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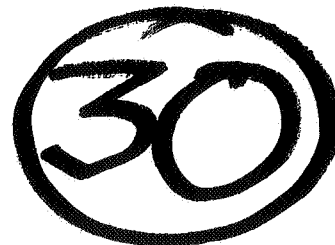
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TOGO

Rule of terror



5 May 1999

ERRATA

AI INDEX: AFR 57/01/99
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In the Summary, line 29:

"for at least four months" should read "for at least four days"

Page 3, line 28:

"In May of the same year" should read "In the same year"

Page 22, line 15:

"I was arrested on 26 October" should read "I was arrested on 26 November" *

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SUMMARY

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For years, a constant stream of information about human rights violations in Togo has been emerging. Extrajudicial executions, and "disappearances" are carried out with total impunity in the country, governed since 1967 by President GNASSINGBÉ Eyadéma. Arbitrary arrests followed by torture and ill-treatment, sometimes result in deaths in detention.

These violations are largely attributable to the security forces who have acted for years without being accountable to the law. An Amnesty International delegation in November and December 1998 met numerous witnesses who emphasised the deliberate intention of the *Forces armées togolaises* (FAT), Togolese armed forces, and the *gendarmerie nationale*, paramilitary police force, to terrorise the civilian population, especially in the period leading up to electoral rallies when the Togolese authorities sense a will for change among the population. This was the case at the time of the peaceful demonstration in January 1993 and at the time of the presidential election in June 1998.

The practice of arbitrary detention has always been a constant in Togo. Civilians and military personnel have been detained for months, even years, without charge or trial. The majority of those arrested over the last four years have been detained solely on suspicion of being "rebels" or members of an opposition party. Numerous individuals have been detained for short periods before being released without trial, others have been charged with breaches of common law offences to justify their arrest.

The security forces have always made use of torture in Togo. During the last decade, however, the security forces have allegedly used torture systematically at the time of suspects' arrest or at the time of their transfer to centres of detention. Once they are taken to a gendarmerie to be interrogated detainees are habitually ill-treated or tortured with a view to extracting information and confessions from them.

In the last few years, hundreds of civilians and soldiers have been the victims of extrajudicial executions. In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and

corpses were seen at sea for at least four months around Benin. During its investigative visit, the Amnesty International delegation was able to question numerous individuals, including Beninese and Togolese fishermen, as well as Togolese farm workers who were working in the fields. Those questioned all told of unusual movements of planes and helicopters sometimes flying at very low altitude out to sea. Former soldiers, members of the paracommando regiment, who had sought refuge in Benin, recognised the characteristic sound of Buffalo aircraft.

Throughout the country, and particularly in the civil prison and the gendarmerie headquarters in Lomé, conditions of detention are extremely harsh. They are far from meeting international standards for the treatment of prisoners, specifically the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The conditions of detention of prisoners of conscience, political prisoners and common law prisoners are so deplorable that they constitute a denial of their most fundamental rights. They threaten health and even life and could be considered a form of cruel, inhuman and degrading treatment.

Although it is essential to challenge the FAT, and in particular the army hierarchy, it is no less important to reflect on the action of foreign countries who provide arms and other military *matériel* which have permitted numerous human rights violations to take place. Two African countries, South Africa and Chad have, in the past, furnished military, security and police *matériel* to Togo. Some European countries, in particular Germany and France, who maintained co-operative relations with Togo, suspended their aid in 1993 after a massacre took place in January of the same year, during a visit of the French Minister for Co-operation and the German Secretary of State for Foreign Affairs. The two EU ministers were in Togo to try to resolve a political crisis. France resumed its co-operation one year later. However, France's year of suspension had little effect, as assistance already committed was implemented and continued its original duration.

The current document is based on the findings of an Amnesty International visit in November and December 1998. It describes the policy of extrajudicial executions, the pattern of "disappearances", arbitrary arrests and detentions followed by torture and ill-treatment as well as deaths in detention and unacceptable conditions of detention over the last four years. It concludes with a number of recommendations addressed to the Togolese authorities and to other countries, principally France, which is requested to ensure that transfers of military, security and police equipment are not used against the civilian population and that all aid in this area is conditional on a training programme on human rights issues.

KEYWORDS: ARBITRARY ARREST1 / TORTURE/ILL-TREATMENT1 / IMPUNITY1 / ELECTIONS1 / MILITARY / EXTRAJUDICIAL EXECUTION / DISAPPEARANCES / DEATH IN CUSTODY / PRISON CONDITIONS / POSSIBLE POC / JOURNALISTS / CENSORSHIP / POLICE / INVESTIGATION OF ABUSES / MISSIONS / SECOND GOVERNMENTS / PHOTOGRAPHS

This report summarizes a 44-page document (17,785 words), : TOGO Rule of terror (AI Index: AFR 57/01/99) issued by Amnesty International in 5 May 1999. Anyone wishing further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

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TOGO

Rule of terror



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TOGO

Rule of terror

1. Introduction

For years, a constant stream of information about human rights violations in Togo has been emerging. Extrajudicial executions, and "disappearances" are carried out with total impunity in the country, governed since 1967 by President GNASSINGBÉ Eyadéma. Arbitrary arrests followed by torture and ill-treatment, sometimes result in deaths in detention.

Breaches of national legislation as well as failure to respect international standards, notably the International Covenant on Civil and Political Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), both ratified by Togo, continue, and have seriously undermined the fragile structure of Togolese society.

None of the democratic changes put in place in Togo since the major demonstrations on 5 October 1990, has succeeded in putting a stop to human rights violations. During the second quarter of 1991, a national conference bringing together several hundred individuals including members of non-governmental human rights organisations set up institutions for a transition. A new constitution opening the way to political pluralism was approved by referendum in September 1992. However, the advent of a multi-party system and of a degree of freedom of expression have not prevented serious infringements of individuals' rights being committed with total impunity.

These violations are largely attributable to the security forces who have acted for years without being accountable to the law. An Amnesty International delegation in November and December 1998 met numerous witnesses who emphasised the deliberate intention of the *Forces armées togolaises* (FAT), Togolese armed forces, and the *gendarmerie nationale*, paramilitary police force, to terrorise the civilian population, especially in the period leading up to electoral rallies when the Togolese authorities sense a will for change among the population. This was the case at the time of the peaceful demonstration in January 1993 and at the time of the presidential election in June 1998. The Togolese security forces, which have a responsibility to protect Togolese citizens, are instead inspiring terror. A former prisoner of conscience¹ arbitrarily arrested at the time of the presidential election in 1998, and tortured during his detention, spoke to the Amnesty International delegation of his fear at the very sight of someone in the uniform of the security forces. Other detainees live in hiding in Togo after their release, or have taken refuge in neighbouring countries, including Benin and Ghana, or even in Europe.

¹The majority of those encountered by the delegation after being released did not wish their names to be cited for fear of reprisal.

The three-person Amnesty International delegation which visited Togo in November and December 1998, discussed the seriousness of the human rights situation with senior officials of the country, including the Ministers of Justice, the Interior and Defence. All of them asserted their commitment to the protection and promotion of human rights and declared that the rule of law prevailed in their country. The Amnesty International delegation was also able to carry out, without hindrance, an investigation among the victims and first-hand witnesses of certain acts of aggression in the capital and in the districts, including Haho, Lacs, Ogou and Yoto. In addition, the Amnesty International delegation met other Togolese victims and witnesses resident in Ghana or Benin.

Despite this apparent good will towards Amnesty International, the Togolese authorities refuse to make explicit their policies on human rights. Confronted with a whole raft of evidence, in particular relating to extrajudicial executions, arbitrary arrests followed by torture and ill-treatment, and deaths in detention, the authorities denied Amnesty International's claims and reproached the delegation for stirring up past history. The Minister of the Interior admitted to the extrajudicial execution of Colonel TEPE Eugène Koffi, chief of staff, and three members of his family, in March 1993, the day after the attack on the camp of the *Régiment interarmes togolais* (RIT), Togolese Combined Regiment. He said: "It has to be put in context; members of the military wanted to take revenge, here we are in Africa, it is obvious that in Europe this could never occur". At least 20 people, including civilians and members of the military, were extrajudicially executed by the FAT. Another Minister admitted to the extrajudicial execution of a "rebel" and another spoke of a "*bavure*", "regrettable error", to minimise the security forces' actions.

In the face of repeated allegations of human rights violations, Amnesty International is reiterating its call for the words "*oubli*", "oversight", and "*bavure*", "regrettable error", not to become systematic. Civil society, victims and their relations, as well as the international community awaits a response from the Togolese authorities and cannot be content with rhetoric evoking a hypothetical rule of law. The situation in the country demands concrete action. Togo, which has ratified almost the full panoply of international instruments and which has a constitution that offers certain guarantees in respect of human rights, cannot hide its face and must honour its commitments at the national as well as the international level.

On several occasions in the past, Amnesty International has made proposals to the Togolese authorities that they act urgently to prevent new breaches of human rights, but to date no real action has been taken to put a stop to a situation which has already resulted in hundreds of civilian victims.

The current document is based on the findings of an Amnesty International visit in November and December 1998. It describes the policy of extrajudicial executions, the

pattern of "disappearances", arbitrary arrests and detentions followed by torture and ill-treatment as well as deaths in detention and unacceptable conditions of detention over the last four years. It concludes with a number of recommendations addressed to the Togolese authorities and to other countries, principally France, which is requested to ensure that transfers of military, security and police equipment are not used against the civilian population and that all aid in this area is conditional on a training programme on human rights issues.

2. The political context

After the major march of 5 October 1990, for the release of prisoners of conscience notably **LOGO Hilaire Dossouvi** and **DOGLO Tino Agbelenko** and in favour of installing the rule of law and in response to pressure from civil society, President **GNASSINGBÉ Eyadéma** was forced to renounce the one-party state in favour of a multi-party system. In the aftermath, a national conference which brought together hundreds of individuals and associations put in place transitional institutions, including the *Haut conseil de la République* (HCR), High Council of the Republic, a legislative body, which incorporated members of the opposition and of the associations. A new constitution was approved by referendum in September 1992.

However, President **GNASSINGBÉ Eyadéma** and the security forces regularly defied the transitional government, the HCR and members of the opposition. Only a few months after the new institutions were set up in Togo in October 1991, the security forces invaded the radio and television offices, brandishing arms at journalists to intimidate them into broadcasting support for President **GNASSINGBÉ Eyadéma**. At the same period, they attempted to kidnap **KOFFIGO Joseph Kokou**, Prime Minister during the transition. In May 1992, in the context of an assassination attempt against **OLYMPIO Gilchrist** (son of the late **OLYMPIO Sylvanus**, former President of the Republic, assassinated in 1963), President of the *Union des forces du changement* (UFC), Union of the Forces for Change, four individuals, including **Dr ATIDEPÉ Marc**, member of the HCR and an opposition leader, were assassinated. In May of the same year, **AMORIN Tavio**, another opposition leader who was President of the HCR in charge of political affairs, human rights and civil liberties was assassinated. The identity cards of two members of the police force were found on the scene. Amnesty International has regularly submitted these cases to the Togolese authorities without ever receiving a response.

This situation created a political crisis and at the beginning of 1993, European mediators tried to resolve the crisis but without success. In fact, during their stay, in January 1993, the security forces opened fire on a peaceful demonstration in Lomé, injuring many and killing several dozen people. The opposition parties had organised this demonstration

to show their support for the European initiative. Germany and France, the two mediating countries, suspended their co-operation, but France resumed it a year later.

