

REPUBLIC OF CAMEROON  
PEACE - WORK - FATHERLAND

RÉPUBLIQUE DU CAMEROUN  
PAIX - TRAVAIL - PATRIE



REPORT BY THE MINISTRY  
OF JUSTICE ON THE STATE OF HUMAN  
RIGHTS IN CAMEROON 2005

Yaounde, Octobre 2006

## SUMMARY

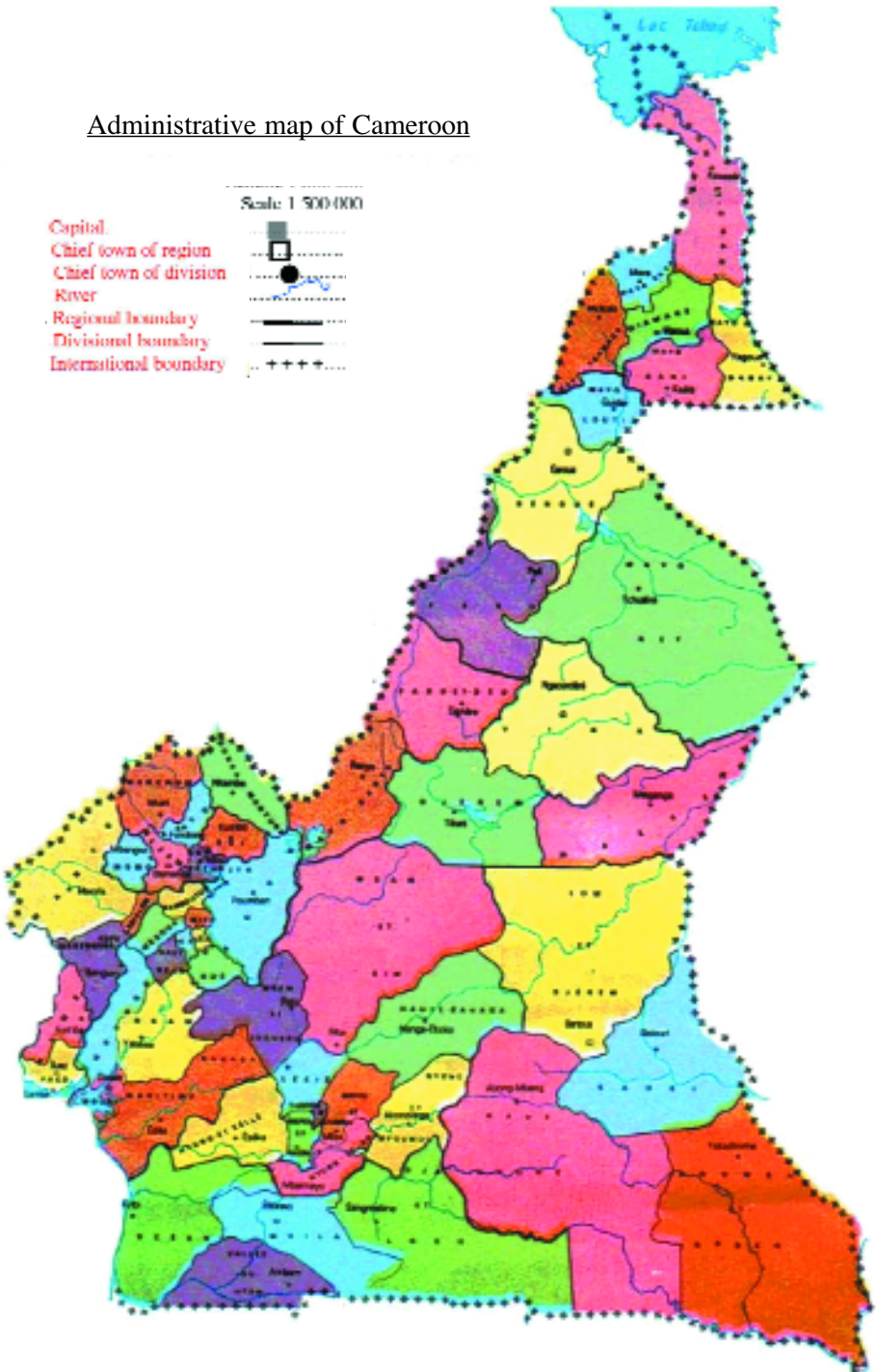
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## FOREWORD

