim Bello, the suspect was brutally interrogated, tortured and cut with a machete and electricity at the Ombessa police station, so that he had to be amputated in both legs. He also lost a paralyzed upper limb. After three years, the Mbam and Inoubou regional court in the Center region sentenced the two accused police officers respectively to 4 years 'imprisonment and to three years' suspended imprisonment. None of the police officers were detained during the trial.

On 12 November 2021, police officers manning a checkpoint at New Road Junction, situated in the Nkwen area of Bamenda town in the North-West Region of Cameroon, allegedly chased after a vehicle when it refused to comply with a routine check. During this incident, a police officer opened fire, missing the target and instead hitting a child returning from school. The child died instantly. The 7-year-old pupil, identified as Tataw Brandy, was returning from school at around 12:30 pm, when the stray bullet, reportedly fired by Police Constable Fagha Alain, arbitrarily took her life away from her. The incident brought an uproar and commotion in Bamenda as the population marched in protest with the remains of the child to the Governor's office, demanding justice for the victim and an end to police brutality in the city of Bamenda.

Reacting to the unfortunate incident, the Governor of the North-West Region, Adolphe Lele L'Afrique, reassured the population that the author of the gun has been remanded in custody and that an autopsy to confirm the death of the child from the police officer's gun would be conducted. In addition to the Governor's response, the Delegate General for National Security, Martin Mbarga Nguelle, reiterated that the officer who committed the unfortunate act

<sup>1</sup> U.S Bureau of Democracy, Human rights and Labor 2005 Report.

<sup>2</sup> Ibid.

<sup>3</sup> <https://hrlrc.org> 29<sup>th</sup> September 2021 lastly accessed on the 3<sup>rd</sup> August 2024.

<sup>4</sup> Ibid.

has been placed in custody, following the investigation that was immediately launched by the Regional Division of the Judicial Police for the North-West Region.<sup>1</sup>

The above administrative sanctions are applicable over the following professional faults as enlisted seriatim;

**-Breaches of Instructions<sup>2</sup>**

- Being late or absent for a shift, call or gathering
- leaving work early
- Evade work or demonstrate ill will by service
- Being absent while on duty
- Abandoned a prescribed service or activity
- Sleeping during work
- Being absent without reason for half a day of work
- Not following the instructions
- Leaving the guard post without reasoned service order

**-Faults relating to Dressing and Conduct<sup>3</sup>**

- Failure to comply with the obligation to wear a uniform
- Not wearing the prescribed dress on duty
- Uncleanliness, derogatory behaviour, smoking on duty while in uniform or drunkenness while on duty
- Causing Scandal or disorder in town
- Take part in fight
- Present in uniform in a drinking establishment or restaurant
- Refusal to wear the badge
- Wearing a uniform during periods of leave and permission

**- Breaches of Hierarchical Subordination<sup>4</sup>**

- Insolence or inappropriate gesture towards a superior
- Inappropriate reflection or verbal threats to a superior
- Delay in executing an order or the non-execution of an order received
- Unauthorized use of a service vehicle

-Negligence in the maintenance of Equipment

**- Gross Negligence and Professional Misconduct<sup>5</sup>**

- Take an active part in a political demonstration<sup>6</sup>
- Uses a Company Vehicle for personal purposes
- Breaches the duty of professional discretion
- Carrying a service weapon without authorization<sup>7</sup>
- Destruction or loss of vehicle or weapons

<sup>5</sup> Article 94(2) (d).

<sup>6</sup> Section 231 (1) penal code Whoever: a) takes part in the organization of any public meeting which has not been the subject of a prior declaration; b) makes a declaration that is intended to mislead authorities on the conditions and purpose of the meeting; c) convenes a procession in any manner whatsoever before filling the declaration or after it has been legally prohibited; d) makes an incomplete or false declaration in order to conceal the conditions of the planned procession ; shall be punished with imprisonment for from 15 (fifteen) days to 6 (six) months and with fine of from CFAF 5 000' (five thousand) CFAF 100 000.