In 1993, the Presidential election was boycotted by the opposition. However, the latter participated in the legislative election in 1994 which completed the transitional period. The opposition gained the majority of seats in the National Assembly, but thanks to a clever move involving setting up new alliances, President GNASSINGBÉ Eyadéma and his party, the *Rassemblement du peuple togolais* (RPT), Assembly of the Togolese People, were able to retain power. During this period several opposition politicians were killed. Among these were EDEH Gaston, parliamentarian of the *Comité d'action pour le renouveau* (CAR), Action Committee for Renewal, and his colleagues who were killed in February 1994, between the two rounds of legislative elections. Another official, BRUCE David, secretary to the President of the HCR, "disappeared" in 1994 and there has been no news of him since.

As a result of this period of continuous violence, several of those who instigated democratic change in Togo are now living in exile or in semi-secret within the country, following the repressive measures carried out by the Togolese security forces.

In June 1998 and March 1999, a continuous cycle of elections took place in Togo, as it was necessary, for the first time, to renew the entire political cadre following the multi-party elections of 1993 and 1994. Then, as was the case with previous polls, the electoral cycle was undermined by numerous disputes and the security forces once again used violence to put down the civilian population. Hundreds of people were extrajudicially executed and dozens of civilians, including opposition activists, were arrested and tortured.

On 24 June 1998, the Minister of the Interior and Security proclaimed President GNASSINGBÉ Eyadéma the winner with 52% of the vote in the first round although this task would normally fall to the President of the National Electoral Commission. In July 1998, the *Cour Constitutionnel*, Constitutional Court, judged that the Minister of the Interior could substitute for the Electoral Commission, the majority of its members, who were close to the Togolese authorities, had resigned before the final vote count. This resignation, officially explained by the impossibility of working without disturbance, allowed the Minister of the Interior to proclaim himself in sole charge of announcing the results.

However, in their report several international observers including those representing the European Union (EU), deplored the fact that the election did not meet "the criteria of a free, transparent and fair election, and furthermore, that the results as announced do not accurately reflect the votes cast by Togolese citizens." According to this report, President GNASSINGBÉ Eyadéma was proclaimed the winner "when the votes of only 35 out of 617

polling stations had been returned in the capital". The EU renewed its decision to suspend co-operation with Togo.

After the Presidential election results were announced in June 1998, protest marches of thousands of demonstrators were dispersed by the security forces, and dozens of opposition sympathisers were arrested. In August 1998, following the announcement of an attack against Togo at its border with Ghana, the security forces launched rocket attacks on the homes of leaders of the *Parti démocratique pour le renouveau* (PDR), Democratic Party for Renewal, and the UFC. Several people were wounded during these attacks.

In the legislative elections of March 1999, boycotted by the opposition, the RPT, the party in power, obtained a majority of 79 seats out of 81. The EU took the view that because of the absence "of all the principle opposition parties from the electoral process and from participation in the vote", the new Assembly "cannot accurately reflect the political will of the Togolese people".



GNASSINGBÉ Amah - vice president of the UFC beside his library which was burnt during the attack.

3. Togo's Constitutional guarantees and international obligations

In September 1992, Togo approved by referendum a new constitution which contains certain guarantees to protect human rights. Furthermore, the Togolese Penal Code, and Code of Penal Procedure (CPP) contain several provisions to regulate arrests and the procedures to be followed in the case of discovery of corpses. In addition, Togo has ratified almost all international instruments, including the International Covenant on Civil and Political Rights and the Convention against Torture. Togo has also ratified the African Charter on Human and Peoples' Rights. However, it has taken virtually no account of

provisions relating to the protection of human rights and the authorities take no action to fulfil the obligations to which they have subscribed.

In the same way the principles relating to the protection of human rights contained in the Constitution have not been applied. Article 15 of the Constitution lays down that "no-one may be arbitrarily arrested or detained". The CPP limits the period of "*garde à vue*" detention (period when a prisoner is held incommunicado for interrogation purposes) to 48 hours and specifies that the *Procureur de la République*, Public Prosecutor, may extend this detention by the same period; in a case where "the arrest takes place outside the remit of the public ministry, this prolongation is extended by 24 hours"². However, most prisoners are held incommunicado beyond this limit.

Similarly Article 21 of the Constitution forbids the use of torture or other forms of cruel, inhuman or degrading treatment; furthermore, the same Article provides for sanctions against those responsible for such acts: "Each individual or agent of the State guilty of such acts, either on his or her own initiative or acting under instruction, will be punished according to the law". However, although the Togolese authorities have been aware of such practices on occasions even within the premises under the Ministry of Justice's control, no sanction has been enforced against those who have abused their authority.

In ratifying international instruments including the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture, Togo has demonstrated its commitment to the international community in respect of the protection and promotion of human rights. Despite all its undertakings at the national and international level, arbitrary arrests, torture and ill-treatment continue in Togo. In spite of the very large number of allegations of torture, no judicial inquiry has been instigated by the appropriate Togolese authorities, in violation of Articles 12 and 13 of the Convention against Torture³, which provide for the setting up of an impartial investigation on each occasion on which there are reasonable grounds for believing that an act of torture has been committed, even when the victim has been prevented from exercising his or her right to bring a complaint.

² CPP published in the "*Journal Officiel*" 3 March 1983, Article 52

³ Article 12: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

Article 13: "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

4. Persistent human rights violations

No close observer can fail to discern a grim picture of the evolution of the human rights situation in Togo. Since the beginning of this decade, Amnesty International has published three reports on Togo in which it has drawn the attention of the Togolese authorities as well as of international opinion to the perpetuation of serious infringements of human rights.⁴ The organisation has underlined the importance of conducting impartial investigations into all alleged human rights violations to establish the facts and to bring those responsible to justice and to compensate the victims. In spite of repeated appeals, the authorities continue to show total contempt for international norms in relation to human rights as well as for their own legislation and constitution.

With the changes introduced in 1990, numerous non-governmental organisations came into existence and contributed to ensuring that the question of human rights remained on the agenda. Better regulation of human rights matters was instituted and the *Commission nationale des droits de l'homme* (CNDH), National Human Rights Commission, created in 1987 was able to carry out independent investigations, notably in the case of the Bé lagoons, in April 1991. This Commission made recommendations which, if they had been implemented, would have increased systematic protection for individuals and their rights.

However, this new period lasted only for a short time and democratic reform was set back, notably in 1996 with the modification of the system of election of CNDH members. This regulatory body whose previous work had been universally recognised, is now simply a mirror image of the National Assembly⁵. Furthermore, since the departure of Maître DOVI Robert Ahlonko, its last President, who was forced into exile because of lack of guarantees for his security, the Commission has not undertaken a single investigation into violations of which it has been informed. Victims and political parties who have referred cases of arbitrary arrest and ill-treatment to the Commission have received no response and it is not known if there has been any follow-up.

5. Arrest and detention of probable prisoners of conscience

The practice of arbitrary detention has always been a constant in Togo. Civilians and military personnel have been detained for months, even years, without charge or trial. The

⁴ (1) *Togo: Impunity for human rights violators at a time of reform* (AFR 57/01/92) April 1992; (2) *Togo: Impunity for killings by the military*, (AFR 57/13/93) October 1993; and (3) *Togo: A new era for human rights?* (AFR 57/02/94) September 1994.

⁵ Article 3 of organic law No 96-12 on the composition of the CNDH stipulates that the Commission be composed of seventeen persons elected by majority vote of the National Assembly.

majority of those arrested over the last four years have been detained solely on suspicion of being "rebels" or members of an opposition party. Numerous individuals have been detained for short periods before being released without trial, others have been charged with breaches of common law offences to justify their arrest.

During the visit by Amnesty International in November and December 1998, new information about the detention and conviction of certain prisoners was brought to the attention of the delegation.

ATIDEPÉ Lotsu Déla, nephew of Dr ATIDEPÉ Marc who was killed during an attack in 1992, and ALOWOU Kokou, two civilians who had taken refuge in Ghana were arrested in April 1993 in Kpalimé, in Kloto district, and had not been tried at the time of writing of the report. ALOWOU Kokou, held in the civil prison, told the Amnesty International delegation that he had been "shackled" for three months at the gendarmerie in Lomé. ATIDEPÉ Lotsu Déla, who was held in the prison at Kara, in Kozah district, had been stabbed during his arrest and had to remain in hospital for more than a year. Both men were suspected of being "rebels".

Other individuals have been convicted arbitrarily. In February 1994, six members of the UFC were arrested and charged with electoral fraud for having distributed leaflets calling for a boycott of the 1994 legislative elections. Two were granted bail and four received prison sentences.

HOOPER Pierre Nana and his brother Paul Kodjo, two trade unionists working in the Togolese Phosphate Office were arrested in October 1994. They were held in *garde à vue* for more than twelve days. Charged with "attempting to destroy light industry", along with two others they were sentenced to between four and five years' imprisonment. At their trial in 1996, although their innocence was established by witnesses, they were found guilty by the tribunal. During its visit, the Amnesty International delegation requested the immediate unconditional release of the HOOPER brothers, who were believed to be prisoners of conscience, detained because of their trade union activities. They were finally freed in March 1999.

In January 1995, ALHADJI Koko, was arrested for illegal possession of weapons and ammunition. The former driver of Maître DOVI, ex-President of the CNDH, who fled into exile following reports criticising the Government, he was sentenced to three years' imprisonment. During its investigations in Togo, Amnesty International learned that the weapons had been deliberately placed in this man's vehicle to permit his arrest when it was in fact linked to his connection with the former President of the CNDH.

In October 1997, eight civilians were arrested in the village of Akato, in Golfe

district, which is considered to be a stronghold of the opposition. Some of these, including **ADOYI Yaotsé** and **AWOUNYO Kottou** were released afterwards without trial, but three of them, **MASSEMÉ Kodjo**, **MASSEMÉ Dogbé** and **ADOYI Komlan** were held for a year before they were charged with "possession of weapons of war and association with a group of criminals" and sentenced to a year's imprisonment, the equivalent of the period they had spent in detention. Amnesty International views them as prisoners of conscience, detained because of their close connection to **MASSEMÉ Alphonse Kokouvi**, exiled former Minister of the Interior who himself comes from Akato.

On 22 November 1997, **Dr GANDI Bozoura**, one of the founding leaders of the *Association togolaise de lutte contre la manipulation des consciences* (ATLMC), Togolese association against the manipulation of opinion, a human rights organisation, was arrested in Sokodé, in Tchaoudjo district, along with eleven others. These arrests took place a few days after the mysterious death of **BOUKARI Djobo** who was a former Minister of Finance and a former United Nations official. Charged with "voluntary homicide and arson", **Dr GANDI Bozoura**, who had already been harassed in the past for his sympathies with the opposition, was transferred to Kara prison in April 1998 to await trial but no date has yet been set. In November 1997, the announcement of **BOUKARI Djobo's** death provoked uprisings which resulted in at least seven deaths and several injuries after security forces intervened. Before their arrival, the crowd had killed two members of **BOUKARI Djobo's** family who were suspected of being responsible for his death. Amnesty International believes **Dr GANDI Bozoura** may be a prisoner of conscience.

In December 1997, **FABRE Jean-Pierre**, secretary general of the UFC and **HABIA YAWO Nicodème**, a member of the same political party, were also arrested and held for a day without charge. The security forces accused them of having asked a group of young people to photograph corpses in certain hospitals.