*“We must hail the fact that the defence of Human Rights has become a major dimension of the political society of our times. Nowadays, no one can remain indifferent to Human Rights violations wherever they occur and those found guilty are bound to account for them”.*

*Paul BIYA,  
Message of the Head of State  
to the Nation, 31 December 1999.*

Administrative map of Cameroon



## LIST OF ACRONYMS AND ABBREVIATIONS

<i>ADB</i>	: African Development Bank.
<i>AIF</i>	: International Agency of the Francophonie
<i>AI.</i>	: AI.
<i>ANIF</i>	: National Financial Investigation Board
<i>APC</i>	: Competence-Based Approach.
<i>ARCH</i>	: Associated Rehabilitation Centre for the Handicapped.
<i>ARMP</i>	: Public Contracts Regulatory Board.
<i>Art.</i>	: Art.
<i>ARV</i>	: Anti-Retro Viral.
<i>CA</i>	: AB.
<i>CAPP</i>	: Provincial Drug Supply Centre.
<i>ACHPR</i>	: African Charter for Human and Peoples' Rights.
<i>CDE</i>	: Convention on the Rights of the Child.
<i>CEDEF</i>	: Convention on the Elimination of all Forms of Discrimination Against Women.
<i>CPO</i>	: Criminal Procedure Ordinance.
<i>CPC</i>	: Criminal Procedure Code.
<i>CCPC</i>	: Civil and Commercial Procedure Code.
<i>CRDC</i>	: Centre for the Re-education of Deaf Children.
<i>CEMAC</i>	: Central African Economic and Monetary Community.
<i>CDMT</i>	: Medium Term Expenditure Framework.
<i>CENAME</i>	: National Centre for the Supply of Drugs and Essential Medical Consumables
<i>CHAP</i>	: Chapter
<i>CIAP</i>	: Centre d'Instruction et d'Application de la Police. (National Police Instruction and Application Centre)
<i>CIC</i>	: Code d'instruction criminelle (Criminal Procedure Code)
<i>CIMA</i>	: Conférence Inter-Africaine des Marchés d'Assurance. (Inter-African Conference for Insurance Markets)
<i>CMPJ</i>	: Multifunctional Centres for the Promotion of Youths
<i>CFI</i>	: Court of First Instance.
<i>CNLS</i>	: National Committee for the Fight against Aids.
<i>CFAF</i>	: African Financial Community Franc.
<i>DGSN</i>	: General Delegation of National Security.
<i>DHIC</i>	: Department of Human Rights and International Cooperation
<i>DHSP</i>	: Health Sectorial Policy Declaration.
<i>DRSSP</i>	: Declaration of the Implementation of Primary Healthcare Reorientation
<i>ECOWAS</i>	: Economic Community of West African States.
<i>ESS</i>	: Education Sectorial Strategy.

<i>ECAM I</i>	: Cameroon's Household Inquiry (1996).
<i>ECAM II</i>	: Cameroon's Household Inquiry (2001).
<i>ECAM III</i>	: (to be published in 2006).
<i>EITI</i>	: Initiative for Transparency in Mining Industries.
<i>ENAM</i>	: National School of Administration and Magistracy
<i>EO</i>	: Evidence Ordinance.
<i>ESCR</i>	: Economic, Social and Cultural Rights.
<i>EPC</i>	: Eglise Presbytérienne du Cameroun. (Presbyterian Church of Cameroon)
<i>FSLC</i>	: First School Leaving Certificate
<i>GTTC</i>	: Government Teacher Training College.
<i>HACI</i>	: Hope for African Children Initiative Project.
<i>HC</i>	: High Court.
<i>HIPC</i>	: Highly Indebted Poor Country.
<i>HIPC-I</i>	: Highly Indebted Poor Country Initiative.
<i>HJC</i>	: Higher Judicial Council.
<i>HSS</i>	: Health Sectoral Strategy.
<i>ICCPR</i>	: International Convention on Civil and Political Rights.
<i>ICESCR</i>	: International Convention on Economic, Social and Cultural Rights
<i>IHL</i>	: International Humanitarian Law.
<i>ILO</i>	: International Labour Organization.
<i>IMF</i>	: International Monetary Fund.
<i>JPO</i>	: Judicial Police Officer
<i>LANACOME</i>	: National Drug Quality Control and Evaluation Laboratory
<i>LC</i>	: Labour Code
<i>LD</i>	: Legal Department.
<i>MDG</i>	: Millennium Development Goals
<i>MDO</i>	: Millennium Development Objective
<i>MINAS</i>	: Ministry of Social Affairs.
<i>MINATD</i>	: Ministry of Territorial Administration Decentralization.
<i>MINCOM</i>	: Ministry of Communication
<i>MINDEF</i>	: Ministry of Defence.
<i>MINEDUB</i>	: Ministry of Basic Education.
<i>MINEFOP</i>	: Ministry of Employment and Vocational Training.
<i>MINEPS</i>	: Ministry of Labour and Social Insurance.
<i>MINESEC</i>	: Ministry of Secondary Education.
<i>MINJUS</i>	: Ministry of Justice.
<i>MINPLADAT</i>	: Ministry of Planning, Programming, Development and Regional Development.
<i>MINPROFF</i>	: Ministry of Women Empowerment and the Family.
<i>MINSANTE</i>	: Ministry of Public Health.
<i>MINUH</i>	: Ministry of Town Planning and Housing

