



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the fifth periodic report of Cameroon\*

1. The Human Rights Committee considered the fifth periodic report of Cameroon (CCPR/C/CMR/5) at its 3426th and 3427th meetings (CCPR/C/SR.3426 and CCPR/C/SR.3427), held on 24 and 25 October 2017. At its 3444th meeting, held on 6 November 2017, it adopted the present concluding observations.

#### A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting, albeit somewhat late, its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/CMR/Q/5). It appreciates the opportunity to resume a constructive dialogue with the State party's multisectoral delegation on the measures taken by the State party to give effect to the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation.

#### B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party, including:

(a) Order No. 081/CAB/PM of 15 April 2011 establishing an interministerial committee for monitoring the implementation of the recommendations and/or decisions of international and regional human rights protection mechanisms;

(b) Act No. 2011/024 of 14 December 2011 on measures to combat the smuggling of migrants and trafficking in persons;

(c) Act No. 2012/001 on the Electoral Code on the introduction of the gender approach in the preparation of candidate lists;

(d) Act No. 2016/007 of 12 July 2016 on the Criminal Code, establishing new offences relating, inter alia, to genital mutilation and to forced and early marriage.

4. The Committee also welcomes the State party's ratification, in 2013, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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\* Adopted by the Committee at its 121st session (16 October–10 November 2017).



## C. Principal subjects of concern and recommendations

### **Applicability of the Covenant in the domestic legal system and implementation of the Committee's Views**

5. The Committee notes that article 45 of the Constitution of Cameroon establishes the primacy of international treaties over national laws. The Committee welcomes the few examples cited by the delegation of cases in which the Covenant has been invoked before national courts. It regrets the often significant delays in the implementation of its Views, in particular with regard to compensation (art. 2).

**6. The State party should: (a) continue its efforts to raise awareness of the Covenant among judges, lawyers and prosecutors in order to ensure that its provisions are taken into account before and by the national courts; and (b) take all appropriate measures to give full effect to the Committee's Views without undue delay and to ensure that an effective remedy is available to persons whose rights under the Covenant have been violated.**

### **National Commission on Human Rights and Freedoms**

7. The Committee welcomes the fact that the National Commission on Human Rights and Freedoms has been re-accredited, with A status, to the Global Alliance of National Human Rights Institutions. However, it is concerned at reports that the Commission is not perceived as a fully independent body and, in particular, about: (a) the process for selecting its members, which is not inclusive or transparent; (b) the fact that the Commission's membership includes members of Parliament and senators, who have voting rights; and (c) reports that the Commission's funding is limited and its access to certain places of detention is restricted (art. 2).

**8. The State party should: (a) review Act No. 2004/016 of 22 July 2004 in order to ensure that the process for selecting and appointing the Commission's members is transparent and independent and to include a provision on the conflict-of-interest rules that apply to those members; and (b) provide the Commission with sufficient resources and with the full autonomy and freedom it requires in order to discharge its mandate in full, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

### **Anti-corruption efforts**

9. While acknowledging the measures taken by the State party to combat corruption (Operation Épervier), the Committee notes with concern that corruption is endemic in the State party. Also troubling are reports that public authorities, including those in the police, judicial, tax, education and health sectors, often extort money from individuals as a condition for providing services. The Committee takes note of the State party's anti-corruption measures, but is still concerned at allegations that these measures are exploited and misused in order to target certain prominent individuals, including political figures (arts. 2, 14, 25 and 26).

**10. The State party should: (a) step up its efforts to combat corruption and to ensure that it does not go unpunished; (b) ensure that all cases of corruption are independently and impartially investigated and, where applicable, that appropriate judicial penalties are imposed on perpetrators; and (c) establish strict standards for public officials and ensure that those responsible for acts of corruption are subjected to disciplinary action and are prosecuted in court.**

### **Counter-terrorism**

11. While recognizing the necessity of counter-terrorism measures in the State party, the Committee is particularly concerned about: (a) Act No. 2014/028 of 23 December 2014 on the penalization of acts of terrorism, which introduces new grounds for the death penalty, contains provisions that are incompatible with basic human rights and provides for the jurisdiction of military courts, even over civilians; (b) allegations that this law is widely

applied, including for alleged failure to report terrorist activities; and (c) reports that numerous abuses, such as arbitrary detention, torture and extrajudicial killing, have been committed in the name of counter-terrorism (arts. 2, 6, 7, 9 and 14).