At the end of 1997, almost on the eve of 1998, **AMEGNINO**, known as **Samba Santos**, **DONI Koffi Mawuli Kové**, **KLIKO Kokou Yovodévi**, known as **Gildas Eglo**, **LAWSON Akouete Latévi**, known as **Kalakouta**, **MESSAN Kokou Paul**, known as **Hebiesso**, **NTSUKPUI Attiso**, **NYABLEDJI John**, **SEKE Koudjo**, known as **Django** and **SOSOUVI Kovi Hounvé**, nine Togolese refugees in Ghana, several of whom are members of the *Comité togolais pour la résistance* (CTR), Togolese Resistance Committee, an opposition party in exile, were handed over to the Togolese authorities by Ghana. Accused of minor crimes committed in Ghana, they were held first in the civil prison and at the *Direction de la police judiciaire* (DPJ), criminal investigation headquarters, then in July 1998, transferred to Kara prison. One of these individuals, **NTSUKPUI Attisso**, died in that prison as a result of the poor conditions, insufficient food and probably ill-treatment.

Members of the military who had taken refuge in neighbouring countries as well as others suspected of sympathy with the opposition have also been arrested and held without charge for long periods. AKO Ajeté and DJEKPO Jolevi, two members of the army were arrested on their return from Benin in 1995. Neither the judicial nor prison authorities gave the Amnesty International delegation any details on the situation of these two soldiers.

Arrests continued in 1998 and 1999. Dozens of people were arrested, some of whom were released, but at least twenty individuals, including refugees sent back to Togo by Ghana, remain in detention without trial in Kara prison and in the civil prison in Lomé. Amnesty International considers that some of these individuals are probably prisoners of conscience.

Two member of the FAT, Lieutenant GNASSENOU, an administrative officer and Dr ABONY Edouard Koffi, a radiologist, were arrested in August and November 1998 respectively for their suspected links with the opposition. During the visit in November and December 1998, the delegation requested the unconditional release of these two officers, who are considered to be prisoners of conscience. The Minister of Defence replied that both were under "close arrest" and refused to divulge any information about the circumstances of their arrests. Held without charge in the army base of the *Régiment interarmes togolais (RIT)*, Togolese Combined Regiment, Lieutenant GNASSENOU was freed in December 1998. Dr ABONY was released three months later.

In January 1998, a former trade unionist⁶ whose request for asylum in Germany had been refused was arrested after his expulsion to Togo. Held in an unofficial place of detention not far from the airport road, he was able to escape in September 1998. During its visit, the Amnesty International delegation learned that eight other refugees expelled from Germany and Switzerland were arrested on their involuntary return to the country. Amnesty International does not know if they have been released.

Among those still detained⁷ at the gendarmerie headquarters are:

Lieutenant BADAGO of the *force d'intervention rapide (FIR)*, Rapid Intervention Force, arrested over five years ago by the security forces on his return from Benin. Suspected of desertion, he is still held in *garde à vue* at the gendarmerie, in Lomé.

⁶ This trade unionist has requested anonymity for fear of reprisals.

⁷ Information dating from December 1999, Amnesty International ignores whether they have since been released.

ABAGLO Richard, from Segbe, in Golfe district, aged 14 at the time of his arrest in 1995. He is being held at the gendarmerie following an allegation that he is a "rebel".

GUY, a minor aged 14 at the time of his arrest in 1994, held at the gendarmerie since then, he has still not been tried. GUY worked at the port in Lomé and the gendarmes arrested him so that he would reveal the names of those responsible for a shooting incident at the port.

All these arrests were carried out outside the law and are in violation of one of the principal guarantees of the Togolese Constitution which stipulates that "no-one may be arbitrarily arrested or detained".

After their often violent arrests detainees are taken to the gendarmerie premises where they are interrogated in illegal and inhuman conditions for several days, extending to weeks, months or years in some cases.

Former detainees described to the Amnesty International delegation how they were arrested at home, late at night or at dawn, by members of the security forces who had never obtained an arrest warrant. However Togolese law makes clear that "an agent charged with executing a warrant for arrest may not enter a citizen's home before 6am or after 8pm⁸".

Some detainees have been held in unofficial places of detention. This is notably the case with refugees expelled from Germany and Switzerland, arrested as they leave the plane and held without charge in an unregistered detention centre.

International standards also forbid arbitrary detentions carried out without regard to due legal procedure. Paragraph 1 of Article 9 of the ICCPR stipulates that: "... No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law...". Article 9 of the Universal Declaration of Human Rights stipulates similarly that no-one may be arbitrarily arrested or detained.

Several dozen detainees have been held in secret beyond the legal limit for *garde à vue*. Indeed, HOOPER Paul and Pierre as well as MASSEMÉ Kodjo were held in *garde à vue* detention for several days and did not come before a magistrate until after twelve days had elapsed. Some detainees, including Lieutenant BADAGO are still held at the gendarmerie headquarters and have not yet been presented before a magistrate.

⁸Article 109 of the CPP.

Garde à vue detention is the period of incommunicado detention during which the detainee has no access to his or her family or lawyer. It allows members of the security forces to hold suspects to interrogate them without referring the matter to the *Procureur de la République*, Public Prosecutor.

Justified officially as "essential for the investigation", this period of incommunicado detention lends itself to torture and ill-treatment being inflicted to extract confessions from suspects. The period of *garde à vue* which is restricted to 48 hours may be extended once on the authorisation of the Public Prosecutor. If the arrest has been carried out "outside the remit of the public ministry, this prolongation is extended by 24 hours".

The strict constraints on *garde à vue* also figure in article 15 of the Togolese Constitution. This article specifies: "anyone arrested without legal basis or held beyond the period of *garde à vue* may, at his or her request or that of any interested party, have recourse to judicial procedures designed for this purpose by the law". In the climate of terror which prevails during the *garde à vue*, no detainee was aware of this information.

Furthermore, prolonged incommunicado detention is in contravention of international standards on human rights. The Human Rights Committee and the Commission on Human Rights have taken the view that it is a practice constituting a form of cruel, inhuman or degrading treatment⁹

6. Arrests during the Presidential elections in June 1998 and the legislative elections in March 1999

The repressive measures taken by the Togolese security forces against the civilian population, particularly supporters of the political opposition, were intensified during and after the Presidential elections in June 1998. Amnesty International is aware of around thirty cases of individuals being apprehended, some of whom have been released without trial. These detainees represent only a fraction of those arrested for political reasons during 1998 and 1999. Among these detainees are prisoners of conscience, imprisoned solely for having expressed political opinions non-violently. Arrests have taken place throughout the country, in Lomé, the capital, as well as in Wawa and Lacs districts, and have affected all activists and supporters of opposition political parties.

On 20 June 1998, some days after the first round in the Presidential elections, the security forces arrested **ADJIBA Kossi** and **OKOUTA Biyeya**, two CAR officials in Atakpamé. They were taken to the gendarmerie in Atakpamé and transferred to the

⁹ For the Human Rights Committee: see General Comment 20 (Article 7 of the ICCPR) para. 6.

gendarmerie headquarters in Lomé and then to the civil prison in Lomé on 6 July and released without trial ten days later. Amnesty International believes that they were arbitrarily detained and that their arrests are linked to their political involvement with the CAR. During the same period, **OLADOKOU Olabodé**, a pupil at the college Saint Albin in Atakpamé and a supporter of the UFC, suspected of having housed an armed person, was arrested and transferred to the gendarmerie nationale. He was then taken to the civil prison in Lomé where he is still awaiting trial. Paragraph 1 of Article 9 of the ICCPR, stipulates that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

The day after the election, **BOUKARY Seydou**, of the PDR along with two other activists from the same party were apprehended at Badou, in Wawa. They were first held in the gendarmerie in Badou, then transferred to the gendarmerie in Lomé and released two days later, under pressure from the head of the PDR.

In July 1998, **ATTIOGBÉ Sassou Yao**, **ADIWANOU Gbadobe Kodjo** and **ABAYA Atsou**, three members of the UFC, who were carrying leaflets calling for a day of *journée ville morte*, general strike, to protest against the Presidential election results, were apprehended at Kpémé, in the Lacs district and at Lomé. Accused of a press offence, they were held at the gendarmerie, then transferred to the civil prison in Lomé. They were released on bail in December 1998.

During the same period, **KOUDAKOU Kokou**, another member of the UFC was arrested and tried on the charge of attempting to undermine the national economy. The high court in Lomé sentenced him to fourteen months' imprisonment, with four months suspended, which he served in the civil prison in Lomé.

At this time, the simple act of commenting on an event could lead to detention. For example, **KOPAYE Robert**, apprehended on 17 August, was held without charge for several days in the gendarmerie at Atakpamé for commenting on an attack by an armed opposition group operating from Ghana.

In November 1998, a nurse in Notsé was arrested and sentenced to three months' imprisonment for having commented on the murder of **Maître NOUGNOUI**, a Lomé lawyer. She was released several days later on the intervention of President **GNASSINGBÉ Eyadéma's** son who was visiting the Plateaux region. Amnesty International considers that this nurse was a prisoner of conscience, arrested for having made comments about information in the public domain.

Again in November 1998, DEGBOR Xola, a farmer, was arrested in Akato by members of the security forces who asked him the direction of the border with Ghana. It was only after two weeks that his relatives found out that he was being held in the gendarmerie headquarters. DEGBOR Xola was released without trial after more than two months.



A house in Akato

In March 1999, some days before the legislative elections, several sympathisers of the UFC and of the *Convention des peuples africains* (CDPA), African People's Convention, who were calling for a boycott of the elections, were arrested while they were holding a meeting in Agbandi in Blita district. They were released several hours later.

On the polling day, several dozen civilians who abstained from voting, were detained without charge for a few days. These people were arrested after security forces had checked their identity papers to see whether there was the thumb mark proving that they had voted.

7. Arrests of journalists and restrictions on press freedom

For several years, civil society which has been the instigator of several democratic changes, including the holding of a national conference, the creation of human rights organisations and pluralism in the press, has been subjected to threats by the security forces. Human

rights organisations have been forced to reduce their activities and they experience considerable difficulty in carrying out their work in the face of threats and intimidation which increase daily. These acts of intimidation have the effect of narrowing the area in which they can operate.

Some independent newspapers have been obliged to cease publication following heavy fines. Journalists like **GBÉNOUGA Martin** have been forced into exile after several arbitrary arrests and convictions. These arrests form part of the policy of harassment which targets retailers of independent newspapers and their publishers. In November 1995, some independent newspaper sellers were held and interrogated by officials of the Ministry of the Interior about two weekly papers they sold, "*Kpakpa désenchanté*" and "*La Tribune des démocrates*". However, despite these intimidatory measures, other newspapers continue to appear. In February 1998, a law on the press and communication code came into force. Although this new text contains several guarantees of freedom of expression, two of its articles (83 and 86) have been used against journalists and political activists carrying leaflets calling for a day of general strike.

Throughout the last decade, dozens of journalists have regularly been arrested and sentenced to terms of imprisonment. Charges regularly made against them are "disturbing public order", "publishing false news" and "defamation and attempting to undermine the honour of the Head of State".

In 1996, **MESSAN Lucien** and **AGOH Basile**, publishers of the weekly papers "*Le combat du peuple*" and "*Crocodile*" respectively, were arrested without a warrant on the order of a gendarme for having reported the death of a woman beaten to death by her husband, himself a gendarme. They were released after two days. The Ministry of Justice confirmed that it had not been informed of the matter before the release of the journalists. At the same time, the person who had passed on the information was also arrested and released five days later.