<i>MT</i>	: Military Tribunal
<i>NICT</i>	: New Information and Communication Technologies
<i>NCC</i>	: National Communication Council.
<i>NCCC</i>	: National Committee for Combating Corruption
<i>NCHRF</i>	: National Commission for Human Rights and Freedoms
<i>NCHS</i>	: National Commission for Health and Security at Work
<i>NCLB</i>	: National Consultative Labour Board.
<i>NCRH</i>	: National Centre for the Re-education of Handicapped Persons.
<i>NEF</i>	: National Employment Fund.
<i>NEO</i>	: National Elections Observatory.
<i>NEP</i>	: National Employment Policy.
<i>NHC</i>	: National Hydrocarbons Corporation
<i>NLP</i>	: National Literacy Programme.
<i>NPA</i>	: New Pedagogic Approach.
<i>NSC</i>	: National Statistics Council.
<i>NSIF</i>	: National Social Insurance Fund.
<i>OHADA</i>	: Organisation for the Harmonization of Business Law in Africa
<i>ONEFP</i>	: National Employment and Training Observatory
<i>ORD</i>	: Ordinance.
<i>PANE</i>	: National Action Plan for Education for All.
<i>PANIFD</i>	: National Action Plan for the Integration of Women in Development
<i>PC</i>	: Penal Code.
<i>PCA</i>	: President of the CA.
<i>PCC</i>	: Presbyterian Church of Cameroon.
<i>PCIME</i>	: Integrated Care for Children's Illnesses.
<i>PEV</i>	: Extended Vaccination Campaign.
<i>PG</i>	: Procurer General.
<i>PIB</i>	: Public Investment Budget.
<i>PNG</i>	: National Governance Programme
<i>PPP</i>	: Priority Promotion Programme.
<i>PRSD</i>	: Poverty Reduction Strategy Document.
<i>RESEN</i>	: Report on the State of the National Education
<i>SC</i>	: Supreme Court
<i>SMIG</i>	: Minimum Guaranteed Interprofessional Wage.
<i>SNH</i>	: National Hydrocarbons Corporation.
<i>UA</i>	: African Union.
<i>UCN</i>	: United Nations Charter.
<i>UDHR</i>	: Universal Declaration of Human Rights.
<i>UNHCR</i>	: United Nations High Commission for Refugees
<i>UNICEF</i>	: United Nations Children Fund.
<i>WB</i>	: World Bank
<i>WHO</i>	: World Health Organization.

## PREFACE

*Since independence Cameroon has, in its successive Constitutions from 1960 to 1972, constantly proclaimed its people's commitment to the respect for Human Rights, as stipulated by the United Nations Charter, the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights.*

*Through the constitutional amendment of 18 January 1996, spurred by the Head of State, His Excellency Paul Biya, and apart from all the legal instruments referred to herein above, all international conventions duly ratified by Cameroon have been given the same status as the Constitution. More so, the Preamble of the Constitution, which mentions these international legal instruments, is henceforth part and parcel thereof.*

*The Head of State, to democratise Cameroon promulgated many important legal instruments and signed numerous decrees in 1990, including the instrument to set up the Committee on Human Rights and Freedoms.*