**12. The State party should take the necessary steps to: (a) review Act No. 2014/028 in order to bring it into compliance with the Covenant; and (b) see to it that counter-terrorism measures are fully compatible with the State party's obligations under the Covenant and other relevant international standards.**

#### **Discrimination on grounds of sexual orientation and gender identity**

13. The Committee reiterates its concerns about section 347 bis of the Penal Code, which criminalizes sexual relations between consenting adults of the same sex. It is concerned as well about section 83 of Act No. 2010/012 of 21 December 2010 on cybersecurity and cybercrime, which criminalizes the sexual propositioning of an adult of the same sex by means of electronic communication. The Committee also deplores the alleged existence of: (a) discrimination against lesbian, gay, bisexual, transgender and intersex persons; (b) pretrial detention of lesbian, gay, bisexual, transgender and intersex persons for extended periods of time, in violation of section 221 of the Code of Criminal Procedure; and (c) acts of violence committed against such persons in places of detention by both other detainees and prison staff (arts. 2, 7, 9, 17 and 26).

**14. The State party should consider reviewing section 347 bis of the Penal Code and section 83 of Act No. 2010/012 and should take all appropriate steps with a view to: (a) enacting comprehensive legislation providing full and effective protection against discrimination in all spheres and containing an exhaustive list of prohibited grounds of discrimination, including sexual orientation and gender identity; and (b) protecting lesbian, gay, bisexual, transgender and intersex persons, safeguarding their fundamental human rights and ensuring that all cases of discrimination or violence are, without fail, investigated, that the perpetrators are brought to justice and convicted, and that the victims receive adequate compensation.**

#### **Discrimination against persons with disabilities**

15. The Committee takes note of the State party's efforts in this regard, in particular the adoption of Act No. 2010/002 of 13 April 2010, and of the delegation's statement that persons with disabilities account for 10 per cent of the population of Cameroon. It regrets, however, that in practice persons with disabilities are still discriminated against in terms of access to employment and to most public infrastructure and services (arts. 2 and 26).

**16. The State party should continue its efforts and, in particular, should: (a) adopt a legal framework with specific, mandatory accessibility benchmarks pertaining to employment, public services, buildings and roads and means of transport; and (b) consider ratifying the Convention on the Rights of Persons with Disabilities.**

#### **Gender discrimination and gender equality**

17. While welcoming the Electoral Code reform that introduced a 30-per-cent quota for women's representation on candidate lists, the Committee is concerned about: (a) the low representation of women in decision-making positions and in political and public life; and (b) the overrepresentation of women among informal-sector workers without access to social protection. The Committee also remains concerned about the retention of discriminatory provisions in family law, in particular: (a) articles 229, 1421 and 1428 of the Civil Code (see CCPR/C/CMR/CO/4, para. 8); (b) the retention of provisions on polygamy; and (c) the existence of different minimum ages for marriage for girls and boys (15 and 18 years, respectively) (arts. 2, 3 and 26).

**18. The State party should: (a) continue its efforts to increase the number of women in public affairs, including through effective enforcement of the Electoral Code; (b) take steps to increase the number of women in decision-making positions; (c) seek to reduce the proportion of women working in the informal sector and ensure the protection of such women; and (d) continue its efforts to enact a personal and family code that is consistent with the provisions of the Covenant, and, in the interim,**

**undertake a systematic examination of the Civil Code and amend all provisions that are discriminatory with respect to women.**

#### **Violence against women and practices harmful to women**

19. While welcoming Act No. 2016/007 of 12 July 2016 on the Penal Code, which establishes new offences, including offences relating to violence against women, the Committee is concerned at reports that complaints filed by victims, investigations and convictions are few in number. It also deplores the failure to expressly include marital rape among the new offences introduced under the reform. Also troubling is the persistence of the practices of female genital mutilation and breast ironing (arts. 2, 3, 7, 24 and 26).