Section 231-1 whoever organizes a political procession in any public establishment, school or university shall be punished with imprisonment for from 10 (ten) days to 4 (four) months or with fine of from CFAF 25 000 (twenty-five thousand) to CFAF 250 000 (two hundred and fifty thousand) or with both such imprisonment and fine. Section 232: Riot (1) A riot shall mean an assembly on the public highway of 5 (five) or more persons in manner liable to disturb the public peace. (2) Whoever takes part in a riot and does not withdraw the first call of the proper authority shall be punished with imprisonment for from 15 (fifteen) days to 6 (six) months. (3) The penalty shall be doubled for any person who continues in the riot until it be dispersed by force. Section 233: Armed Riot (1) Whoever takes part in a riot which is armed within the meaning of sections 115 (3) and 117 of this Code, and himself bears any weapon or does not withdraw on the first call of the proper authority, shall be punished with imprisonment for from 3 (three) months to 2 (two) years. (2) The punishment shall be imprisonment for from 2 (two) to 5 (five) years for any person who continues in the riot until it be dispersed by force. (3) The punishment shall be imprisonment for from 5 (five) to 10 (ten) years for any person who takes part in the riot at the moment when any such weapon is used. (4) All punishment under this section shall be doubled where the riot takes place at night.

<sup>7</sup> Section 237 Penal code (1) states Whoever without such permission, as may be required by law manufactures, exports, imports, keeps, transfers or sells any firearm or ammunition shall be punished with imprisonment for from 3 (three) months to 1 (one) year or with fine of from CFAF 50 000 (fifty thousand) to CFAF 300 000 (three hundred thousand), or with both such imprisonment and fine. (2) The punishment shall be doubled for carriage of any such arm outside the offender's residence. (3) Whoever delivers any such arm or ammunition to any person without ascertaining that he is licensed to keep it shall be punished as his accessory. (4) Confiscation under section 35 of this Code shall be ordered in every case; and on any subsequent conviction within the meaning of section 88 the Court may impose the forfeitures described by section 30 and order the closure of the establishment to whatever other use it may be put.

<sup>1</sup> <https://www.chrda.org> 13<sup>th</sup> November 2021 last accessed 3<sup>rd</sup> August 2024.

<sup>2</sup> Article 94(2) (a).

<sup>3</sup> Article 94(2) (b).

<sup>4</sup> Article 94(2) (c).

through negligence on duty<sup>1</sup>

-Defecto Theft from a Superior or subordinate<sup>2</sup>

**- Faults against Honour, Duty and Probity<sup>3</sup>**

-Violence, theft or brutality towards a police officer, persons in custody or anyone brought to the station<sup>4</sup>

-Rebellion against Representatives of the Public Force

-Dissemination, orally or in writing of instructions or slogans contrary to discipline and public order

-Public criticism of public authorities

-Facilitating the escape of detainees or persons being held in custody<sup>5</sup>

-Fraudulent use of stamps<sup>6</sup>

**Administrative Sanctions against the Military**

Law No.2007/199 of 7<sup>th</sup> June 2007 on the General Regulations of Discipline within the Defense Forces, brings out the different ranks in the defense force and enumerates the possible criminal responsibilities which can be meted upon them. In the Gendarmerie, we have; General Officers (General de corps d'armee, Divisional General, Brigadier General), Senior Officers; (Colonel, Lieutenant colonel, Commandant), Junior Officers, (Captain, Lieutenant, Sub- Lieutenant), Non- Officers (Adjudant- Chef Major, Adjudant –Chef, Adjudant, Marechal des logis chef, Marechal des logis, Gendarme Major and Gendarme). In the Army we have General Officers, Senior Officers,

and Junior Officers, Non-Officers like Sergeant – Chef, Sergeant, Caporal-Chef and Caporal.<sup>7</sup>

The above administrative sanctions are equally applicable to military personnel with respect to Law No.2008/015 of 29<sup>th</sup> December 2008 on the Organization and Functioning of the Military Tribunal as amended and Supplemented by Law No.2017/012 of 12<sup>th</sup> July 2017 on the Military Tribunal, these sanctions are applicable over the following professional faults seen in seriatim.