*The turning point in Cameroon as concerns the liberalization of political, social and economic life has since then been consolidated given that most of these instruments, in line with the constitutional evolution of 1996 and the dynamics of the international protection of Human Rights, have either been reviewed or supplemented in order to internalise these rights.*

*The punishment of torture, prohibition of extradition to countries where the requested person is likely to be tortured, transformation of the National committee on Human Rights and Freedoms to the National Commission on Human rights and Freedoms, attachment of the Penitentiary Administration to the Ministry of Justice, promulgation of the Criminal Procedure Code which provides substantial guarantees for the protection of individual freedoms, physical and moral integrity and a fair trial for persons facing criminal charges, stem from this dynamics.*

*Disciplinary and criminal proceedings instituted as well as sanctions meted on persons irrespective of social status, convicted for human rights violations, prove that no one is above the law.*

*The setting up, in the Ministry of Justice of a Department of Human Rights and International Co-operation, charged with providing information and sensitising the personnel of judicial services and the Penitentiary Administration on Human Rights protection*



*norms, underscores the determination of Government placed under the leadership of the Prime Minister, Chief Ephraim Inoni, to consolidate the culture of human rights and freedom in Cameroon.*

*The Ministry of Justice seeks to present a balance sheet of Government's measures, court decisions and actions by national associations for the defence of Human Rights through this report drawn up with contributions from ministries and some actors of the civil society directly concerned with human rights issues.*

*This initial report does not contain complete statistics on actions taken. In some cases, it is limited to trends which illustrate Government's resolve and court decisions.*

*2004/2005 is taken as a reference period because it marks the beginning of the systematic annual production by the Ministry of Justice of the report on Human rights measures taken in the country.*

*To underscore Cameroon's respect for the principle of the indivisibility and equal promotion and protection of fundamental rights, this report is divided into two main parts:*

- civil and political rights;*
- economic, social and cultural rights.*

*It is hoped that upon reading this report, objective comments made will considerably help to improve on the country's image. Cameroon is a peace-loving country that guarantees freedom, determined to enhance its democratic system, ensure respect for Human Rights and guarantee the rule of law in accordance with international norms and principles contained in the Harare and Bamako Declarations adhered to by Commonwealth and Francophonie Member States – two linguistic and cultural communities to which Cameroon is proud to belong.*

AMADOU ALI  
Vice-Prime Minister,  
Minister of Justice, Keeper of the Seals

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## INTRODUCTION

- 1 – The Ministry of Justice in consonance with Government’s commitments to promote good governance and transparency in all sectors of national life, intends henceforth, to publish yearly reports on the state of Human Rights in Cameroon.
- 2 - This report is the first in the series with the year 2005 as its reference period.
- 2-1 - The document highlights legislative, judicial and administrative measures taken by the state institutions with a view to promoting and protecting Human Rights.
- 2-2- The report equally focuses on shortcomings in the implementation of norms as well as obstacles to the full enjoyment of these rights. In short, it provides information on and assesses the level of implementation of international and national Human Rights instruments.
- 3 – To better understand the report, it is necessary to:
  - summarize the political history, geography, demography and economy of Cameroon;
  - present the general legal and institutional framework of the promotion and protection of Human Rights in Cameroon;
  - state the methodology adopted in writing and validating the report.

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\*

## AN OUTLINE OF THE HISTORY, GEOGRAPHY, DEMOGRAPHY AND MACRO-ECONOMICS OF CAMEROON

### Political History

- 4 – Cameroon was a German Protectorate from 1884 to 1916 and at the end of the First World War was placed by the League of Nations under Franco-British mandate from 1919 to 1945. The country was then divided into two entities namely, East and West Cameroon administered by France and Great Britain respectively. The latter part was further divided into two

regions : Northern and Southern Cameroons.

- 5 - At the end of the Second World War, Cameroon was placed under Franco-British trusteeship by the United Nations Organisation from 1945 to 1960.
- 6 - East Cameroon gained independence on 1 January 1960 as "République du Cameroun".
- 7 - Self-determination referendums were organized in West Cameroon on the 11 and 12 February 1961 after which the northern and southern parts were attached to Nigeria and République du Cameroun (East Cameroon) respectively.
- 8 - East and West Cameroon were reunited on 1 October 1961 thus giving birth to the Federal Republic of Cameroon.
- 9 - After a referendum organized on 9 May 1972, the Federal Republic of Cameroon became the United Republic of Cameroon on 20 May 1972
- 10 - The United Republic of Cameroon adopted the name the Republic of Cameroon on 4 February 1984<sup>1</sup>.