**20. The State party should: (a) ensure that cases of violence against women are reported and thoroughly investigated and that perpetrators are prosecuted and sentenced; (b) step up its awareness-raising campaigns on this issue, expand and improve shelter services and care arrangements for victims and collect disaggregated data on the extent of violence against women; (c) review its legislation in order to criminalize marital rape and establish sanctions that are commensurate with the gravity of the offence; and (d) ensure that all persons who engage in practices involving female genital mutilation or interference with the normal growth of a body part are prosecuted and sentenced.**

#### **Voluntary termination of pregnancy and maternal mortality**

21. The Committee is concerned about sections 337 and 339 of the Penal Code, which criminalize abortion except in the event of grave danger to the health of the woman. It is also concerned about the onerous conditions imposed on rape victims who seek a lawful abortion, specifically the requirement that the facts of the case must be certified by the Public Prosecutor's Office, as these legal restrictions could lead women to resort to unsafe abortions under conditions that put their lives and health at risk. Further, the Committee is concerned about the maternal mortality rate, which remains high, and about reports of illegal hospitals and of facilities that turn away women who are unable to pay, some of whom have died as a result (arts. 3, 6, 7, 17 and 26).

**22. The State party should amend its legislation with a view to guaranteeing effective access to safe, legal abortions when the life or health of a pregnant woman or girl is endangered and when carrying a pregnancy to term would cause the woman or girl substantial pain or suffering, particularly if the pregnancy is the result of rape or incest or if it is not viable. The State party should also: (a) lift the requirement that prior court authorization must be given for an abortion in the event of pregnancy resulting from rape; (b) ensure that women and girls who have recourse to abortions and the doctors that attend to them are not subject to criminal penalties, inasmuch as the existence of such penalties obliges women and girls to resort to unsafe abortions; (c) ensure that women and girls have access to quality prenatal and post-abortion services and to immediate treatment without conditions; and (d) ensure that women and girls have access to sexual and reproductive health services and that contraceptives are affordable and available throughout the country, particularly in rural and remote areas.**

#### **Death penalty**

23. While noting the absence of executions since 1997 and the delegation's explanation of the reasons for the retention of the death penalty, the Committee notes with regret that a significant number of people have been sentenced to death, inter alia by military courts, in the context of counter-terrorism (art. 6).

**24. The State party should: (a) consider abolishing the death penalty; (b) ensure that all persons sentenced under Act No. 2014/028 were given a fair trial, particularly in cases where civilians were tried by military courts; and (c) consider commuting the sentences of individuals currently on death row and acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.**

### Extrajudicial killings

25. The Committee is concerned about reports that extrajudicial killings persist in the State party, and regrets the lack of statistics in this regard. In the context of counter-terrorism, it is particularly concerned about reports of violent search and arrest operations in which extrajudicial killings have been committed by agents of the State, including the rapid response brigade, as in the case of the events of 19 November 2014 in Bornori and the events of 27 December 2014 in Magdémé and Doublé, which allegedly resulted in 200 arrests, 130 disappearances and 25 deaths. Also troubling are allegations that information on the sites where the victims' bodies are buried is not provided to their families. Another matter of concern to the Committee is the persistence of cases of "mob justice" against crime suspects, which have resulted in extrajudicial killings (art. 6).

**26. The State party should: (a) systematically undertake prompt, impartial and effective investigations into all reported cases of extrajudicial killing, including those carried out by members of the rapid response brigade, and identify the perpetrators in order to bring them to justice; (b) take all necessary measures to determine the facts and provide full reparation to the victims' families; (c) take effective steps to prevent and eliminate all forms of excessive use of force by agents of the State, including the rapid response brigade; and (d) ensure that acts of mob justice are investigated and that those responsible are brought to justice.**

### Torture and cruel, inhuman or degrading treatment

27. The Committee takes note of the State party's efforts to prosecute persons who have committed acts of torture, but remains concerned about the persistence of such acts. In the context of counter-terrorism, the Committee is particularly concerned at the alleged existence of: (a) numerous cases of torture and cruel, inhuman or degrading treatment perpetrated in places of detention used by the rapid response brigade and the intelligence service, in which victims have reportedly been killed or left with severe disabilities; and (b) secret detention facilities that are not subject to oversight of any kind (arts. 2 and 7).

**28. The State party should: (a) ensure that alleged acts of torture and ill-treatment committed by agents of the State, including the rapid response brigade and the intelligence service, are thoroughly investigated, and see to it that suspected perpetrators are prosecuted and, if found guilty, duly punished, and that victims are compensated and offered rehabilitation services; (b) prohibit and punish secret detention and detention in unofficial facilities; and (c) establish a national mechanism for the prevention of torture.**

### Prison conditions

29. The Committee is concerned to note that conditions are poor in almost all prison facilities in the State party and that this situation has apparently led to riots. Of particular concern are: (a) the very high rate of prison overcrowding; (b) deaths in detention and violence among prisoners; (c) the failure to segregate accused persons from convicted persons and to segregate juveniles from adults in many institutions; and (d) the difficulties encountered by families wishing to visit their relatives in prison, including the requirement to obtain permission from the military prosecutor in the case of persons sentenced by military courts (arts. 6, 7, 10 and 23).

