



## International Covenant on Civil and Political Rights

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### Human Rights Committee

Ninety-ninth session

Geneva, 12-30 July 2010

## Consideration of reports submitted by States parties under article 40 of the Covenant

### Concluding observations of the Human Rights Committee

#### Cameroon

1. The Committee considered the fourth periodic report submitted by Cameroon (CCPR/C/CMR/4) at its 2725th and 2726th meetings, held on 19 and 20 July 2010 (CCPR/C/SR.2725 and 2726). The Committee adopted the following concluding observations at its 2739th and 2740th meetings, held on 28 and 29 July 2010 (CCPR/C/SR.2739 and 2740).

#### A. Introduction

2. The Committee welcomes the submission, albeit with some delay, of the State party's fourth periodic report prepared in accordance with the Committee's guidelines. It also appreciates the written replies (CCPR/C/CMR/Q/4/Add.1) provided in advance by the State party as well as the answers and information provided by the State party's delegation during its dialogue with the Committee.

3. The Committee appreciates the input to its proceedings by Cameroon non-governmental organizations (NGOs) and recalls the obligation of the State party to respect and protect the human rights of the personnel of all human rights organizations on its territory.

#### B. Positive aspects

4. The Committee welcomes the State party's ratification during the reporting period of a number of international instruments relating to human rights protected by the Covenant, in particular:

- (a) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2004;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2006.

5. The Committee also welcomes the State party's:

(a) Adoption of Law No. 2004/016 of 22 July 2004 to strengthen the independence of the National Commission on Human Rights and Freedoms (NCHRF);

(b) Measures to strengthen the legal framework for the protection against human trafficking and slavery through Law No. 2005/15 of 29 December 2005 against Child Slavery and Trafficking; and

(c) Efforts to strengthen protection of human rights related to the administration of justice, including provisions under the Criminal Procedure Code which came into force on 1 January 2007 aimed at redressing cases of illegal arrest or detention.

### **C. Principal subjects of concern and recommendations**

6. The Committee is concerned about the delays in ensuring effective remedies and appropriate compensation for violations of Covenant rights in compliance with Views adopted by the Committee on Communications Nos. 458/1991 (*Mukong*), 1134/2002 (*Gorji-Dinka*), 1353/2005 (*Njaru*), and 1186/2003 (*Titahongo*). (art. 2)

**The State party should take the necessary measures to give full effect to the Committee's Views and establish mechanisms to facilitate the implementation of the Committee's Views, so as to guarantee the right to an effective remedy as established in article 2, paragraph 3, of the Covenant.**

7. With regard to the commendable efforts of the State party to strengthen the independence of the National Commission on Human Rights and Freedoms (NCHRF), the Committee considers that further measures could be taken with a view to ensuring the effective functioning of the NCHRF in full independence from the Government. The Committee also notes concerns raised by civil society organizations that reports of the NCHRF are not easily accessible. (art. 2)

**The State party should further guarantee the independence of the NCHRF by providing it with adequate resources to carry out its mandate effectively. Furthermore, reports publicized by the NCHRF should be widely disseminated and made easily accessible.**

8. Notwithstanding the prohibition of discrimination enshrined in the Constitution of Cameroon, the Committee is concerned that women are discriminated against under articles 1421 and 1428 of the Civil Code concerning the right of spouses to administer communal property, article 229 of the Civil Code regulating divorce, and article 361 of the Penal Code that defines the crime of adultery in terms more favourable to men than women. The Committee also remains concerned that women are vulnerable to discrimination under customary law, even if customary law can in principle only be applied when compatible with statutory law. In general, the Committee is concerned about the prevalence of stereotypes and customs in Cameroon which are contrary to the principle of equality of rights between men and women and hinder the effective implementation of the Covenant. (arts. 2, 3 and 26)

**The State party should bring its legislation into conformity with the Covenant by ensuring that women are not discriminated against under the law. The State party**

should also strengthen measures to ensure that women are not subjected to discriminatory treatment when customary law is applied, including through: (a) ensuring compatibility of the wide range of customary law in the country with statutory law and the Covenant; (b) raising awareness amongst women about their rights under statutory law and the Covenant; and (c) ensuring easy access to complaints procedures concerning discriminatory practices sanctioned by customary law. The State party should also continue and strengthen its efforts to address discriminatory traditions and customs through education and awareness-raising campaigns. In this connection, the Committee draws the attention of the State party to its general comment No. 28 (2000) concerning equality of rights between men and women.