In 1997, at least four journalists were detained. Among them were **ASSIOGBO Augustin** and **SAÏBOU Abass**. The latter was arrested in February for an article entitled "Horrors under Eyadéma's rule". Held without charge, he was released after several days. During his detention, he was taken to see the Head of State who interrogated him and called him "*voyou*", scum. **ASSIOGBO Augustin**, managing director of the privately-owned weekly "*Tingo-Tingo*" was arrested in February 1997, after the family of former Minister of Foreign Affairs **ALASOUNOUMA Bombera** filed a complaint. He was charged with "insulting the dead" and "defamation" and sentenced to four months' imprisonment, two of them suspended. Augustin Assiogbo had used some ironic wordplay, following the accidental death of the Minister of Foreign Affairs.

In 1998, other journalists as well as publishers were also arrested. **HOUNKALI Elias** and **AMENOUHOU Edoh**, journalists on the paper "*Le nouveau combat*" were arrested in August and November 1998 respectively for an article concerning jewellery allegedly left by Madame **MOBUTU Sese Seko** with Madame **GNASSINGBÉ Eyadéma** at the time of a visit after the fall of Marshall **MOBUTU** in 1997. These two journalists are still awaiting trial and are currently being held in prison in Lomé.

MÉWÈNÈMESSÈ Apollinaire Essowè managing director of "*La dépeche*", a newspaper reputed to be close to the Togolese authorities, was arrested in October 1998 for an article drawing attention to Togo's insecurity and blaming the military. The trial was postponed twice, but **MÉWÈNÈMESSÈ Apollinaire Essowè** was released in December 1998 after writing a letter to the Head of State seeking his forgiveness.

Article 26 of the Togolese Constitution guarantees freedom of expression and freedom of the press and recognises that the "press shall not be subject to pre-publication authorisation or warnings, to censure or other restrictions". Furthermore, Article 19 of the ICCPR stipulates that "... Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information, and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice..."

8. Torture and ill-treatment

The security forces have always made use of torture in Togo. During the last decade, however, the security forces have allegedly used torture systematically at the time of suspects' arrest or at the time of their transfer to centres of detention. Once they are taken to a gendarmerie to be interrogated detainees are habitually ill-treated or tortured with a view to extracting information and confessions from them.

The authorities cannot ignore the extent of this phenomenon because privately-owned newspapers regularly give accounts of acts of torture and ill-treatment of Togolese citizens. For example, the newspaper "*La Tribune africaine*" of 3 March 1998 reported the arrest followed by torture and ill-treatment of **AGBLELÉ Koffi** and two Liberians. The three men were arrested following an identity check in Sokodé, during which the police discovered a CAR card on **AGBLELÉ Koffi**. The latter along with the two Liberians were reported "to have been beaten with batons in Sokodé and with rope in the gendarmerie in Lomé".

Furthermore, newspapers also give the names of those thought to be responsible for such acts. In a testimony made public in September 1995 by the "*Tribune des Démocrates*",

KOUDAYA Richard Koukou accused a close relative of President GNASSINGBÉ Eyadéma:

"On the night of 12 March 1994 around 11 pm, X requested our transfer to his office in Camp Landja. He ordered 6 soldiers to come and torture us: corporal punishment, beating and wounds; they nearly beat me to death to make me tell the truth and this lasted for a week. Under the pressure of threats and torture I had to agree to everything that X wanted to charge me with..."

The victims encountered by the Amnesty International delegation in November 1998 also named their torturers, among whom were senior gendarmerie officials. The Togolese authorities made no response to the delegation when it passed on the names of those reported to be responsible for torture and ill-treatment, and urged that administrative sanctions be taken in anticipation of the setting up of a judicial inquiry.

This inertia on the part of the Togolese authorities can only lead to the conclusion that such practices have become completely commonplace. Furthermore, the fact that detainees with swollen faces are sometimes shown on Togolese television indicates that torture and ill-treatment are used to discourage not only breaches of common law but also political dissent.

Prisoners are mainly tortured during the period of *garde à vue* detention. Often this period of incommunicado detention is used by the criminal investigators to force prisoners to sign confessions whilst not informing them of the content and these are then used as evidence to convict them in court. Over the years, Amnesty International has collected numerous statements testifying to torture in detention centres. Information on the methods used comes from former prisoners and their relatives. Throughout its visit in November and December 1998, Amnesty International received further supporting statements testifying to the use of torture and ill-treatment. It appears from these that torture is practised at several stages: at the time of arrest, on transfer from one detention centre to another and during *garde à vue* detention. Furthermore, detainees are often removed from the gendarmerie or police commissariat to be put under extra pressure which might include death threats, with the aim of extracting confessions.

(a) Beatings at the time of arrest

Several detainees have been beaten at the place of their arrest, often in the presence of their relations, wives and children; then they have been taken to the nearest gendarmerie.

A former detainee made the following statement to the Amnesty International

delegation in November 1998:

"At about four o'clock in the morning, the security forces entered my home after forcing the door. They beat me and my brothers with belts, and also kicked us with heavy boots. They handcuffed us and took us to the gendarmerie where we were beaten again".

(b) Ill-treatment during transfer to police headquarters

This kind of ill-treatment takes place during transfers to detention centres. At least three detainees have died following ill-treatment at the time of their transfer to gendarmerie headquarters in Lomé in July 1998. Their bodies were abandoned by the roadside.

One of those arrested told the Amnesty International delegation:

"On the day of the general strike, I was arrested with some others. The security forces handcuffed us before throwing us in a Benz truck. The soldiers trampled on us, when we attempted to get up they kicked us, we were showered with blows from every angle by at least thirty soldiers in that truck. When we arrived at the gendarmerie they threw us on the ground like sacks."

(c) Ill-treatment on arrival at the gendarmerie

A whole raft of methods of torture is used by the security forces: for example, when detainees arrive in the yard of the gendarmerie, they are met by a row of gendarmes, who hit them until they reach the office for interrogation. Testimonies received by Amnesty International lead to the conclusion that vocabulary within the gendarmerie is limited to a few words such as "confessions", "rebels", "terrorists". Sometimes, slightly more complex phrases have an ethnic dimension: "You'll see, if you want to do away with the 'old man' (President GNASSINGBÉ Eyadéma), the Kabyé (the President's ethnic group) are behind him".

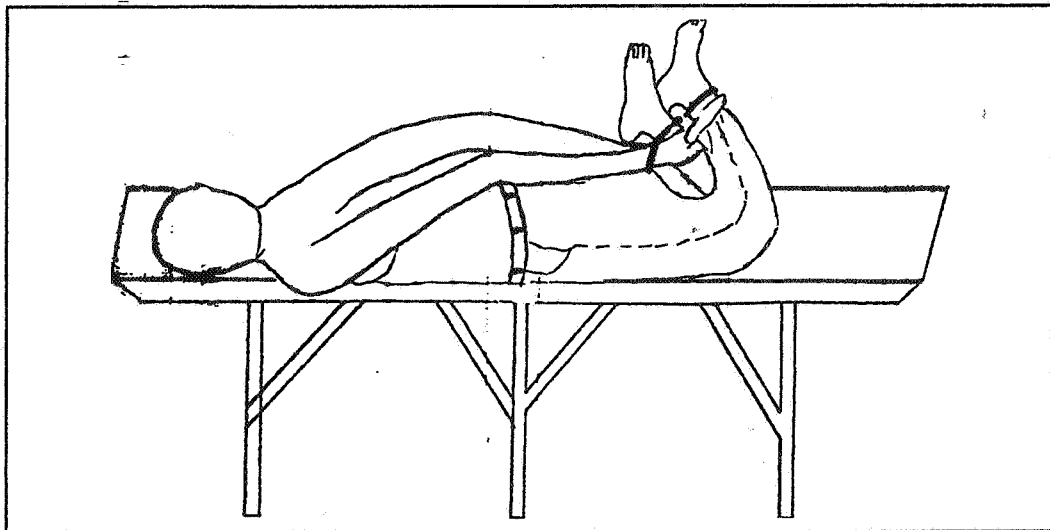
(d) Ill-treatment of opposition activists at the gendarmerie and police headquarters

A former detainee who is a member of the UFC gave the following testimony to the Amnesty International delegation:

"I was received at the research and investigation department of the gendarmerie headquarters by blows from cables, rifle butts and batons all over my body. They asked me questions about my party and accused me of being an arms trafficker. Lieutenant S then ordered me to be put on a table surrounded by soldiers. They

struck me with batons and 'mousquetons' (belt buckles), some also struck me with their fists. There were four breaks during these sessions. Captain A arrived and ordered me to be put back on the table. I was struck again; at a certain moment I fell down and had difficulty getting up again. No one helped me to get up; they continued to beat me to make me get up again on the table on my own. Then they put me in a cell and the next day at four o'clock in the morning the police served me a "strong coffee".¹⁰

This former detainee who was held incommunicado for 17 days, told Amnesty International that he had not had the opportunity to read his indictment. The criminal investigator gave him to understand that "if he had taken the place of those responsible for his arrest, he would have put him in a sack and thrown him in the sea rather than waste paper".



A method of torture, drawn by a victim

One of those arrested in Akato in October 1997 related to the Amnesty International delegation that the military had particularly wanted to find out if he had been part of the personal guard of MASSEMÉ Alphonse Kokouvi, former Interior Minister in the transition government, and accused him of taking up arms against them. This former detainee explained that the military had threatened him with electric shock torture if he did not tell the truth:

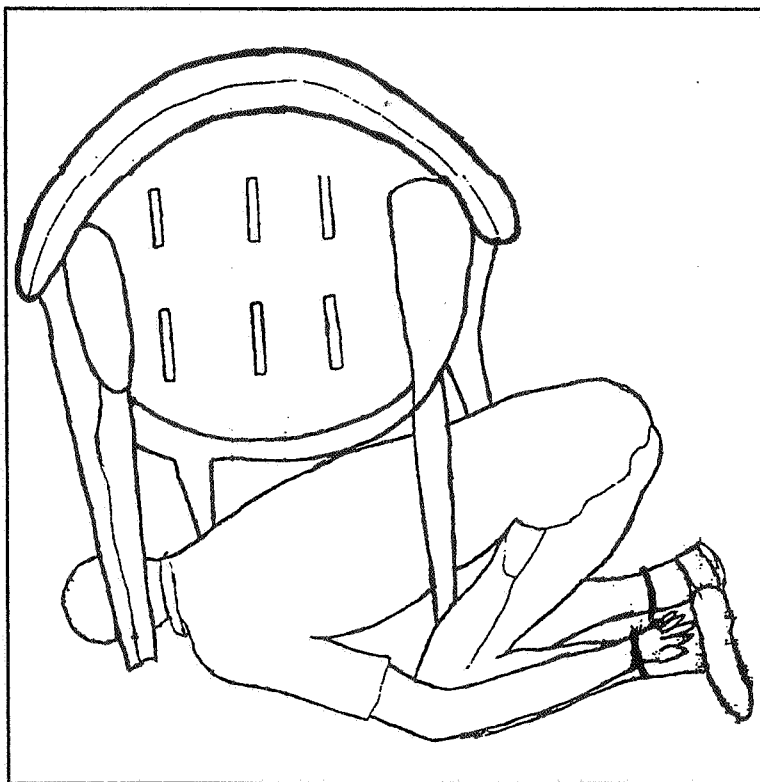
¹⁰Term used for being woken up by beating with batons

"After threats of electric shocks at the 'For Ever' commissariat in Tokoin, they took me in a car to an unknown destination. On the way, they took me out of the car and threatened to execute me. I went down on my knees to beg their pardon".

These acts of torture and ill-treatment often take place in the presence of officers, the name of Captain A is cited regularly by some victims, including a woman who was struck by him; sometimes officials higher up the chain of command give orders for the ill-treatment of detainees.