**30. The State party should: (a) continue its efforts to improve the living conditions and treatment of prisoners; (b) continue to take steps to address prison overcrowding, in keeping with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela rules); (c) pursue its efforts to use non-custodial penalties as an alternative to deprivation of liberty; (d) take the necessary steps to separate prisoners according to age, sex and detention regime; and (e) ensure that families are routinely allowed to visit their relatives in prison.**

### Trafficking in persons

31. While acknowledging the State party's efforts to combat trafficking in persons, in particular the adoption of Act No. 2011/024 of 14 December 2011, the Committee notes

with concern that trafficking for the purpose of forced prostitution (in the case of women) or domestic labour (in the case of children) still persists. In particular, it regrets the lack of statistical data in this regard, disaggregated by age, sex and origin, and is concerned at reports that most cases of trafficking are detected by civil society organizations (arts. 8 and 24).

**32. The State party should continue to strive, in particular, to: (a) ensure that all of its legislation is in conformity with international anti-trafficking standards; (b) strengthen the financial and human resources of its institutional mechanisms, in particular the network to combat child trafficking and child exploitation and the Interministerial Committee to Prevent and Combat Trafficking in Persons; (c) ensure the collection of statistical data disaggregated by the age, sex and origin of trafficking victims; (d) ensure that trafficking victims are identified and take appropriate measures to provide them with medical, psychological, social and legal assistance; and (e) ensure that all cases of trafficking in persons are systematically investigated and that suspected perpetrators are prosecuted and, if found guilty, duly punished.**

#### **Liberty and security of person**

33. The Committee remains concerned at reports that there have been many arbitrary arrests, made in particular by the rapid response brigade in the context of counter-terrorism. It regrets that the commission set up to examine compensation claims submitted in relation to arbitrary arrest is not yet operational, even though its members have been appointed. Further, the Committee is concerned about the excessive length of judicial proceedings and the large number of persons placed in pretrial detention (arts. 9, 10 and 14).

**34. The State party should take steps to see to it that: (a) no one is arbitrarily arrested or detained and all the legal rights of detainees are respected, in compliance with articles 9 and 14 of the Covenant; (b) all cases of arbitrary arrest are investigated and those responsible are subjected to disciplinary action and/or judicial proceedings; (c) all victims of arbitrary arrest are accorded compensation by the commission set up to examine compensation claims submitted in relation to arbitrary arrest; and (d) the provisions of the Code of Criminal Procedure on the permissible length of pretrial detention are observed.**

#### **Treatment of refugees**

35. The Committee is concerned about the continued vagueness and uncertainty surrounding the procedures for determining refugee or asylum seeker status in the State party. The Committee notes the explanations given by the delegation on cooperation with the Office of the United Nations High Commissioner for Refugees, but is concerned at reports that refugees and asylum seekers from Nigeria have been ill-treated by the armed forces and that there have been mass forced expulsions of such persons for alleged collaboration with terrorist movements (arts. 6, 7, 9 and 13).

**36. The State party should: (a) ensure that its procedures for the determination of refugee status are consistent with international standards and that effective access to those procedures is available at all border posts, including those at international airports and transit zones, and that border patrol officers and other relevant officials receive proper training; (b) ensure that instances of mass forced return do not occur; and (c) strictly enforce the absolute prohibition of refoulement under articles 6 and 7 of the Covenant.**

#### **Independence of the judiciary and administration of justice**

37. The Committee remains concerned about persistent allegations of corruption and interference by the executive branch with the judiciary. Of particular concern is the fact that the independence of the judiciary is not sufficiently guaranteed in law and in practice, especially with regard to: (a) procedures for the selection of judges; (b) disciplinary measures against judges; and (c) the retention of section 64 of the Code of Criminal Procedure, which allows for intervention by the Ministry of Justice or the Attorney General to terminate criminal proceedings in certain instances. It is also concerned about: (a) reports

of violations of the right to a fair trial, which have been substantiated by the opinions adopted by the Working Group on Arbitrary Detention in the cases of Paul Kingue, Christophe Désiré Bengono and Marafa Hamidou Yaya; and (b) the continued jurisdiction of military courts to try civilians, which was extended by Act No. 2017/12 of 12 July 2017 on the Code of Military Justice (para. 14).