9. The Committee reiterates its concern about the continuing existence of polygamy in the State party. The Committee is also concerned about reported cases of marriage of girls as young as 12 years old and regrets that the State party has not taken measures to address the different ages for marriage between women and men, set at 15 and 18 years respectively. The Committee does not accept the justification suggested by the State party to the effect that girls mature faster and are more likely to handle family life at an earlier age than boys. (arts. 2, 23 and 26)

**The State party should amend its legislation to bring it into conformity with the Covenant by banning the practice of polygamy and by raising the minimum legal age for marriage for girls to the same age as for boys. Appropriate measures, including awareness-raising campaigns, should also be taken to protect girls from early marriage.**

10. Notwithstanding the efforts made by the State party to combat this practice, the Committee remains concerned about cases of female genital mutilation in some areas of the country and about the lack of an explicit legal prohibition of female genital mutilation. (arts. 3 and 7)

**The State party should introduce specific legislation prohibiting female genital mutilation. The State party should also redouble its efforts to raise awareness about the need to end this practice.**

11. The Committee is concerned about high levels of domestic violence against women in the State party and about weak protection against such violence, including rape. While noting that the law criminalizes rape, the Committee is concerned that only a small proportion of cases are reported and investigated as a consequence of widespread perceptions of domestic violence as a purely private matter. The Committee is also concerned that under the Penal Code a perpetrator of rape can be exonerated if he offers to marry the victim and she accepts. (arts. 3 and 7)

**The State party should accelerate the adoption of specific legislation on violence against women with a view to strengthening the legal framework for the protection against domestic violence; sexual harassment; rape, including marital rape; and other forms of violence suffered by women. Measures should also be taken to ensure that women fleeing an abusive partner or husband have access to assistance and can seek refuge in crisis centres. With regard to the crime of rape, the State party should repeal the provision providing for the exoneration of the crime of rape if the perpetrator marries the victim.**

12. The Committee remains deeply concerned about the criminalization of consensual sexual acts between adults of the same sex, punishable with imprisonment from six months to five years under article 347 (bis) of the Penal Code. As the Committee and other international human rights mechanisms have underlined, such criminalization violates the rights to privacy and freedom from discrimination enshrined in the Covenant. The

information provided by the State party did not allay the Committee's concern about arbitrariness in the implementation of article 347 (bis), also observed by the United Nations Working Group on Arbitrary Detention in its Opinion No. 22/2006 (Cameroon) (A/HRC/4/40/Add.1), and about reported cases of inhumane and degrading treatment of persons detained on charges of having sexual relations with a person of the same sex. The Committee is also concerned that the criminalization of consensual sexual acts between adults of the same sex impedes the implementation of effective education programmes in respect of HIV/AIDS prevention. (arts. 2, 7, 9, 17 and 26)

**The State party should take immediate steps towards decriminalizing consensual sexual acts between adults of the same sex, in order to bring its law into conformity with the Covenant. The State party should also take appropriate measures to address social prejudice and stigmatization of homosexuality and should clearly demonstrate that it does not tolerate any form of harassment, discrimination and violence against individuals because of their sexual orientation. Public health programmes to combat HIV/AIDS should have a universal reach and ensure universal access to HIV/AIDS prevention, treatment, care and support.**

13. While noting the efforts by the State party, jointly with international partners, to improve access to reproductive health services, the Committee remains concerned about high maternal mortality and about abortion laws which may incite women to seek unsafe, illegal abortions, with attendant risks to their life and health. It is also concerned about the unavailability of abortion in practice even when the law permits it, for example in cases of pregnancy resulting from rape. (art. 6)

**The State party should step up its efforts to reduce maternal mortality, including by ensuring that women have access to reproductive health services. In this regard, the State party should amend its legislation to effectively help women avoid unwanted pregnancies and protect them from having to resort to illegal abortions that could endanger their lives.**

14. The Committee notes that the death penalty has not been implemented since 1997 but that the courts continue to impose this penalty, in accordance with the Penal Code. (art. 6)

