Unfair pre-trial detention and corruption in the criminal justice system.

The case of Cameroon.

Author: Michela Gaffuri Riva
Supervisor: Maria Teresa Pizarro Beleza
ABSTRACT

The massive over-use of pre-trial detention around the world and its excessively prolonged duration represent an alarming but still overlooked human rights abuse undermining the right to presumption of innocence, the right to liberty and security and the right to a fair trial, fostering further violations. The need for addressing such a practice should include a specific attention to corruption and poor rates of integrity within the institutional sectors playing a relevant role in the pre-trial stage, namely the law enforcement agencies and the judiciary.

This thesis starts from the hypothesis that a particularly close relationship is likely to arise between unfair pre-trial detention and corruption in the criminal justice system. It attempts to explore the commonly underestimated nexus between the two and its implications. In order to do so, it makes use of the case-study of Cameroon, where both the issues under examination seem to be substantial.

Based on the need for more effectively addressing unfair pre-trial detention, the last chapter will propose some potential modalities of intervention aimed at countering such practice by taking into account also its vulnerability to corruption.
# TABLE OF CONTENTS

INTRODUCTION ........................................................................................................................................... 9

CHAPTER 1: INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS ON PRE-TRIAL DETENTION ................................................................. 15

1.1 Presumption of innocence .................................................................................................................... 16
1.2 Separation of classes of detainees ...................................................................................................... 17
1.3 Prohibition of arbitrary arrest and detention ....................................................................................... 18
1.4 Right to be informed of the reasons for arrest and of any charge ..................................................... 20
1.5 Substitute for Custody .......................................................................................................................... 21
1.6 Right to be brought promptly before a judicial authority and to trial within a reasonable time or release .......................................................................................................................... 23
1.7 Right to a fair trial .................................................................................................................................. 26
   1.7.1 Right to be heard by a competent and independent tribunal ......................................................... 27
   1.7.2 Access to counsel ............................................................................................................................. 29
1.8 Prohibition of torture and ill-treatment .................................................................................................. 31
1.9 Conditions of detention ....................................................................................................................... 34
1.10 Judicial Review of Confinement ......................................................................................................... 38

CHAPTER 2: UNFAIR PRE-TRIAL DETENTION IN CAMEROON ...................................................... 43

2.1 The extent of unfair pre-trial detention in the country ......................................................................... 43
   2.1.1 UN system ....................................................................................................................................... 43
   2.1.2 Regional system ............................................................................................................................... 47
   2.1.3 NGOs and other sources ............................................................................................................... 49
2.2 The main causes of unfair pre-trial detention ...................................................................................... 51
   2.2.1 Legal Framework ............................................................................................................................. 51
   2.2.2 Process- and practice-related factors along the policing-justice chain ........................................ 54
   2.2.3 Wider social norms and political pressures .................................................................................. 56
2.3 Impact of unfair pre-trial detention .................................................................................................... 58

CHAPTER 3: CORRUPTION AND POOR RATES OF INTEGRITY WITHIN THE POLICE FORCES AND THE JUDICIARY IN CAMEROON ............................................. 63
3.1 Some general definitions.................................................................63
3.2 The case of Cameroon...................................................................65
  3.2.1 A democratic regime only in form and corruption as a generally accepted
        social norm..............................................................................67
  3.2.2 Corruption and poor rates of integrity within the police forces.........71
  3.3.3 Corruption and poor rates of integrity within the judiciary.............74

CHAPTER 4: EXPLORING THE NEXUS BETWEEN UNFAIR PRE-TRIAL
DETENTION AND CORRUPTION AND PROPOSING POTENTIAL MODALITIES
OF INTERVENTION.............................................................................79
  4.1. Why corruption proliferates in the pre-trial stage..........................80
  4.2 A mutually reinforcing relationship.............................................84
  4.3 Potential opportunities for intervention.......................................86

CONCLUSION.....................................................................................95

BIBLIOGRAPHY..................................................................................99
  BOOKS AND ARTICLES.................................................................99
  INTERNATIONAL ORGANISATIONS' DOCUMENTS..........................100
    African regional system.............................................................100
    European regional system.........................................................101
    United Nations system..............................................................102
  NGOs' AND OTHER SOURCES.....................................................109
  CASE LAW.......................................................................................113
  INTERVIEWS...................................................................................120
2015

Unfair pre-trial detention and corruption in the criminal justice system. The case of Cameroon

Gaffuri Riva, Michela

https://doi.org/20.500.11825/280

Downloaded from Open Knowledge Repository, Global Campus’ institutional repository