**38. The State party should take all necessary measures to safeguard the independence of the judiciary in law and in practice and, in particular, to: (a) eliminate all forms of interference by the executive branch in the judiciary and effectively investigate allegations of such acts; (b) intensify its efforts to combat corruption in the judicial system and to prosecute and punish perpetrators, including judges who may be complicit therein; (c) consider reviewing the composition and functioning of the Judicial Service Commission to ensure the impartiality of the justice system; and (d) reform its legislative framework to ensure that civilians cannot be tried by military courts.**

#### **Right to privacy**

39. The Committee expresses concern about Act No. 2010/012 of 21 December 2010 on cybersecurity and cybercrime, in particular its section 25, under which network operators and service providers are required to retain data for a 10-year period, even though such data are private (art. 17).

**40. The State party should review its legislation in order to ensure that the rules on the length of time for which data are to be retained and on access to retained data are compatible with the provisions of the Covenant and that access to retained data is limited to what is strictly necessary.**

#### **Freedom of expression and freedom of assembly and protection of journalists and human rights defenders**

41. The Committee is concerned about reports of: (a) torture and ill-treatment of journalists; (b) legal proceedings in which media outlets and journalists are put on trial for the opinions they express; (c) bans on the holding of press conferences; (d) shutdowns of Internet access for months at a time; and (e) reprisals against human rights defenders. It is also concerned at reports of infringements of the freedom of assembly, especially in the context of the crisis in English-speaking parts of the country, and of the excessive use of force by police to disperse demonstrations, which led to deaths and injuries during the events of 1 October 2017 (arts. 2, 6, 7, 14, 19, 21 and 26).

**42. In the light of the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, the State party should: (a) ensure that any restrictions on press and media activities or on Internet access are fully compatible with the provisions of article 19 (3) of the Covenant; (b) ensure that agents of the State avoid any unnecessary or disproportionate interference with the freedom of expression of the media, protect journalists from any form of torture or ill-treatment and investigate, prosecute and sentence the perpetrators of such acts; (c) take all necessary measures for the protection of human rights defenders from threats and intimidation, and investigate, prosecute and sentence the perpetrators of such acts; (d) lift any unnecessary restrictions on the freedom of assembly and the freedom to demonstrate, in particular for members of the country's English-speaking minority; and (e) carry out prompt, impartial and effective investigations of all cases involving the excessive use of force to disperse demonstrations, and bring the perpetrators to justice.**

#### **Guarantees of free and fair elections**

43. While noting that the independence of the electoral oversight body Elections Cameroon is enshrined in law, the Committee is concerned about reports that this body's members are not fully independent and impartial in relation to the executive branch (art. 25).

**44. The State party should take the necessary steps to guarantee the independence of Elections Cameroon and ensure the successful conduct of elections in 2018 and beyond.**

**Rights of minorities**

45. The Committee is concerned about the situation of the Pygmy and Mbororo communities, especially in the light of reports of: (a) discrimination; (b) confiscation of their traditional lands; and (c) violence, harassment and threats against them. The Committee is also concerned by reports that members of the English-speaking minority are discriminated against in terms of employment and public participation and that their rights to freedom of expression and peaceful demonstration are restricted (arts. 2, 19, 21 and 27).

46. **The State party should take the necessary steps to: (a) ensure that there is no discrimination against indigenous peoples and minorities; (b) provide effective legal protection of the right of indigenous peoples to their ancestral lands and natural resources; (c) see to it that cases of violence, harassment and threats against persons belonging to such communities are investigated and prosecuted; and (d) ensure equal treatment of members of the English-speaking minority and safeguard their rights to freedom of expression and assembly.**

**D. Dissemination and follow-up**

47. The State party should widely disseminate the Covenant, its fifth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official languages of the State party.

48. In accordance with rule 71 (5) of the Committee's rules of procedure, the State party is requested to provide, within two years of the adoption of the present concluding observations (by 10 November 2019), information on its implementation of the recommendations made in paragraphs 26 (extrajudicial killings), 28 (torture and cruel, inhuman or degrading treatment) and 42 (freedom of expression and freedom of assembly and protection of journalists and human rights defenders) above.

49. The Committee requests the State party to submit its next periodic report by 10 November 2022 and to include in that report information on the implementation of the present concluding observations. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its sixth periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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