Torture is carried out in numerous places of detention in Togo. All former detainees encountered by the Amnesty International delegation in different locations, including Atakpamé and Akato reported torture and ill-treatment during the first hours, even the first days after their arrest. A former prisoner of conscience, detained in 1997 and interrogated at police headquarters, told Amnesty International in November 1998: "My back was bent over, a shackle was placed around my left hand and attached to another around my right leg, another pair of cuffs being attached to my right hand and left foot. In that position I was hit with batons and 'neem', a medicinal plant". The Amnesty International delegates were able to confirm that, a year after these events, this man still bore traces of his wounds. He continued his story by describing how he had been laid out on a bench while two individuals held his arms, two others his feet, while other policemen struck him on the back.

Another victim of torture told the Amnesty International delegation how he had been made to crouch on the ground and how in this position a chair had been placed across his neck and back. To increase the pain and to



A method of torture - a chair placed on the back of the victim - as drawn by a victim.

prevent him from lifting his head a gendarme sat on the chair and others took turns to take his place; in this position he was struck with electric cable and batons. Scars were still visible on his back three months after his release.

The security forces also made some victims strike each other. One victim who was reluctant to hit his friend, a co-detainee, told the Amnesty International delegation that, in reprisal, he had been beaten by the gendarmes and that the kick Captain A gave him in the face had knocked him to the ground. This victim lost consciousness three times during the time he was being tortured.

Other detainees were soaked with water and sprayed with sand before being beaten by the gendarmes.

Those Togolese who have taken refuge abroad have been particularly targeted for ill-treatment on their return. Detainees who were held alongside the nine refugees, who were handed over by Ghana to the Togolese authorities in January 1998, told the Amnesty International delegation that, when these refugees arrived at the detention centre, all the lights were switched off, they were beaten several times by the military, and screamed with pain all night. One of them, NYABLEDJI John, known as Django, was forced to eat sand, he requested water which was refused him. These same refugees were beaten again in Kara prison.

Torture and cruel, inhuman or degrading treatment are unconditionally forbidden by the Togolese Constitution and by international law. Article 21 of the Togolese Constitution specifies that "no one shall be subjected to torture or to other forms of cruel, inhuman or degrading treatment". This Article also stipulates that recourse to such criminal acts will incur punishment: "any individual or agent of the State guilty of such acts, either on his own initiative or under orders, will be punished". Furthermore, Article 5 of the African Charter on Human and Peoples' Rights forbids torture. The right not to be tortured or subjected to cruel, inhuman or degrading punishment is a right which admits no derogation, suspension or restriction. Article 2(2) of the Convention against Torture lays down that "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." Analogous provisions figure in Article 4 of the ICCPR. The Togolese State, which is a signatory of the Convention against Torture, is obliged to investigate allegations of torture and to bring those responsible to justice.

However, in the light of testimonies received by the Amnesty International delegation, it is possible to affirm that there is a contradiction between Togolese legal texts, in particular Article 21 of the Constitution, which forbid and condemn the use of torture,

and actual practice, particularly in gendarmeries.

9. Deaths in detention under torture

Amnesty International has been made aware of several cases of civilians who have died following torture inflicted in detention centres, including the premises of the national gendarmerie headquarters in Lomé.

In a testimony published in September 1995 by the "*Tribune des Démocrates*", KOUDAYA Richard Kokou made the following declaration: "In the course of torture, my partner AMENYO Delphine succumbed to the beating she received. She died on 28 March 1994 and her body was buried by the CB (*chef de brigade*, brigade commander) of the Kara gendarmerie."

KOUMA Sam, a trader in fertiliser and artificial flowers was arrested on 26 November 1997. Beaten at gendarmerie headquarters, he died of his wounds several days later. The Amnesty International delegation was able to gather testimony on the circumstances surrounding the death of KOUMA Sam:

"I was arrested on 26 October and taken to gendarmerie headquarters with KOUMA Sam. He had his left foot shackled to his right hand and his right foot shackled to his left hand and he was beaten in that position. Then he was tied to the table and the police hit him with cycle lock chain, cables, belts and batons until he lost consciousness. When he came to, he asked for water which was refused. Water was poured over him in revenge. He was vomiting blood which was also coming out of his nostrils. Some detainees put him in a van to go to the infirmary and three days later I learned of his death."

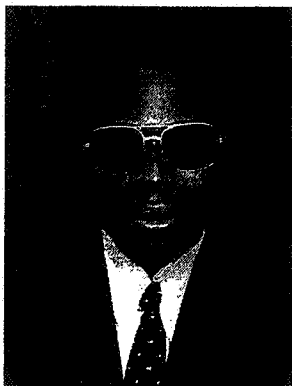
"*Togo presse*", a newspaper close to the RPT, in its edition of 27 November 1997, reported that he was a member of a network of forgers, involved in making false passports. The newspaper added that he had tried to escape by climbing the wall of the gendarmerie when he had been "unshackled to permit him to have some coffee" and that he had been recaptured by the inhabitants of Doulassamé who had attacked and gravely injured him before the arrival of the gendarmes. According to the same newspaper attempts to revive him in hospital had been in vain.

On 28 July 1998, several individuals wearing red sashes or wine-coloured clothes (an indication of support for the opposition), who were calling for a demonstration, were arrested and beaten by the security forces. Several of them died following these beatings. An escapee who was released after having been ill-treated in a truck belonging to the security forces told Amnesty International:

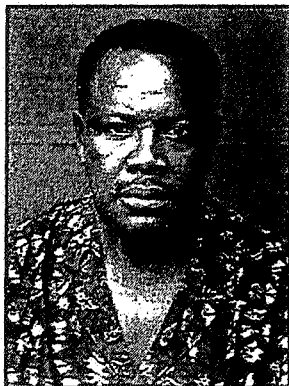
"I was on my bike when I saw some dead bodies on the roadside. I was questioning passers-by who were around when the military detained me and threw me in a truck. They put me in the middle like a football and assaulted me with kicks, fists and rifle butts. Three people were beaten in the same way as me and they died. Their bodies were left on the roadside."

10. Extrajudicial executions and "disappearances"

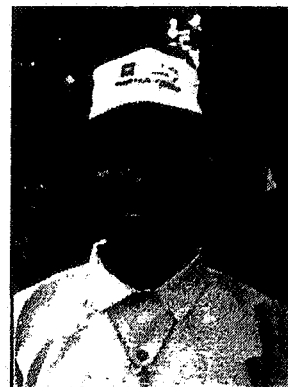
In the last few years, hundreds of civilians and soldiers have been the victims of extrajudicial executions. This term is applied to a killing committed entirely illegally and deliberately by order of the authorities. Other individuals are categorised as "disappeared", that is people who are known to have been arrested by the security forces but who are not recognised as such by them.



DJIEWONE Adjisse Essie



AMEDEKA Simon Kossi



EDOH Komlan

The names of many of these victims are unknown because the authorities do not report this information publicly. The bodies of victims are disposed of secretly at night or abandoned by the roadside. During Amnesty International's recent visit, the delegation learned that certain individuals, including soldiers arrested in March 1993, had been extrajudicially executed by the security forces, following an attack on the army base of the RIT in January 1994. These individuals had been buried at Massouhoin, not far from the army headquarters. The terror and fear provoked by the security forces prevented relatives from claiming the bodies of their family members. These extrajudicial executions and the silence of the authorities have a direct effect on the mourning ceremony which plays an important role in Togo, because the executed or "disappeared" person can no longer be celebrated or referred to, if his or her body has not been recovered.

The use of extrajudicial executions in Togo is not new. Throughout the decade, Amnesty International has reported on this, but to this day, although those responsible are

known to the authorities, no judicial inquiry has been undertaken, nor has any sanction being taken against those responsible. The impunity which began with the assassination of the Togolese President, OLYMPIO Sylvanus, killed in the gardens of the United States Embassy in Lomé in January 1963, the first extrajudicial execution of an African political official since the declarations of independence, has continued for more than 35 years.

Between 1990 and 1996, Amnesty International has regularly drawn the attention of the Togolese security forces to the hundreds of civilians and members of the military who have been extrajudicially executed. This includes, in particular, individuals found in Bé lagoon in April 1991 and soldiers and civilians killed in 1993 and 1994. Those who have escaped have often testified in public, but, to this day, the authorities have taken no action to set in motion an inquiry and to take sanctions against those responsible.

In February 1994, between the two rounds of the legislative elections, EDEH Gaston, a newly elected member of parliament and three CAR activists were forced to get into their own vehicle by the security forces. After being interrogated about their political activities they were taken to an unknown destination. The bodies of the parliamentarian and the CAR activists were found, burnt, the next day.

At the end of 1998, during its investigative visit, the Amnesty International delegation had the opportunity to meet the individual who had been able to escape the extrajudicial executions which resulted in the deaths of EDEH Gaston and his companions. He told the delegation that after their arrest, they had been taken to a building better known as "*La résidence du Bénin*", "The Benin residence"¹¹, where they had been interrogated by the military about their political activities. One of President GNASSINGBÉ Eyadéma's sons, an officer in the FAT, told them he could do nothing for them. General BONFOH, Chief of Staff at that time, denied any military involvement in this matter and laid the blame on civilians dressed in army uniforms. Although all the evidence combines to indict the security forces, the Togolese authorities have insisted that the opposite is true and have categorically rejected all accusations, without opening an inquiry.

In November 1996, TÉKO-ALLYN Anani, an official of the Togolese Phosphate Office was killed in his home in Agbodrafo, in the Lacs district, for having asked that school transport be extended to the children of labourers at the bottom of the salary scale. One of the witnesses of this extrajudicial execution told the Amnesty International delegation, in November 1998: "On 6 November 1996, gendarmes armed with batons and belts entered his room, they covered his entire body with blows. He tried to escape by climbing a wall, but other gendarmes on the other side of the wall killed him in front of his

¹¹ Residential area inhabited by well-off political personalities and members of the military.

wife who was carrying a baby on her back".

Viewed as a potential danger, those Togolese who have taken temporary refuge abroad have often, on their return, been the subject of extrajudicial executions. Between February and June 1997, the security forces extrajudicially executed at least seven such people. One of those who managed to escape one of these executions told the Amnesty International delegation: "In June 1997, along with four former refugees from Ghana, we were in a car heading towards Kpalimé when the military fired on us without any warning close to Assahoun. The driver of the vehicle and four other people, including AMOUZOU Koffi and AHIKPO Koffi Roger were killed".

In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin. During its investigative visit, the Amnesty International delegation was able to question numerous individuals, including Beninese and Togolese fishermen, as well as Togolese farm workers who were working in the fields. Those questioned all told of unusual movements of planes and helicopters sometimes flying at very low altitude out to sea. Former soldiers, members of the paracommando regiment, who had sought refuge in Benin, recognised the characteristic sound of Buffalo aircraft. Others questioned also indicated that bodies had been recovered on the beaches, shortly after planes had passed over. One of the fishermen told the following story: "Eight kilometres from the beach at Ague [in Benin], hundreds of bodies were floating out at sea"; other witnesses confirmed that bodies had been seen for three days at that same place. Another fisherman had filled in the details "When I was taking in my nets, I found a corpse among the fish; some corpses were shackled and others were wearing uniforms". Other fishermen, particularly at Grandpopo in Benin, gave us the same information and specified that the victims' bodies had bullet wounds and that some soldiers were also shackled.