## Geography

- 11 - Cameroon, at the cusp of "two Africas", stretches from the depth of the Gulf of Guinea to Lake Chad and comprises forests, savannahs, steppes, plains and mountains. It is also endowed with incalculable fauna and flora and boasts of the quasi totality of all that nature has so sparingly and unequally doled out to other African countries. That is why Cameroon is said to be "Africa in miniature".
- 12 - Cameroon has a surface area of 475,442km<sub>2</sub> and is bordered on the North by Chad, on the South by Gabon and Equatorial Guinea, on the East by the Republic of Central Africa, on the South-East by Congo and on the West by Nigeria. It has two major types of climates:
  - the tropical climate in the North and the Far-North with little rainfall and high temperatures (an average of 30°);
  - the equatorial climate in the southern plateau, the western highlands and the coastal plain with heavy and regular rains and constant high temperatures (an average of 26°).

<sup>1</sup> Law No. 84-01 of 4 February 1984 .

**13** - Its hydrographic network comprises four river basins:

- the Atlantic Basin, made up of rivers which flow from the western highlands into the ocean including the Sanaga, Nyong, Wouri, Ntem and the Mungo;
- the Congo Basin, drained by the Kadey and the Ngoko which swell up the Sangha, a tributary of the Congo;
- the Niger Basin with Benoue as its main river;
- the Logone and Chari which form the Lake Chad Basin.

## **Demography**

**14** – Cameroon has a population of about 15.2 million people and 250 ethnic groups. 46 % of the population is aged below 15 years and 49% live in urban areas<sup>2</sup>.

**14-1** - Many foreigners live peacefully with nationals.

**14-2** - English and French are the two official languages. About 78% of the population is French-speaking while 22% is English-speaking.

**14-3** - The population is mostly Christian (33% Catholics and 17% Protestants); followed by Animists 25% and Muslims 22%.

## **Economy**

**15** – After a sustained growth between 1965 and 1985, Cameroon faced economic recession for a decade. Since 1997, it has been striving to regain economic stability. Standby agreements with the Breton-Woods Institutions are rigorously implemented. The implementation of the triennial economic and financial programme (1997 to 2000) has re-established economic growth and enabled the State to progressively settle its internal debt and readjust public service salaries.

**16** - The admission of Cameroon in 2000 to the HIPC Initiative has considerably reduced the debt service burden, led to growth estimated at between 5.5% and 6%, maintained inflation at 2% and reduced poverty.

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<sup>2</sup> According to the Tourist Guide of Cameroon (2005 Edition).

**17** – The following is a brief presentation of Cameroon’s macro-economic indicators<sup>3</sup>:

- income per head: 650 dollars;
- GDP growth: 4.5%;
- inflation rate: 2%;
- mother tongues: 250;
- birth rate: 39.3 per 1000;
- infant mortality rate: 8 per 1000.

**18** - Cameroon offers guarantees and advantages such as political stability, the confidence of international financial institutions and sustained economic growth. Its political regime is increasingly democratic and respects human rights and fundamental freedoms within the legal and institutional framework presented below.

## THE GENERAL LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN CAMEROON

### Legal framework

**19** – The legal framework for the promotion and protection of human rights in Cameroon is clearly spelt out in the Constitution of 18 January 1996. It reaffirms the principles contained in the Universal Declaration of Human Rights (UDHR) of 1948 and all the conventions relating thereto to which Cameroon is party.

**20** - The Preamble<sup>4</sup> of the Fundamental Law proclaims the attachment of the people of Cameroon to the following universal values and principles:

- all persons shall have equal rights and obligations;
- freedom and security shall be guaranteed each individual;
- the prohibition of any command or arbitrary order;
- the right to move about freely;

<sup>3</sup> See Government’s Economic Actions (2004 version).

<sup>4</sup> Pursuant to Article 65 of the Constitution of 18 January 1996, “the Preambles shall be part and parcel of the Constitution”.

- the home and privacy of correspondence is inviolate;
- the principle that offences and related punishments shall be pre-determined by law;
- individual security;
- the law shall not have retrospective effect;
- the right of every person to a fair trial before the courts;
- the freedom of opinion, religion and conscience;
- the freedom of expression, of the press, of assembly and of association;
- the freedom of trade unionism and the right to strike;
- the right to a healthy environment;
- the protection of the environment;
- the protection of minorities;
- the protection of indigenous people.