**The State party should consider abolishing the death penalty or at least formalizing the current de facto moratorium on the death penalty. The State party is encouraged to accede to the Second Optional Protocol to the Covenant.**

15. The Committee remains deeply concerned about continued reports of cases of extrajudicial executions by law enforcement officers. Notwithstanding the information provided by the State party's delegation that the perpetrators of such crimes are consistently brought to justice, the Committee is concerned about reports that allegations of extrajudicial killings have in some cases not been effectively investigated and regrets that the State party was not able to provide statistics on the number of reported cases of extrajudicial killings by military and civil security forces and law-enforcement personnel. (art. 6)

**The State party should monitor more closely allegations of extrajudicial killings and ensure that all such allegations are investigated in a prompt and effective manner with a view to rooting out such crimes, bringing perpetrators to justice, and providing effective remedies to victims. In order to ensure effective and impartial investigation, the State party should establish a special independent mechanism to carry out investigations into alleged cases of extra-judicial killing by security forces and law enforcement personnel.**

16. The Committee is concerned that acts of ‘vigilante justice’ against persons suspected of crimes reportedly resulted in several deaths during the reporting period and that the perpetrators are rarely prosecuted. (art. 6)

**The State party should take effective measures to address the continued occurrence of ‘vigilante justice’ and to ensure that such acts are investigated and the persons responsible brought to justice.**

17. The Committee notes the commitment expressed by the State party to eliminate torture, including through the establishment in 2005 of a Special Division for the Control of Services to ensure “the policing of the Police”. However, the Committee is deeply concerned that torture remains widespread in the State party. Reviewing information provided by the State party on disciplinary sanctions against law enforcement personnel in cases of torture, the Committee is concerned that penalties handed down in these cases are insignificant compared to the damage caused to the victims and are much weaker than those established in the Criminal Code for the crime of torture. The committee is also concerned that victims of torture by law enforcement and prison personnel in some cases are unable to report such violations and that confessions obtained under torture are still taken into consideration during court hearings, notwithstanding the explicit provision on the inadmissibility of confessions obtained under duress under the Criminal Procedure Code. (arts. 7 and 10)

**The State party should ensure that (a) victims of torture, in particular those held in detention, have easy access to mechanisms to report violations; (b) impartial and independent inquiries are carried out to address such allegations of torture and inhuman and degrading treatment; and (c) perpetrators are appropriately punished. The punishment handed down and compensation provided to victims should be proportionate to the gravity of the crime committed.**

18. The Committee is deeply concerned about reported cases of human rights violations related to the social riots which took place in February 2008, triggered by high fuel and food prices, during which reportedly more than 100 persons died and more than 1,500 persons were arrested. The Committee regrets that, more than two years after the events, investigations were still ongoing and that the State party was not able to give a fuller account of the events. The explanation provided by the State party’s delegation that security forces shot warning shots and that rioters were trampled to death as they tried to escape contrasts with NGO reports according to which the deaths were mainly attributed to excessive force applied by security forces. The Committee is concerned that the State party’s delegation dismissed allegations made by NGOs of cases of torture and ill-treatment of persons who were detained during the riots and of summary trials contrary to the guarantees set out in the Criminal Procedure Code and in the Covenant. (arts. 6, 7, 9 and 14)

**The State party should ensure that allegations of serious human rights violations related to the social riots in 2008, including allegations of excessive use of force by security forces, of torture and ill-treatment of persons detained, and of summary trials are adequately investigated and that perpetrators are brought to justice.**

19. The Committee is concerned that safeguards against illegal and arbitrary arrest provided for in the Criminal Procedure Code are often not implemented in practice, including the time limit for legal detention in police custody, and that accused persons are often not adequately informed about their rights. The Committee is also concerned that the commission foreseen in article 237 or the Code of Criminal Procedure to allow for actions for compensation in case of illegal detention has not yet become operational. (arts. 9 and 14)

**The State party should take appropriate measures, including training of law enforcement personnel, to ensure effective implementation of guarantees set out in the Criminal Procedure Code and to ensure that persons subjected to illegal and arbitrary detention are able to report such violations and are afforded effective judicial redress and compensation. The State party should ensure that the claims commission set up under article 237 of the Code of Criminal Procedure become operational without delay.**

