



## **Togo: one decade of impunity**

### **Five steps to end impunity**

## **JOINT STATEMENT FROM ACAT-FRANCE AND AMNESTY INTERNATIONAL ADDRESSED TO CANDIDATES FOR THE PRESIDENTIAL ELECTIONS ON 25 APRIL 2015**

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*In the run-up to the presidential elections in Togo, ACAT-France and Amnesty International call upon all candidates to commit to respecting and promoting human rights. ACAT-France and Amnesty International propose five pledges that candidates should make to show their commitment both to human rights and to ending impunity in Togo.*

### **Impunity for human rights violations committed during the presidential election of April 2005**

Ten years ago, Togo experienced one of the most painful episodes in its history; the presidential election of 24 April 2005. This election was marred by political violence and serious human rights abuses and ultimately led to the death of nearly 500 people, according to the United Nations.<sup>1</sup>

The political climate has certainly calmed since, in particular in view of the signature of a Global Political Agreement (GPA) between different socio-political actors in August 2006. Elections were also held without major incident in both 2007 and 2010. Moreover, a Truth, Justice and Reconciliation Commission (TJRC) was established in 2009, the objectives of which notably included studying the different terms of reparation for the victims of past political violence. On 3 April 2012, the TJRC submitted its final report, which recommended that the state "investigate, prosecute and punish any suspected perpetrator of acts of torture and ill-treatment."<sup>2</sup>

Ten years after the abuses of April 2005, it is clear that there has been little progress in the implementation of this recommendation. Moreover, torture is still not defined as a crime in the Togolese Penal Code, as article 4 of the Convention Against Torture (CAT) requires.<sup>3</sup> Of the 72 complaints filed by the families of victims with the Atakpamé, Amlamé and Lomé courts none have so far been fully investigated. Only one judge at the Atakpamé court began to investigate complaints by hearing several of the victims, however, this judge was transferred to another court and the investigation was not completed. All in all, the three investigating judges for these cases are no longer in office and all of the cases have been put on hold.

Authorities have taken no steps to identify the suspected perpetrators of these abuses. The Togolese authorities have embarked upon a policy of reconciliation but victims have not received justice or reparation for these abuses.

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<sup>1</sup> Fact-Finding Mission of the United Nations High Commissioner for Human Rights (HCDHNU), tasked with investigating the violence and allegations of human rights violations that occurred in Togo before, during and after the presidential election of 24 April 2005.

<sup>2</sup> Commission Vérité, Justice et Réconciliation, Synthèse des recommandations, Respect du droit à la sécurité et la liberté, Recommandation 2, Page 2.

<sup>3</sup> Article 4 of the CAT states, "1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature."

Although the Constitution guarantees the independence of the judiciary, these blockages in criminal justice have been underreported, both in Togo and internationally. No investigations concerning the victims' cases have been conducted.

### **Freedom of Expression**

ACAT-France and Amnesty International are concerned about the repeated attacks on freedom of expression in Togo ahead of the upcoming presidential election. In February 2013, the National Assembly passed a law granting the High Authority of Audiovisual and Communication (HAAC) the discretionary power to impose fines on the media without going through the courts; this has sparked outrage amongst journalist associations. One month later, the Constitutional Court found that six articles of this law were unconstitutional. Amah Olivier, President of the Association of Victims of Torture in Togo (ASVITTO), was also arrested in September 2013 after discussing the current political climate during a demonstration and was charged with "inciting rebellion". He was released on bail in February 2014 and also reportedly received death threats whilst in detention.

### **Torture and other ill-treatment**

Torture and other ill-treatment remain a real concern in Togo despite the commitments made by authorities over the last decade to crack down on such abuses. In 2010, Togo ratified the Additional Protocol to the Convention against Torture (OPCAT), thereby committing to establish a national preventative mechanism (NPM) and to defining torture as a criminal offence. Bills to this effect have been tabled in the National Assembly, without any real follow-up. This means that, to date, there is still no NPM in Togo.

Security forces continue to inflict torture and ill-treatment upon those in pre-trial detention. Mohamed Loum was amongst the most recent victims. He was arrested on 18 January 2013 by gendarmes (military police) following the market fire cases<sup>4</sup> and was beaten and subjected to waterboarding whilst in their custody. On several occasions, he was also handcuffed for long periods, often 24 hours at a time, and without food or water.

Several people who were convicted in September 2011 for participating in a coup attempt in 2009, lodged a complaint with the ECOWAS (Economic Community of West African States) Court of Justice on the grounds that they were tortured during interrogations. In July 2013, the Court found that the Togolese State was responsible for torture and ordered it to pay compensation to the victims. The authorities did not deny these allegations of torture and each plaintiff was partially paid the compensation due. The members of security forces suspected of these acts of torture were transferred to other districts, but no investigation was opened and no-one has yet been prosecuted.

### **Conditions of Detention**

The conditions in which prisoners are detained in Togo do not meet international standards and deaths are common. According to Atlas Against Torture (AAT)'s report, some cells, which measure five metres by four metres, hold more than 80 prisoners.<sup>5</sup> Inadequate medical care continues to put the lives of prisoners in danger. Étienne Yakanou Kodjo, a member of the political opposition party, the National Alliance for Change (ANC), died in prison in May 2013 as he did not receive the necessary medical care in time. No investigation was opened into this case. Furthermore, though the European Union (EU) is financially supporting Togo in the construction of a new prison in Kpalimé, the government has not yet made its contribution of around 10% of the total cost needed to complete the construction. To date, this prison is still not operational.

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<sup>4</sup> Two major fires destroyed markets in Kara and the capital, Lomé, in January 2013. Later that month the National Assembly lifted the immunity of Agbéyomé Kodjo, formerly Prime Minister as well as President of the National Assembly, to allow his arrest in connection with the fires, along with other opposition members. Agbéyomé Kodjo was released in late February 2013 and Abass Kaboua, President of the Movement of Centrist Republicans, was released in September 2014. By the end of 2014, of 33 men originally charged, 20 remained in detention. A number of them were charged with conspiracy to associate with criminal intent.

<sup>5</sup> Available at, [http://www.univie.ac.at/bimtor/dateien/EIDHR Atlas de la Torture Togo rapport final 2013.pdf](http://www.univie.ac.at/bimtor/dateien/EIDHR%20Atlas%20de%20la%20Torture%20Togo%20rapport%20final%202013.pdf) (last consulted April 2015)

ACAT-France and Amnesty International therefore call upon presidential candidates running for election on 25 April 2015 to commit to taking the following measures in the event they are elected:

- Put an end to the impunity for human rights violations committed in April 2005;
- Strengthen the independence and impartiality of the judiciary so that it can promptly, thoroughly and effectively investigate all allegations of human rights abuses and, where sufficient evidence may exist, prosecute those suspected of offences in accordance with international fair trial standards;
- Repeal or amend laws that restrict the exercise of freedom of information and expression to be compatible with international human rights standards;
- Make all acts of torture an offence in the penal code and establish a national mechanism for the prevention of torture (NPM);
- Improve prison conditions to meet international standards.