**Category 1-Acts tending to evade service obligations;**

**Category 2-Acts against Military Discipline;**

**Category 3-Acts constituting Breach of instructions;**

**Category 4-Acts constituting Negligence and Professional Misconduct;**

**Category 5-Acts against military honour, duty and probity;**

**Category 6-Acts against Dressing, Conduct and Morality.<sup>8</sup>**

This law mandates senior military officers to punish their subordinates for certain acts committed by them with the view of maintaining discipline<sup>9</sup>.

Punishments are inflicted on military personnel by any hierarchical superior within the limits as provided for in the law under sections 110 and 111 of this law. All punishments inflicted on officers other than reprimands shall be transmitted to the Minister in charge of Defence while the reprimands are transmitted to the Head of the unit of the said officer. Meanwhile sanctions meted against non-officers shall be transmitted hierarchically.<sup>10</sup>

Following the tragic events of the night of 13 and 14 February 2020 in the locality of Ngarbuh, and in pursuance of the High instructions of the Head of State, the Minister Delegate at the Presidency in charge of Defence, set up, on the 17<sup>th</sup> February 2020, a joint commission of inquiry whose tasks were to shed light on the circumstances under the tragic events occurred and to establish the responsibilities of the various actors.

<sup>1</sup> Section 316(1) penal code states Whoever destroys the whole or any part of any property belonging wholly or in part to another or charged in favour of another shall be punished with imprisonment for from 15 (fifteen) days to 3 (three) years or with fine of CFAF 5 000 (five) thousand to CFAF 100 000 (one hundred thousand), or with both such imprisonment and fine.

<sup>2</sup> (1) Whoever causes loss to another: a) by theft, that is by removing his property shall be punished with imprisonment for from 5 (five) to 10 (ten) years and with fine of from CFAF 100 000 (one hundred thousand) to CFAF 1 000 000 (one million). (2) The Court may in addition impose the forfeitures described in Section 30 of this Code.

<sup>3</sup> Section 94(2) (e).

<sup>4</sup> See the offences of simple harm, slight harm and even grievous harm sections 280, 281, 277 all of the penal code.

<sup>5</sup> Section 193 (1) of the penal code states Whoever escapes from lawful custody or who being permitted to work out of the prison leaves his place of work without permission shall be punished with imprisonment for from 1 (one) year to 3 (three) years (2) Whoever rescues any person from lawful custody shall be punished in like manner.

<sup>6</sup> Section 314 penal code.

<sup>7</sup> See from sections 38-44 of Law No.2007/199 of 7<sup>th</sup> June 2007 as cited supra.

<sup>8</sup> Section 103 Law No.2007/177 of 7<sup>th</sup> June 2007 on the General regulations on discipline within the defence.

<sup>9</sup> See Section 104 Ibid.

<sup>10</sup> Article 109 Ibid.

Following the findings from the inquiry commission, the President of the Republic through a statement from the Secretary General of the Presidency, ordered disciplinary proceeding against Major Nyiangono Ze Charles Eric, Commander of the 52th Motorized Infantry Battalion (BIM), and all the servicemen who took part in the Ngarbuh macabre operation. He equally ordered the arrest of Sergeant Baba Guida, Gendarme Sanding Cyrille and private first class Haranga Gilbert as well as some ten members of the vigilante committee who were involved.<sup>1</sup>

By virtue of Ministerial Order No.001941/MP/MINDEF/02415 of 10<sup>th</sup> June 2024 signed by the Minister Delegate at the Presidency in charge of Defence, his Excellency Joseph Beti Assomo, carrying the subject revocation by termination of the contract of active four non-commissioned officers of the Gendarmerie who were all in training at the training centre were dismissed from the force. As a reason for this dismissal, the Minister gave was notorious misconduct resulting from their allegiance to a traditional authority on the 23<sup>rd</sup> day of December 2023 in accordance with sections 130 and 144 of Decree No.2007/199 of 7<sup>th</sup> July 2007 regulating discipline within the military. These officers include the following;

-Esoa Njinchout Abana El Jamil (Matricule No.33225)

-Njiawouo Isaac Chancelier (Matricule No.33249)

-Fifen Ousseni (Matricule T2022/46401)

-Nchouwet Patrice Legrand (Matricule M2022/46836)

### **Administrative Sanctions Against Forces of the Penitentiary**

Pursuant to Order No.080 of 16<sup>th</sup> May 1983 to lay down the disciplinary system in force within the Penitentiary, Sanctions ranges from detention to delay in promotion, without prejudice to criminal proceedings. Supporting themselves with this Order, some Superintendents of Prisons through Service Notes have sanctioned their elements.