**21** – Therefore, apart from the Preamble, which integrates Human Right laws in the Constitution<sup>5</sup>, the following conventions supplement the said laws in Cameroon:

- the Convention of 11 October 1933 on the Suppression of the Traffic in Women of full Age (Succession 27 October 1961);
- the International Convention of 18 May 1904 on the Suppression of the White Slave Traffic, amended on 4 May 1949 (Succession of 03 November 1961);
- the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;
- the ILO Convention No.29 on Forced or Compulsory Labour, 1930 (Subscribed on 7 June 1960);

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<sup>5</sup> -The People of Cameroon... affirms its attachment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the United Nations Charter, the African Charter on Human and Peoples' Rights and all related and duly ratified international conventions..."



- the ILO Convention No.105 of 1959 on the Abolition of Forced Labour ; (Subscribed to, on 13th September 1962);
- the ILO Convention No.87 on the Freedom of Association and Protection of the Right to Organise of 1948 (Subscribed to, on 7 June 1960);
- the ILO Convention No.100 on Equal Remuneration for men and women workers for work of equal value of 1951 (ratified on 15 May 1970);
- the Convention No.111 on Discrimination (Employment and Occupation) of 1958, ( ratified on 15 May 1988);
- the Convention of 21 March 1950 on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (adhered to on 19 February 1982);
- the United Nations Convention of 18 July 1951 on the Status of Refugees, (subscribed to by state succession on 23 June 1961);
- the Protocol of 31 January 1967 on the status of Refugees (adhered to on 19 September 1967);
- the United Nations Convention of 7 March 1966 on the Elimination of all Forms of Racial Discrimination (ratified on 24 June 1971);
- the International Covenant of 16 December 1966 on Economic, Social and Cultural Rights (adhered to on 27 June 1984);
- the International Covenant of 16 December 1966 on Civil and Political Rights (adhered to on 27 June 1984);
- the protocol to the International Covenant on Civil and Political Rights (adhered to on 27/06/84)
- the Convention of 26 November 1968 on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity ( adhered to on 6 October 1972);
- the Convention of 30 November 1973 on the Suppression and Punishment of Crimes of Apartheid (adhered to on 1 November 1976);

- the ILO Convention No. 138 of 1973 on the minimum age(subscribed to on 13 August 2001)
  - Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (adhered to on 19 December 1986);
  - the Convention of 18 December 1979 on the Elimination of all Forms of Discrimination against Women (ratified on 23 August 1994);
  - the Convention of 20 November 1989 on the Rights of the Child ( signed on 27 September 1990 and ratified on 11 January 1993);
  - the Convention of 10 September 1969 Concerning the Specific Aspects of Refugee Problems in African (ratified in 1985);
  - the African Charter on Human and Peoples' Rights of 27 June 1981 ( ratified on 21 October 1986).
  - the ILO Convention No.182 of 1999 on the Worst Forms of Child Labour (subscribed to on 15 June 2002)
  - the Convention against Corruption adopted on 31 October 2003(ratified on 21 April 2004);
  - the Convention against Transnational Organised Crime (ratified on 18 May 2004) as well as its Additional Protocols namely:
    - the Protocol aimed at preventing, remanding and punishing slave trade, especially women and children(ratified on 18 May 2004);
    - the Protocol against the Illicit Trafficking of Migrants by land, air or sea (ratified on 18 May 2004);
  - the Optional Protocol to the Convention of 18 December 1979 on the Elimination of all Forms of Discrimination against Women, adopted in New York on 6 October 1999 (adhesion instrument signed on 1 November 2004);
- 22** – Several enactments, particularly those promulgated or edicted following the wind of change that blew over Cameroon in the 1990's, have progressively strengthened and enhanced the rights and freedoms enshrined in the Constitution and international instruments referred to above. These

include the following laws and decrees:

- Law No. 90/047 of 19 December 1990 relating to the State of Emergency;
- Law No. 90/052 of 19 December 1990 relating to Freedom of Mass Communication as amended by Law No.96-04 of 16 January 1996;
- Law No. 90/053 of 19 December 1990 relating to Freedom of Association;
- Law No.90/054 of 19 December 1990 relating to the Maintenance of Law and Order;
- Law No. 90/055 of 19 December 1990 to lay down Regulations Governing Public Meetings and Public Manifestations;
- Law No. 90/056 of 19 December 1990 relating to Political Parties;
- Decree No. 91/287 of 21 June 1991 relating to the Organisation and Functioning of the National Communication Council;
- Law No.83/013 of 21 July 1983 on the Protection of Handicapped Persons and enabling instrument No. 90-1516 of 16 November 1990;
- Law No. 97/009 of 10 January 1997 to insert a section 132 (bis) in the Penal Code entitled "Torture";
- Law No. 97/010 of 10 January 1997 to amend and supplement certain provisions of the Law on extradition;
- Law No.97/012 of 10 January 1997 to lay down the conditions for foreigners to enter, stay and exit Cameroon;
- Law No. 1994/14 of 22 December 1999 to govern Non-Governmental Organisations;
- Law No. 2000/016 of 19 December 2000 to institute the National Elections Observatory (NEO);
- Law No. 2004/004 of 21 April 2004 to organise the functioning of the Constitutional Council;
- Law No. 2004005 of 21 April 2004 to lay down the status of the members

of the Constitutional Council;

- Law No. 2004/016 of 22 July 2004 to set up the organisation and functioning of the National Commission on Human Rights and Freedoms and its enabling instrument No. 2005-254 of 7 July 2005;
  - Law No.2005/006 of 27 July 2005 relating to the Status of Refugees;
  - Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (CPC)<sup>6</sup>.
  - Law No.2005/015 of 29 December 2005 relating to the fight against child trafficking and trade which allows for the fight against all forms of child exploitation.
- 23** – The Constitution and some of the national instruments referred to above, lay down the institutional framework for the promotion and protection of Human Rights in Cameroon.

### **The Institutional Framework**

**24** – The institutional framework for the promotion and protection of Human Rights comprises democratic political institutions, an independent judiciary, a budding Constitutional Council and a national Human Rights institution with reinforced prerogatives.

a) Democratic political institutions

- 25** – National sovereignty belongs to the People of Cameroon who exercise it through the President of the Republic and Members of Parliament or by referendum.
- 26** - The President of the Republic, Head of the Executive, derives his mandate from the people. He is elected for a term of seven years renewable once. President Paul BIYA was re-elected on 11 October 2004 after a presidential election considered democratic and transparent by some international observers<sup>7</sup>.
- 27** -The President of the Republic incarnates national unity, defines national policy and ensures respect for the Constitution. He is guarantor of the respect for international treaties and agreements. He appoints the Prime Minister and, on the proposal of the latter, the other members of Government.

<sup>6</sup> This code shall come into force on 01/01/2007 in accordance with Law No. 2006/008 of 14 July 2006 to amend and supplement the provisions of Section 747 of Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code.

<sup>7</sup> According to the 2005 Report by Amnesty International on Cameroon, observers nevertheless, expected that election results would reflect the intention of voters.

**28** – The Prime Minister is Head of Government. The Government is answerable to the National Assembly which is one of the Houses of Parliament.

**29** – Pursuant to article 14 (1) of the Constitution, “Legislative power shall be exercised by Parliament which shall comprise two houses:

- the National Assembly;

- the Senate”.

**30** - It should be stated that the putting in place of the Senate depends on the completion of the ongoing decentralization process in accordance with article 55 and 62 of the Constitution.

**31** - Bills may be tabled by either the President of the Republic or by Members of Parliament. To this end, article 26 of the Constitution specifies that the following rights, guarantees and fundamental obligations of the citizen shall be reserved to the Legislative Power:

- safeguarding individual freedom and security;

- the rules governing public freedoms;

- labour legislation, trade union legislation, rules governing social security and insurance;

- the duties and responsibilities of the citizen in respect of national defence requirements.

#### b) An Independent Judiciary

**32** – The Constitution of 1996 raised the Judiciary, hitherto known as judicial authority<sup>8</sup>, to a Judicial power (article 37 (2) of the Constitution) which is exercised by the Supreme Court (SC), Courts of Appeal and the Lower Courts and which is independent of the Executive and Legislative powers.

**33** - The President of the Republic is guarantor of the independence of the Judiciary. He appoints Judicial and Legal Officers upon consultation of the Higher Judicial Council (HJC), an independent advisory body, comprising judicial and legal officers, Members of Parliament and independent personalities (see 403 and 404 below).