In the neighbouring villages of Agbodrafo, Kpémé and Aného, on the Togolese coast in the Lacs district and not far from the "Tropicana" hotel¹², other witnesses also confirmed that "Bodies, some of them wearing shackles, were lying sprawled on the beaches". One of those questioned noticed that one of the victims was wearing an armband. This clue (an opposition rallying sign calling people to demonstrate), along with the shackles on the victims' hands, the noise of planes and helicopters heard by those questioned and seen flying at very low altitude over the sea, leaves no doubt as to the identity of those responsible for the extrajudicial executions. In Togo it is only the security forces who possess Buffalo planes, helicopters and shackles.

¹²Former hotel turned into a house for the military and on the road to Aného

A short time after the Presidential election results were announced, a paramilitary group close to the RPT, whose members wear military fatigues, extrajudicially executed **KEGBÉ Mathieu Koffi**, one of the CAR officials in Yoto, with the complicity of the security forces. During its visit in November and December 1998, Amnesty International met first-hand witnesses to this extrajudicial execution. Shortly before his death, **KEGBÉ Mathieu Koffi** had received death threats relating to his CAR activities.

In 1999, further information relating to extrajudicial executions was passed to Amnesty International. On 23 January 1999, three individuals, who had received permission to cross the frontier post at Avéshivé between Ghana and Togo, were killed by the FAT. The next day, a Togolese refugee returning from Ghana, **AGBASSA Koffi**, was killed at the same place. The latter's brother, who had claimed his body at the military camp in Adidogomé, one of the neighbourhoods of Lomé, not far from the border with Ghana, was arrested and released without charge after a week.

Article 60 of the CPP stipulates that "...in the case of discovery of a body, whether or not the victim of violent death, if the cause is unknown or suspicious, the criminal investigator who is informed, shall immediately inform the Public Prosecutor or the relevant magistrate in the public Ministry, visit the scene without delay and proceed with initial inquiries". The same article also lays down that "The Public Prosecutor may also gather information to seek out the cause of death". Although the Togolese press had reported the discovery of bodies on the beaches and also that certain gendarmerie posts had been informed that bodies wearing handcuffs had been recovered at certain locations, Amnesty International is not aware that the matter has been taken up by the justice system. This reluctance to open investigations is in contradiction with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.¹³

In relation to "disappearances", Amnesty International has had occasion in previous documents to draw the attention of the Togolese authorities to this practice which is used to eliminate any potential adversary. By causing these people to "disappear", the Togolese authorities are seeking, in particular, to create a climate of terror and to prevent normal funeral arrangements from being arranged by the families of victims.

At least a dozen individuals are reported as "disappeared" since 1994. On 6 September 1994, **BRUCE David**, a civil servant, was kidnapped from his car by three armed men, one of whom was carrying a machine gun. The location of the kidnapping, near to a barracks, leaves no doubt as to the identity of those ordered to carry out this task.

¹³Recommended by resolution 1989/65 of the Economic and Social Council of the United Nations, dated 24 May 1989

Furthermore, the vehicle in which BRUCE David was kidnapped was followed by two military vehicles. Between 1991 and 1993, BRUCE David had been a close adviser to the President of the HCR.

In November 1998, relatives of AMEDEKA Simon Kossi told the Amnesty International delegation that he had not been seen since his arrest in June 1993, when he was officially held in the airport gendarmerie in the Hedzranawoe district. Although the gendarmerie has a record of the number of the vehicle ordered to carry out this arrest, to date no information has been given to the relatives of the "disappeared" individual.

DJIEWONE Adjisse Essie, arrested on 10 August 1998 in Yokoé, in the Golfe district, when he was making for Ghana, was arrested along with his wife and taken to the gendarmerie in Lomé. His wife was released after one day, after having been ill-treated, but she has not seen her husband since. The security forces simply returned his shoes to her. Asked about this by friends of the family, the gendarmerie gave contradictory information about this "disappearance": in particular, they declared that DJIEWONE Adjisse Essie had never been arrested, then his wife was told that he had been released.

KOUNI Kodjo, a painter and decorator and EDOH Komlan in the district of Golfe, a pupil at the college in Séguera, were both arrested on 20 August 1998 at Agbeve Kope, one of the neighbourhoods of the village of Akato, at their home in front of their relations and have not been seen since. An official at the military camp at Adidogomé where they were taken after their arrest, told the family of EDOH Komlan that they had been transferred to the gendarmerie headquarters. But officials at headquarters denied this. Both were severely beaten at the time of arrest.

AKAKPO Kokou, was arrested on the night of 7 February 1999 in Casablanca, a district of Lomé, and taken to the gendarmerie; he has not been seen since. AKAKPO Kokou had taken refuge in Ghana in 1993. He is reported to have been suspected of extortion.

In November 1994, AKOLLOR Edoh "disappeared" in March 1993 and was declared absent by the *"tribunal de première instance de première classe de Lomé"*, following steps taken by members of the family of a "disappeared" person to obtain his retirement rights. A former soldier, he had been arrested in March 1993 by the Togolese security forces following an attack against the RIT camp in Lomé.

All Amnesty International's reports published during the last decade refer to the use made of extrajudicial executions and "disappearances". Despite the organisation's appeals, the Togolese authorities have never replied to its requests for details relating to these

problems. On this subject, Amnesty International points to resolution 47/133 of 18 December 1992, adopted by the General Assembly of the United Nations in its Declaration on the Protection of all Persons from Enforced Disappearance: Article 2: "No State shall practise, permit or tolerate enforced disappearances...". Article 6: "No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it..."

11. Conditions of detention

Throughout the country, and particularly in the civil prison and the gendarmerie headquarters in Lomé, conditions of detention are extremely harsh. They are far from meeting international standards for the treatment of prisoners, specifically the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.¹⁴ The conditions of detention of prisoners of conscience, political prisoners and common law prisoners are so deplorable that they constitute a denial of their most fundamental rights. They threaten health and even life and could be considered a form of cruel, inhuman and degrading treatment.

Although officially the civil prison in Lomé is a public institution, it is not the prison administration which keeps order there, but rather certain prisoners who, with the tacit agreement of the administration, impose their own regime.

According to the witness statements which Amnesty International was able to obtain in November 1998, it appears that life inside the prison is completely out of state control. It has not been possible to obtain a copy of the rules governing the running of the prison. If such exists at times, it is regularly overturned, even derided, for the benefit of a band of detainees who, with the tacit complicity of the Ministry of Justice, conduct a completely arbitrary regime. These detainees are only concerned with making a profit out of those who have the means to pay, and answer to names such as "*chef de bâtiment*" (CB), head of building, "*chef de bâtiment adjoint*" (CBA), assistant head of building, or "commando".

Each new arrival must pay a fee for the use of his own mat, to be called by the "crier" at visiting time or to have access to the WC or the shower. The entrance fee ranges from 5500 to 7500 CFA depending on the financial situation of the detainee. A former

¹⁴ These regulations were adopted by the United Nations General Assembly in Resolution 43/173 of 9 December 1988.

detainee described daily life in the civil prison in Lomé to the Amnesty International delegation. "Those who do not have any means find themselves in a situation known as *"cafouillage"*, shambles, or "single always", that is, they are squeezed up, five or six to a mat in order that those who have paid up may sleep two to a mat. Those detainees responsible for keeping order each have a mat to themselves to sleep on".

This former detainee adds that "orders" and "fines" are imposed on those who step out of line. "... Anyone who receives an order must carry it out within 48 hours, otherwise he must carry out a punishment duty (dish-washing, emptying dirty water, urine and WCs), if he refuses, he is moved to a harsher building. Younger prisoners are kept to fan the older prisoners in charge in the prison, particularly during the hot season, during the night when they are asleep or during the day".

Corporal punishment is also inflicted on those who do not respect certain prison rules. When the order *"makou général"*, general silence, is issued, prisoners must not speak and anyone who infringes this rule is beaten. It is also forbidden to wake others at night or to sleep inside a prison cell during the day. Apart from the fines and duties described above, a recalcitrant prisoner may be required to stand on one foot while an aeroplane passes over Lomé.

In addition to privileged detainees who blackmail other prisoners, unknown members of the prison administration, claiming to be representatives of the Public Prosecutor, regularly come to offer immediate release to detainees in exchange for payment of a sum of money.

The prison administration would have difficulty in ignoring these facts since it grants certain rights to the prisoners who are in charge. In this way, the "spokesperson" who liaises between the administration and the detainees, particularly during visiting times in the prison yard, can himself decide whether a prisoner is allowed to receive a visitor.

In prison, medical care and food supplies are completely inadequate. Many detainees suffer from illnesses such as tuberculosis or skin infections, for which they receive no medical treatment from the prison administration.

In June 1997, dozens of deaths in detention were reported and the Togolese press, including *"Crocodile"*, reported at the time the discovery of 69 dead bodies which had been buried by the mortuary of Tokoin. The morgue claimed that among the 69 bodies, 37 had been picked up by the police in the street and the 32 others were the bodies of detainees who had died following illness. It is worth noting that no announcement had been made to enable the relations of detainees to recover their bodies and that no autopsy was carried out

on the 37 other bodies found in the streets of Lomé.

Former prisoners have also told Amnesty International that four to five deaths, sometimes, more are registered each week. Among those who have died are:

- **DANKOH Dosseh** and **AGBOJALOU Kemau**, arrested in June 1997 and accused of terrorism, died a month later in the civil prison in Lomé.
- **TENOU Koffi**, died in September 1998 of malnutrition.
- **AHADJU Kodjo**, died of diarrhoea in October 1998.

A former detainee gave the following description of the treatment given to anyone who appears close to death:

"The only remedy which they (internal security at the prison) use is cold water which they throw over the dying person to provoke a reaction. If he doesn't react, they slap him on the back and cheeks. Very often it is too late and the corpse is hidden away from the sight of the other prisoners to avoid an emotional reaction. If there is some other problem, the guilty person is beaten to the ground and moved to a different building or cell".

If a prisoner's state of health requires removal to the "*cabanon*"¹⁵ (infirmary) of the CHU, the sick person must also pay for that:

"In order for the transfer to be made with some care, either the CB asks for a contribution, or the internal security makes a collection in each building for the costs of a taxi, as there is no assistance from the prison administration. But the "cabanon" of the CHU is as lacking in drugs, not to mention care, as the prison infirmary. Those prisoners who return from the cabanon nearly always die several days or weeks afterwards".

At gendarmerie headquarters in Lomé, prisoners are incarcerated in three cells known as the "*grande porte*", big door, the "*petite porte*", small door, and "*le fond*", the pit, where there is scarcely any ventilation. Former detainees told the Amnesty International delegation that individuals are held here for months or even years. If certain detainees receive visits, in return they are forbidden to take exercise. Former prisoners incarcerated

¹⁵ Cell located within the Tolkein University Hospital Centre of Lomé where detainees are transferred for medical care. Since it was damaged after the escape of a detainee in 1998, it is no longer used.

in the gendarmerie headquarters at Lomé have confirmed that deaths from torture and harsh conditions of detention have occurred. They add that during periods of hot weather, the death toll is greatly increased.

In the prison at Kara, conditions of detention are also harsh. A former prisoner, incarcerated with others in a cell in the prison at Kara, told the Amnesty International delegation that almost no daylight penetrated to his cell and that he emerged only to empty the slop bucket or to wash, "with the absence of light inside the cell, I had the feeling of walking about in a void, stumbling sometimes on outings to the shower". Visitors who had the opportunity to get close to the nine Togolese refugees transferred from the civil prison to the one at Kara told the Amnesty International delegation that they were "skeletal". One of them, NUTSUKPI Attisso, died, in all probability, from torture and harsh conditions in detention.

The deplorable situation which prevails in detention centres in Togo, particularly in the prison and gendarmerie headquarters in Lomé appears to be due, not so much to shortages of provisions, but to deliberate action or serious negligence on the part of the authorities.