By Service Note No.27/NS/REG/PC/BFM of 5<sup>th</sup> September 1999, the Superintendent of the Bafoussam Central Prison, sanctioned a Senior

Prison Warder with 72 hours detention for ill-treating a detainee. In a similar way, by Service Note No.38/PCY/SAF/BP of 22<sup>nd</sup> April 1997, the Superintendent of the Yaoundé Central Prison sanctioned a senior prison Warder with 03 days detention in a cell for senseless brutality on a detainee.<sup>2</sup>

An interview with the Superintendent of the Yaoundé Central Prison<sup>3</sup> at kondengui quarter in Yaoundé, 4 staffs were incarcerated at the prison for certain violations which were not disclosed. He reiterated the fact that their own incarceration was done in a special section of the prison from the other prisoners.

### **Disciplinary Councils to Sanction Law Enforcement Officers**

#### **-Disciplinary Council for Military Personnel**

In line with section 144 of Decree No.2007/199 of 7<sup>th</sup> July 2007 regulating Discipline within the Military, by order of the Minister of Defence, a disciplinary council shall be formed in the following cases;

- Suspension or withdrawal of employment
- removal from the advancement table (level, grade)
- referral to 2<sup>nd</sup> class
- placement in non-activity by withdrawal from employment, reform or compulsory retirement
- Cessation
- contract termination
- revocation

A disciplinary council is composed of five members, the president of which is appointed by the Minister; they all have a deliberative vote. One of the member's acts as a rapporteur; he is responsible for objectively presenting the facts alleged, the circumstances in which they occurred, and the arguments presented by the soldier in question. The deliberation of the disciplinary council is followed by a yes or no vote by secret ballot, the majority forming the opinion of the council which is signed by all its members and the soldier concerned, the latter may present any useful observations. The minutes drawn up by the rapporteur are transmitted with the fil of the procedure by the

<sup>1</sup> The Guardian Post News Paper of 14<sup>th</sup> February 2023 by Solomon Tembang *Revisiting Ngarbuh Massacre three years after.*

<sup>2</sup> Report by the Ministry of Justice on the State of Human Rights in Cameroon 2005 at page 33.

<sup>3</sup> Mr. Amadou Madi Prison Administrator of 5 stars on the 27<sup>th</sup> February 2024.



president to the Minister. This authority or the Head of State when this power belongs to him, decides on the appropriate sanctions, without the opinion of the disciplinary council being binding on him.

The organization and operation of the disciplinary council is regulated by ministerial instruction. However, the sanctions envisaged in paragraph 1 of this article may be pronounced automatically without the intervention of the said council against personnel found guilty of murder rape, aggravated theft, insurrection, illegal possession and use of weapons of war, active participation in an insurrection, sabotage or destruction of war materials, final sentence of deprivation of liberty equal to or greater than six months without suspended sentence of endangering State security, of acts of serious banditry, of desertion for a period equal to or greater than thirty days.

#### **- Higher Disciplinary Council**

Pursuant to section 145 of same decree, in the event that it is impossible to assemble for the officers, a council meeting the above-mentioned constitutional requirements, the accused will be sent before a council composed as follows;

- the Secretary General of the Ministry of Defense (President)
- the Chief of Staff of the Army of the accused
- the Chief of Staff of another Army designated by the Minister
- an Officer representing the Secretary of State responsible for Gendarmerie, two directors of the central administration appointed by the Minister.