20. The Committee is deeply concerned about long pretrial detention periods which often exceed the limits set for such detention in article 221 of the Criminal Procedure Code and about the high number of persons held in pretrial detention, accounting for 61 per cent of the total prison population of 23,196 according to 2009 statistics. (art. 9)

**The State party should take effective measures to ensure effective compliance with the Criminal Procedure Code and reduce the period of pretrial detention.**

21. While noting efforts by the State party to improve the prison infrastructure, including through the construction of new prisons and the “Programme for the Amelioration of Detention Conditions and Respect for Human Rights” 2007-2010 in cooperation with international partners, the Committee remains concerned about the continuing problem of severe overcrowding and grossly inadequate conditions in prisons. In addition to concerns about inadequate hygiene and health conditions, inadequate rations and quality of food, and inadequate access to health care, the Committee notes that the rights of women to be separated from men, of minors to be separated from adults, and of persons in pretrial detention to be separated from convicts are often not guaranteed. The Committee is of the view that there is a need for a stronger oversight of prison conditions and the treatment of prisoners. (arts. 7 and 10)

**The State party should ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions of detention comply with the Covenant and the United Nations Standard Minimum Rules for Treatment of Prisoners. In particular, the State party should take measures to improve the quality and quantity of food and access to health care in prisons and to ensure the separation in prisons of women from men, minors from adults, and persons in pretrial detention from convicts. The State party should also ensure that places of detention are fully open to independent national and international inspections, including through providing the NCHRF with sufficient resources to monitor prison conditions.**

22. The Committee notes that Law No. 2005/006 on asylum and refugees adopted in 2005 to strengthen protection of asylum-seekers and refugees in accordance with international standards, including with regard to non-refoulement, will only come into force upon the adoption of an implementation decree. (arts. 7 and 13)

**The State party should adopt the implementation decree of the 2005 Law on Refugees and establish the two committees (on refugee status determination and appeals) as provided for in the Law.**

23. The Committee is concerned that the independence of the judiciary is not fully ensured. In addition the Committee is concerned that article 64 of the Criminal Procedure Code allows for the intervention by the Ministry of Justice or by the Attorney General to end criminal proceedings in certain instances. (art. 14)

**The State party should remove article 64 from the Criminal Procedure Code and take other appropriate measures to ensure and protect the independence and impartiality of the judiciary.**

24. The Committee remains concerned about the jurisdiction of military courts over civilians (arts. 14 and 26)

**The State party should take all necessary measures to ensure that trials of civilians by military courts are exceptional and take place under conditions which genuinely afford the full guarantees stipulated in article 14 of the Covenant.**

25. Notwithstanding the information provided by the State party that the freedom of the press is absolute and that no journalist is currently detained in Cameroon, the Committee remains concerned about consistent reports from national and international organizations monitoring freedom of the press of cases of harassment of journalists or media outlets by public officials. The Committee reiterates its concern about provisions in the Penal Code which render it a criminal offence to spread false news and about how journalists in a number of cases have been prosecuted for this or related crimes, such as the crime of defamation, as a consequence of their reporting. (art. 19)

**The State party should review its legislation and practice to ensure that journalists and media outlets are not subjected to harassment and prosecution as a consequence of expressing their critical views and that any restriction on press and media activities is strictly compatible with the provisions of article 19, paragraph 3, of the Covenant.**

26. The Committee is concerned that the number of qualified NGOs is very small for a country of the size of Cameroon and that these recognized NGOs do not include any human rights organization. (art. 22)

**The State party should take necessary steps to ensure that any restriction on freedom of association is strictly compatible with provisions of article 22 of the Covenant.**

27. While noting the efforts of the State party to raise awareness amongst judges and judicial officers about the Covenant and its direct applicability in domestic law, the Committee regrets that only in a few cases have domestic courts invoked the provisions of the Covenant. (art. 2)

**The State party should continue and strengthen its efforts to raise awareness about the Covenant and its applicability in domestic law amongst judges and judicial officers.**

28. The State party should publicize widely the text of its fourth periodic report, the written answers it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations.

29. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 8, 17 and 18 above.

30. The Committee requests the State party to provide in its next report, due to be submitted by 30 July 2013, information on the remaining recommendations made and on the Covenant as a whole.