The conditions in detention in Togolese prisons are in violation of Article 5 of the African Charter on Human and Peoples' Rights, which guarantees the right to the respect of the dignity inherent in a human being and prohibits the use of cruel, inhuman or degrading treatment. When a prisoner dies following ill-treatment or overly harsh conditions, it is a violation of the State's international obligation to guarantee the integrity, security and right to life of detainees.

12. The Togolese Armed Forces' responsibility for human rights violations

In most of his speeches and in his public and private appearances, President GNASSINGBÉ Eyadéma has always lauded the FAT which have been shaped by him to ensure his domination in the political life of the country. He has justified the intervention of the army in public life, declaring that it was putting a stop to "abuses" and that, in re-establishing order, it was guaranteeing peace and security. His speeches are regularly punctuated with terms such as "*the abyss*", "*arbitrary arrests*", "*tribalism and nepotism*" to describe the situation in the country prior to his accession to power.

The FAT have increased considerably in size over 25 years and currently consist of over 13,000 soldiers. As President and Head of the Armed Forces, the Head of State has arranged matters in such a way that the army is constituted principally of soldiers from his ethnic group (the Kabyé) and that posts of responsibility are allocated to his closest

entourage. The FAT is also known as an "*army of cousins*".

The army whose principle task is to protect citizens has never played and continues to fail to play this role in Togo. However, Article 49 of the Constitution stipulates: "The mission of the security forces and the police, under the authority of the Government, is to protect the free exercise of rights and liberties, and to guarantee the security of citizens and property". In reality, the Togolese army has been used to maintain President GNASSINGBÉ Eyadéma in power and to perpetuate a repressive system. Their omnipresence and the intervention of the Togolese armed forces in public life have created a state of violence which is increasingly gaining ground.

Repression, which was selective in character before 5 October 1990, the date of a major demonstration which opened the way for a multi-party system, has since taken a different form. Before this date, suspected political opponents were the main targets for repressive action by the FAT. After the big march of 1990, a rupture took place: the political enemy diversified and repression and violence were extended both to the civilian population and to members of the military suspected of being democrats.

During the last decade, soldiers who were members of the *Association des militaires démocrates* (ADM), Association of Democratic Servicemen, or those who were suspected of links with non-violent or armed opposition were extrajudicially executed. Some members of the military, accused of having taken part in an attempted attack against the RIT, were arrested in March 1993 and held in detention for at least eight months. At the time of another attack against the same barracks in January 1994, the soldiers arrested in March 1993 were extrajudicially executed at Massouhoin. Before being killed, they were sprinkled with petrol and burned alive. Another soldier, Lieutenant TOKOFAI Vincent who had taken refuge in Ghana, was killed in Accra in July 1995, probably with the collusion of Togolese military personnel. An inquiry was opened but the results have not yet been published.

The FAT also call upon the collaboration of a militia whose members are both servicemen and members of the RPT. This militia which is established throughout Togo acts especially at night and is responsible for intimidating opposition supporters.

In July 1998, in Afagnan, militiamen of the RPT acting in concert with the security forces put down an opposition demonstration which was protesting against the announcement of the Presidential election results. In the course of this demonstration, a tailor who was standing in front of his shop was killed, when the military made excessive use of their firearms.

An opposition activist from Sédomé, in Yoto district, was also extrajudicially

executed and certain others were forced to abandon their village. Witnesses present at the killing of KEGBÉ Mathieu Koffi, leader of the CAR at Sedomé, told the delegation that before executing him, militiamen wearing military fatigues interrogated him on his political allegiance. When he replied that he was a member of the CAR, the militiamen said to him: "You say you are from the CAR, let them come and look for you". They made him bend over then they shot him in the anus, and finally finished him off with a dagger. His mother who wanted to propose that they kill her in place of her son, was also struck. Witnesses recognised a member of the RPT among the assailants.

13. Impunity

All that has been described up to this point demonstrates that there has been no case where the agents of terror, that is, the members of the security forces, have been challenged for their behaviour. With the exception of those members of the FAT convicted for killing an employee of the German Embassy, RUPPRECHT Thomas, the justice system has instituted no action against those responsible for human rights violations in Togo. In the case of RUPPRECHT Thomas, who was killed at a security barrier after refusing to let his car be searched in March 1996, pressure from the German authorities forced Togo to take judicial sanctions against members of the security forces responsible for this violation of human rights. On the other hand, when the victims of "disappearances", arbitrary arrests followed by torture and extrajudicial execution are Togolese, the judicial authorities seem in very little haste to mete out justice.

In November 1997, the Togolese authorities took the decision to grant a sum of money to the relatives of ATIDEPÉ Marc, AMORIN Tavio and EDEH Gaston, all victims of extrajudicial execution by the security forces. This financial compensation awarded by the authorities to the relatives amounts to a recognition of the involvement of the security forces in the executions of the parliamentarian and the members of the HCR. However, the Togolese authorities have not explained how they have arrived at this financial compromise. Civil society, and in particular the relatives of the victims, want an independent inquiry to shed light on these executions, so that those responsible can be brought to justice.

In July 1991, following the discovery of several bodies in the Bé lagoon, the CNDH opened an inquiry and concluded that the security forces had instigated these murders. Amnesty International joined with the CNDH and the National Conference to request the Togolese authorities to bring the perpetrators of the lagoon murders to justice. To date no legal action has been brought and the justice system has done nothing to identify the officers or servicemen responsible for these extrajudicial executions and bring them to justice. Neither has anything been done to change or forbid current procedures and

practices.

In December 1994 the National Assembly passed a general amnesty law covering all crimes of a political nature committed prior to 15 December 1994, which appeared to grant impunity for all human rights violations committed by the security forces prior to that date. In March 1995 at the time of a visit by Amnesty International to attend the 17th ordinary session of the African Commission on Human and Peoples' Rights, the delegates met with the Prime Minister and the Minister of Justice and they raised their concerns that it appeared to grant impunity for human rights violations.

At the time of its most recent visit, the Amnesty International delegation sought to find out why the conclusions of the CNDH report had not been implemented. The delegation also asked the Togolese authorities if inquiries were to be made into other human rights violations, including the attack in August 1998 against the homes of the PDR and UFC-leaders and the extrajudicial executions brought to its attention.

In the face of these persistent and serious allegations, the Togolese authorities have simply denied all Amnesty International's concerns and have disputed the delegation's information. One minister declared that "Amnesty International was annoying him and tiring him with its declarations". In relation to events at the Bé lagoon, another minister declared that opposition members had themselves placed the dead bodies in the morgue in order to accuse the Government. In respect of the attacks against the homes of opposition leaders, he declared that there was no evidence that the security forces were behind these rocket attacks. This assertion is all the more surprising given that all those questioned had confirmed that the security forces had deployed enormous human and material resources to attack these homes.

14. Togo and the rest of the world

The Togolese people, and especially the victims of repression and those who have been forced to take refuge outside their country are rightly wondering if the international community is exercising any pressure on their Government to put a stop to human rights violations in their country.

At the time of political crises in 1993 and 1998, European mediators duly mandated by their countries, including France and Germany, visited Togo to attempt to resolve the crisis. Alternative frameworks were constructed and on several occasions President Eyadéma gave tokens of good faith in respect of human rights. But this stated good faith remains purely ceremonial for the benefit of the rest of the world.

Although the issue of human rights is sometimes touched on, it never remains a

major preoccupation. However, overseas governments are perfectly well informed about the extent of violations committed in Togo, both via their Embassies and also from members of local and international human rights organisations.

In January 1998 Ghana, where for several years many Togolese have taken refuge, handed over nine refugees suspected of robbery to the Togolese authorities. They were all tortured on their arrival in Lomé. One of them, NTSUKPUI Attiso, died in detention.

In spite of the gravity of the human rights situation, certain governments, principally European ones, including Germany, Belgium, France and Switzerland, exercise a blanket refusal to applications from Togolese asylum seekers. These governments know full well that some of these asylum seekers are in danger. Although the files of asylum seekers are examined on a case by case basis, the actual human rights situation in Togo is not taken into account and many are returned home. Some of these asylum seekers have been arrested on their arrival in Togo.

One of these refugees, repatriated by force from Germany is still living clandestinely in his country. This man, who has requested anonymity, had played an important role as a trade unionist before taking refuge in Germany. Arrested on his return to the country in January 1998, he was placed in an unregistered detention centre along with other refugees expelled from Europe, including Switzerland.

Although this case has been drawn to the attention of the German authorities, it has not been examined with the necessary care. At first, the German authorities maintained that this Togolese refugee was detained for only one day after his forced return to the country, in January 1998. He was alleged to have confirmed this version in the presence of a legal advisor. At this meeting he was alleged to have explained that in September of the same year, the security forces had come to arrest him again, but that he had escaped. After these "scrupulous investigations" the German authorities concluded that the expelled refugee had not been detained for eight months, contrary to Amnesty International's claims.

However, in an internal note to the German Ministry of Foreign Affairs, the German Embassy in Lomé indicated that the refugee, on being questioned for a second time in January 1999 in the presence of his legal counsel, had confirmed Amnesty International's information on his long period of detention. But the Ministry of Foreign Affairs called into question the credibility of the victim and his counsel. Without taking account of new information supplied by Amnesty International, the German authorities persist in claiming not to have had any knowledge of any proceedings against persons expelled from Germany and claim that the Togolese authorities are trying hard to give appropriate treatment to those repatriated to Togo in order to avoid criticism by the German authorities and civil society.

Nonetheless, this note makes clear that their Embassy in Lomé is not in a position to give assurances about the situation of asylum seekers expelled to Togo.

In 1998, after the Presidential election results were announced, the EU decided to suspend co-operation with Togo, on the basis of Article 5 of the Lomé Convention which in particular states: "Respect for human rights, democratic principles and the rule of law, which underpins relations between the ACP States (African, Caribbean and Pacific), and the Community and all provisions of the Convention, and governs the domestic and international policies of the Contracting Parties, shall constitute an essential element of this Convention", as the result of the vote did not accord with the wishes of the electors. The EU observers had expressed serious doubts about the manner in which the elections had been conducted. Although the President of France, Jacques CHIRAC, declared that his country would support Togo on the question of co-operation, it appears that, for the moment, the French authorities have taken the line of the EU. However, aid already agreed and being implemented was not frozen.

Although it is essential to challenge the FAT, and in particular the army hierarchy, it is no less important to reflect on the action of foreign countries who provide arms and other military *matériel* which have permitted numerous human rights violations to take place. Two African countries, South Africa and Chad have, in the past, furnished military, security and police *matériel* to Togo. Some European countries, in particular Germany and France, who maintained co-operative relations with Togo, suspended their aid in 1993 after a massacre took place in January of the same year, during a visit of the French Minister for Co-operation and the German Secretary of State for Foreign Affairs. The two EU ministers were in Togo to try to resolve a political crisis. France resumed its co-operation one year later. However, France's year of suspension had little effect, as assistance already committed was implemented and continued its original duration.

France has justified its aid to Africa in a document published by its National Assembly, in these terms: "Accession to independence by most of the countries in the region has required the setting up of an administration, of State institutions and of a security force. At the request of those countries which had insufficient senior military personnel, France has lent its assistance by providing officers to take up posts of responsibility on a temporary basis within the structure of local armies, whether at the headquarters or in certain units"¹⁶. The same text specifies that "From now on, except in exceptional circumstances, technical assistants, will not exercise a command role, but will contribute effectively, by their advice, to the life of the corps to which they have been assigned".

¹⁶ Note presented in the name of the National Defence and Armed Forces Commission on the Finance Bill for 1993.