#### **Enforcement Mechanisms**

The observation of the above sanctions whether judicial or administrative to be able to fulfil her aim, there must be enforced and implemented by the competent bodies. Pursuant to section 29 of the law on judicial organization, the judicial sanctions shall be enforced by the Legal department. In the same vein, section 545 of the CPC, states that the Presidents of all courts shall ensure that the orders and judgment of their courts are enforced. A bench or remand warrant or a decision granting bail or any other court order shall be immediately executed at the instance of the Legal department, which shall forward them directly to the authorities responsible for their execution which under our system is the prison administration. A register

for the execution of court decisions shall be established in the registry and in the Legal Department.

In line with section 547 of the CPC, decisions shall be enforceable when it can no longer be set-aside or appealed against, except as provided by law. Such judgments are said to carry the executory formula as defined under section 11 of the law on judicial organization. It is worthy to note that any Registrar-In-Chief who inserts an executory formula on a judgment when the time limits hasn't elapsed, can be sued for professional incompetence under section 310 of the CPC. In line with section 440 CPC, time limit for institution of appeals emanating from judgments delivered after full hearing, shall be within 10 days as from the date of notification of the said judgment, 5 days for cross appeals. Concerning judgments in default, an appeal can only be lodged after the time limit of 10 days and 3 months when the convict either resides in Cameroon or abroad respectively. In line with section 533 of the CPC, the Procurer-General of the Supreme Court may file an appeal in the interest of justice after the expiration of the time limits as stipulated above.

There is prescription as concerns enforcement of judgments as stated under section 67 of the Penal Code to wit; 20 years for felonies, 5 years for Misdemeanors, 2 years for simple offences. Just like there is prescription as to commencement of criminal actions as defined under section 65 of the CPC which to wit is; 10 years for felonies, 3 years for Misdemeanours and 12 months for simple offences.

The administrative sanctions are enforced by an authority or through a commission.

#### **Conclusion**

The commission of crimes by Law Enforcement officers may subject them either to a judicial or administrative sanctions as clearly elaborated above. These sanctions may go together or independently. Most often the administrative sanctions take precedence over the judicial sanctions. A possible explanation of this is to condemn him or her of such an act while giving him the possibility to carry on with his functions. Therefore, the State must strike a balance between the sanctions meted out to Law Enforcement Officers and the indispensable functions they carry out. These sanctions may be enforced by the Legal Department which still goes through the Law Enforcement officer

which already possess a challenge amongst others or by the said administrative disciplinary commission.

This paper came out with some findings to wit; the fact that the investigations leading to the sanctions seen above are being carried out by members of the same corps; the necessity of preservation of peace and security; the close relationship between the corps and the legal department; not leaving out some ministerial circulars, limiting trial and possible sanctions of some legal enforcement officers. Ministerial order N° 8/VP/6/INT/2308/MINFA/362/PS/S of 16 October 1964, on the relationship between the gendarmerie, the army and the police decided, in part III on the rules of jurisdiction with regard to violations of laws and regulations, that in case of an incident or offence which involves gendarmes or soldiers and civilians, the investigations will be carried out by the gendarmerie. A competent gendarmerie service will have jurisdiction over cases where Civilians report or complain of an incident or offence involving a soldier or gendarme to the police. In the event of an incident or offense involving police officers and civilians, the police will be responsible for the case. Any complaint or denunciation addressed to the gendarmerie of an incident or offense involving a police officer is sent to the competent police department. In the event of an incident or an offense involving gendarmes, soldiers, police officers and civilians, the gendarmerie and the police are respectively seized of the facts concerning their representatives. The very purpose of this circular is to put an end to the unfortunate incidents (which often happens) between these different bodies so that there is a clear cooperation between them in the best interests of the nation.

Circular of the Delegate General for National Security (DGNS) No. 0013 / DGSN of 11 March 1982 on the prosecution of police officers states that "in case of legal proceedings against police officers, either for personal actions attributable to them or in the exercise of their functions, they may be referred to the prosecutor only after seeking the opinion of the head of the corps to whom the proceedings are to be communicated urgently in order for him to make a decision".

A further restraint on police accountability was laid down by Ministerial circular no 11 of 16th April 1962. This order gave the Minister of Justice the sole power to decide on the

prosecution of matters relating to the security of the state and to the repression of subversive activities. Several cases that would have warranted prosecution have not been prosecuted, because the Minister has not ordered their prosecution with reasons that the police acted in the interest of state security. This has been in the forefront to preventing the prosecution of law enforcement officers for the crimes they commit. The case of Peter Baseh and 9 others v. the Commissioner of B.M.M. Bamenda is a case in point. Mr. Baseh and nine others who were suspected of subversive activities were arrested and detained by the Commissioner of BMM Bamenda, Mr Aminon Garere Buba. During detention, (3rd July 1978 to 4th September 1978), the applicants were subjected to severe torture. In this case, the Commissioner of BMM did not appear in person, nor sent the necessary evidence, nor did he cooperate with the Court. The Commissioner's attitude undermines the constitutional guarantees and the very laws of the state he is called upon to enforce.

The case of D. S. Oyebowale V. Company Commander of Gendarmerie for Fako (Suit No. HCF/0040/HB/09 (unreported)) is another glaring example. On 11 June 2009 the applicant, a Nigerian sailor, was arrested on the high seas en route to Cameroon by one Mr. Leyi Prosper, the Company Commander of the Gendarmerie Company of Fako Division, Cameroon. There was no apparent reason for his arrest, neither were any charges read to him at the time of the arrest. He was later taken to Cameroon and detained at the Gendarmerie Brigade in Limbe. Even at this time, he was not made aware of the reasons for his arrest and detention. While in detention, his boat was abandoned on the shores where it was dilapidating and was being looted.

The applicant requested release on medical grounds due to his deteriorating health but the respondent refused to grant that request. On 03 July 2009, the applicant applied to the State Counsel in Limbe for release on bail (Sec.224 (1), 225 CCPC). This process was again hindered by the refusal of the respondent to report to the State Counsel for a bail hearing. On 08 July, the applicant filed a motion on notice in the High Court of Buea for an order of habeas corpus under s. 584 of the CCPC and section 18(2) (b) of the Judicial Organization Ordinance, for the determination of the legality of his detention. Pursuant to s. 585 (3) of the CCPC, the court

issued an order for the respondent to produce the applicant in court on 23 July, together with the documents authorizing his arrest. This order was flaunted by the respondent who failed to release the applicant or to produce him in court as ordered. On 04 August, upon hearing counsel for the applicant and the State Counsel, a High Court judge, ordered the immediate release of the detainee under s. 585(4) and 586(2) of the CCPC. However, the respondent again refused to obey this order. The applicant was kept in detention until 20 August when he was released on bail. This release on bail was clearly in violation of the court order which had mandated his immediate and unconditional release.

The judge's decision ordering the immediate release of the applicant was well founded in law. The applicant was arrested without a warrant at a time when there was no apparent cause to suspect him of criminal activities. He was not made aware of the reason(s) for his arrest, neither were any charges brought against him when he was subsequently detained. The respondent was in breach of ss. 30-31, and 119 of the CPC, which consequently rendered the arrest and detention unlawful. Moreover, the respondent failed, in the first instance to appear in court to advance reasons for his decision to arrest and detain the applicant despite having been duly served a court order and in the second instance, failed to immediately release the applicant pursuant to the court's order.

In view of the above findings, we recommend the following; a creation of an independent Body to Manage Police Affairs. In effect, an independent body should be created to manage investigation over offences committed by Law Enforcement officer's. In this case the example of the Police Service Commission of Nigeria could be useful. This investigation of police misconduct is handled by people other than the police officer themselves. With such a mechanism put in place all the short coming pointed above would be resolved. Moreover, police agents would be more careful in performing their duties, knowing that in event of any misconduct they would be investigated by people they have little or no control over.

We recommend that Court's should be more strict on the aspect of Judicial Police Officers refusing to come to court to testify by preferring the charge of a defaulting witness under section 173 of the Penal Code after all the investigator is

a witness to the Prosecution.

We recommend Law Enforcement Officers to be more professional in the carrying out of their duties. The National Security, the National Gendarmerie, the Penitentiary should engaged in frequent sensitization, seminars on the need for them to be more professional in the carrying out of their indispensable activities.

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