In the various papers and reports as well as statements by French government officials on the question of co-operation with Africa, "democratic pluralism and a greater respect for civic freedoms" return as a common theme. However, it is deplorable that, in the case of Togo, when military co-operation was resumed one year after the suppression of a peaceful demonstration in 1993 it was not accompanied by any consideration about the creation of the rule of law and of the possible use of military, security and police *matériel* provided to Togo by France to violate human rights.

Togo has benefited and continues to benefit from significant French military aid, particularly through the medium of an agreement on defence and on technical military assistance. By virtue of this agreement, France may be called on by Togo to intervene at any time in the case of external invasion. The agreement, which has never been made public, also allows for intervention in the case of trouble within Togolese territory. France already intervened, in September 1996, at the time of an attack by an armed opposition group.

The technical military assistance has three components: assistance from French experts; provision for Togolese trainees to be instructed in France and in colleges focussed on the region; and the provision of *matériel*.

Amnesty International does not take a position on the legitimacy of maintaining relations with respect to military and security matters with countries where human rights are violated. However, it is opposed to the transfer of equipment, personnel, training and logistical support from one country to another in the areas of security, policing and the army, whenever it has reason to believe that they contribute directly to infringements of human rights. In a previous document, published in 1993, Amnesty International already pointed to the link between military, security and police transfers and human rights violations in Togo.

The obscurity surrounding the question of military co-operation between Togo and France makes detailed analysis impossible. However, information received by Amnesty International and other information contained in different reports and notes on French co-operation indicate that French military aid, in particular that relating to buying equipment or financing military training has been used with the aim of repressing the civilian population of Togo. Some of the bullets found after the attack on opposition leaders' homes, in August 1998, were analysed and found to have been manufactured in France.

In addition to direct aid for the maintenance of equipment which amounts to 5 million francs annually, Buffalo aircraft made in Canada have been repaired in France. These are the same aircraft which, according to witnesses, are reported to have been used

to jettison dead bodies along the coasts of Togo and Benin. France also provides a permanent presence of 28 to 30 military advisers, including instructors, a pilot and mechanics. Furthermore, within the remit of this co-operation the Defence Minister and his Chief of Staff have at their disposal the services of a French military adviser; the Chief of Staff of the gendarmerie and the Army Intendant are also able to call on the support of French military advisers.

This technical military assistance has increasingly taken on the appearance of tacit support for President GNASSINGBÉ Eyadéma and it appears that no training on respect for human rights has been included within the remit of this military co-operation. In the note in the name of the National Defence and Armed Forces Commission on the Finance Bill for 1995, France appears to have indicated its choice by its criticism of the radical opposition: "The Presidential elections of August 1993 were marked by the withdrawal, on the eve of the poll, of the main candidates of the moderate opposition. In these circumstances, the re-election of General Eyadéma to the leadership of Togo, has been widely criticised and the radical opposition which, moreover, had boycotted the election, may be behind the attack which took place in Lomé on 5 January (1994) and which claimed around a hundred victims". Without requesting that an independent inquiry be set up, France has made clear its assumptions about the possible aggressor and has thus taken sides. It is worth recalling that in January 1994 at least 48 prisoners were extrajudicially executed by the Togolese security forces, in the days following the alleged attack in Lomé.¹⁷ Some of those executed were civilians, who were reportedly arrested in the streets, and others were servicemen, who had already been imprisoned for more than nine months.

During Amnesty International's recent visit, in November and December 1998, this French support for the Togolese authorities also appeared obvious. In the course of a meeting with the Minister of Defence, during which the delegation raised the matter of extrajudicial executions and the probable use of Buffalo aircraft and helicopters, a French military adviser who was present at the meeting, without condemning human rights violations declared that "with all the difficulties of the Togolese army and given the state of the Togolese aviation, it is utopian to think that there were overnight flights". He added: "The Togolese pilots would not be able to carry out flights during the night". Information received by the Amnesty International delegation is however different from that given by the French adviser. Furthermore, the magazine "*Frères d'Armes*" published by the Ministry of Defence in France, in its September/October 1997 issue, stated: "The Togolese Air Force is a young force in full expansion, aware of the importance of its mission. Most of its personnel is trained in training centres in France. This army of specialists, provided with

¹⁷ See document published by Amnesty International in September 1994, *Togo: A new era for human rights?* (AIR 57/02/94).

the most sophisticated *matériel*..."¹⁸.

This passivity, indeed this "cover-up" appears to show that France is not prepared to publicly condemn human rights violations committed in particular by the Togolese security forces. Furthermore, a senior gendarmerie official accused by the CNDH¹⁹ of having ordered the torture of four people in August 1990 was awarded the decoration of Officer of the National Order of Merit by France in April 1998. Other people allegedly responsible for ill-treatment have been trained in France. During Amnesty International's visit the delegation asked for investigations into a gendarmerie Captain whose name had been given by several people as being responsible for torture and ill-treatment. The Minister of Defence replied that he was being trained in France. It is very likely that the French authorities are aware of this information. This attitude can only encourage further violations. It is a far cry from the discourse on the rule of law advocated by France when referring to co-operation with African countries.

15. Conclusions and recommendations

Violations of human rights in Togo have their origin in the political choices and behaviour which have carried on for decades and which have contributed to their becoming institutionalised. The Presidency, the Government and most particularly the army hierarchy appear to have concerns other than the human rights which they mention only in their speeches.

Across the country, persistent and systematic human rights violations are committed, hundreds of people have been deliberately executed extrajudicially by the security forces. Methods of torture which endanger prisoners' lives are still used. Those held in *garde à vue* as well as prisoners are regularly victims of torture, ill-treatment and punishment inflicted by the gendarmes and in the civil prison in Lomé by fellow detainees. The perpetrators of these practices have never been brought to justice.

Civil society and particularly human rights organisations in Togo insist that these human rights violations should be the subject of judicial proceedings and that victims and their relatives should obtain reparation, but the authorities appear to pay no attention to these demands.

On several occasions, Amnesty International has appealed to the Togolese

¹⁸"*Frères d'Armes, Revue de liaison des forces armées de France, de l'Océan Indien, des Caraïbes, du Pacifique et du Cambodge*", n. 208, September/October 1997, p.29.

¹⁹Press release of CNDH, 14 September 1990

authorities and to President GNASSINGBÉ Eyadéma to take urgent action to prevent further violations from being committed by the security forces, but to date nothing has been done. All members of the security forces responsible for the terror which reigns in Togo, enjoy total impunity and are in no way challenged by the justice system.

Human rights violations in Togo require that urgent measures be taken to put a stop to such serious infringements. If the will exists to end human rights violations in Togo, it will be necessary to take a series of concrete measures to attack the very roots of this evil. Any action in this arena is above all a matter of responsibility for the Togolese authorities. Nonetheless, the members of the international community have a duty to play a part in rectifying the situation, in that they have tolerated the perpetration of the gravest violations over three decades.

Amnesty International is putting forward for the attention of the Togolese authorities a series of recommendations, which if implemented would create the conditions for an improvement in human rights. These recommendations are grouped into three categories: those which would allow past and present violations to be exposed so that reparation can be made; those which would contribute to avoid further violations; and those which would start to promote international standards on human rights and implement them. The majority of the recommendations are drawn from the provisions of international instruments, particularly the ICCPR and the Convention against Torture.

A) Exposing past and present human rights violations

Amnesty International urges the Togolese authorities to:

Return to their families the remains of those who died as a result of extrajudicial execution.

Identify dead bodies found abandoned in circumstances which suggest extrajudicial executions may have occurred.

Initiate inquiries into the circumstances of and responsibility for extrajudicial executions which have been reported.

Clarify the fate of all those reported to have "disappeared" in detention.

Release any "disappeared" people immediately and, if they have died, return their remains to their families.

Release all prisoners of conscience immediately and unconditionally - that is, all those detained solely for expressing their political convictions in a non-violent manner.

Ensure that anyone held without charge for suspected political activities is charged with an offence recognised in law and judged fairly and promptly; if not, ensure that such individuals are released.

Ensure that anyone sentenced as the result of an unfair political trial is released, or that his or her file is re-examined promptly and impartially.

Compensate fairly all victims of human rights violations or, their relatives in the case of those killed or who have "disappeared".

Ensure that members of the security forces suspected of committing human rights violations are brought to justice and appear promptly before a civil court, and that they are disarmed and suspended from active service throughout these proceedings.

B) Preventing further human rights violations

To prevent the commission of further human rights violations in Togo, Amnesty International urges the Togolese authorities to:

Explicitly forbid, through legislation, any "disappearance" and any extrajudicial, arbitrary or summary execution and ensure that these types of human rights violations are recognised as penal offences by national legislation and are punishable by sanctions proportionate to the seriousness of the crime.

Implement the provisions of the United Nations "Code of Conduct for Law Enforcement Officials" and "Basic Principles on the Use of Force and of Firearms by Law Enforcement Officials" and put in place investigative and disciplinary procedures.

Honour contractual obligations made by Togo's ratification of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and take measures to ensure that all acts of torture constitute, in themselves, offences in law. Furthermore, all allegations of torture and ill-treatment should be the subject of an independent and impartial inquiry.

Guarantee that all detainees have the opportunity to see a lawyer of their choice in a proper manner and with the minimum delay, as well as a doctor and members of their family.

Ensure that all those deprived of their liberty are placed in an officially recognised place of detention and appear before a judicial authority promptly after their arrest.

Establish centralised public registers of all those detained throughout the country. These should be frequently and regularly updated and should be available so that the families and lawyers of detainees and human rights organisations can consult them.

Take all necessary measures, particularly in framing new legislation, to ensure that no statement extracted as a result of torture or ill-treatment may be used as evidence in judicial proceedings, except against a person accused of torture as evidence that the statement was made.

Ensure that education and information regarding the prohibition against torture and other inhuman or degrading treatment are effectively introduced into all training programmes for the Togolese security forces and that the latter receive clear instructions that torture is prohibited and these crimes are subject to punishment by law. These training programmes should be strongly reinforced and should be prepared in co-operation with national and international organisations with experience in this area.

Ensure that the mandate, composition and methods of working of the National Human Rights Commission conform to norms established by the United Nations Commission on Human Rights.

C) Promoting human rights

Amnesty International urges the Togolese Government to show its commitment to promoting international standards on human rights and to their full and complete implementation by:

Inviting the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and the Working Group on Enforced or Involuntary Disappearances to visit Togo.

Permitting, without hindrance, surveillance of the human rights situation in Togo by human rights organisations, both local and international, and specifically by Amnesty International.

In addition, Amnesty International appeals to members of the international community to condemn publicly human rights violations committed in Togo and to keep a close watch on the situation with the assistance of intergovernmental organisations.

Amnesty International requests members of the international community to condemn the transfer of military, security or police equipment or capability from foreign countries, including France, which contributes to the perpetration of human rights violations in Togo. Amnesty International calls on the French Government to recognise its responsibility in the

human rights crisis currently being experienced in Togo and to act to put a stop to atrocities.

Instead of finding excuses for the Togolese authorities, French instructors and gendarmes in Togo should report all the violations that they witness as well as the serious cases reported to them.

When presenting honours and recruiting officers or trainees, it would be appropriate to take account of their possible involvement in any past human rights violations.

Ensure that asylum seekers are not repatriated to Togo by force, if they are at risk of being victims of serious human rights violations, and ensure that any claims made by asylum seekers, including those held in detention, are examined impartially and in depth. Amnesty International urges foreign governments, particularly European governments, to consider requests for asylum with reference to the human rights situation in Togo.