<sup>8</sup> See Article 31 of the Constitution of 2 June 1972.

**34** - The independence of the Judiciary is buttressed by the Magistrates of the Bench who, in accordance with article 37 (2) of the Constitution *“shall, in the discharge of their duties, be governed only by the law and their conscience”*<sup>9</sup>.

c) A budding Constitutional Council

**35** – By virtue of Article 46 of the Constitution, *“the Constitutional Council shall have jurisdiction in matters pertaining to the Constitution. It shall rule on the constitutionality of Laws. It shall be the organ regulating the functioning of the institutions”*.

**36** – According to the transitional provisions of the Constitution, the Supreme Court shall perform the duties of the Constitutional Council until the latter is set up. It has adjudicated on several electoral disputes. Judgment No.81-CE-96-97 of 30 June 1997 to annul the legislative elections of 17 May 1997 in a certain constituency is an example. It reads: *“Whereas these intrigues (acts of violence against officials of an opposition party) constitute an unjustified and discriminatory breach of the equality of candidates and political parties before the electoral law and of the freedom of citizens to select their representatives freely, they constitute a clear and deliberate violation both of the law referred to above and article 21 of the Universal Declaration of Human Rights”*.

**37** – This institution is progressively being set up with the promulgation of Laws Nos.2004/004 and 2004-005 of 21 April 2004 fixing the organization and functioning of the Constitutional Council and to lay down the status of its members respectively. Its secretariat was organized by Decree No.2005/253 of 30 June 2005. The appointment of its members, which is pending, is the last phase for it to go operational.

d) The National Commission on Human Rights and Freedoms (NCHRF)

**38** – The Paris Principles assert that the duties of Human Rights institutions include investigating allegations of Human Rights violations and giving advice to government on activities thereof. This explains why the National Committee on Human Rights and Freedoms set up by Decree No. 90/1459 of 8 November 1990 was transformed to the National Commission on Human Rights and Freedoms by Law No. 2004/016 of 22 July 2004.

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<sup>9</sup> Read chapter 5 below on fair trial.

39 - This transformation seeks to reinforce the capacities of this institution for the promotion and protection of Human Rights.

40 - The Commission is an independent institution charged with advising, observing, evaluating, encouraging dialogue, promoting and protecting Human Rights and freedoms.

41 - To this end, it may, inter alia:

- examine all issues raised above relating to Human Rights;
- popularize the instruments relating to the said laws;
- collaborate with the United Nations Organisation and other institutions.

## METHODOLOGY

### Data collection

42 - Data used in writing this report were collected mainly from the technical services of the Ministry of Justice, Legal Departments and Courts of the Republic, the Ministries of Territorial Administration and Decentralization, Public Health, Communication, Social Affairs, Defence, Economy and Finance, Basic Education, Secondary Education, Employment and Vocational Training, Labour and Social Security as well as the Delegation of National Security. The Cameroon Bar Association equally provided useful information on its actions relating to the promotion and protection of Human Rights.

### Data for the year 2005

43 – Although this report focuses on data for the year 2005, it equally includes long standing information on the protection of Human Rights in Cameroon. In order to provide current information at the time of publication of this report, reference is made to data for the year 2006 considering that they will be fully developed in the 2006 report.

### Participatory approach

44 – Finally, emphasis should be laid on the choice of a participatory approach in writing this report. This approach that aims at associating the maximum number of stakeholders involved in the protection of Human Rights in Cameroon was adopted at the data collection phase. It culminated in the validation of the report during a workshop organized from 24 to 25 April 2006 by the Ministry of Justice with the assistance of the United Nations Development Program (UNDP) and the Sub-regional Centre for Democracy and Human Rights in Central Africa.

- This workshop brought together representatives of ministries and members of the civil society involved in the protection of Human Rights.

45 – In the presentation below, each legal instrument, institution, measure or action cited or referred to shall be examined within its context and scope based on the dual division adopted for the presentation of this report namely:



- the promotion and protection of civil and political rights (part one);
- the promotion and protection of economic, social and cultural rights (part two).



**PART  
ONE**

**PROMOTION AND  
PROTECTION OF CIVIL  
AND POLITICAL RIGHTS**



**46** – This part of the report devoted to the promotion and protection of civil and political rights, and comprises nine chapters divided as follows:

- the right to life, physical and moral integrity ( chapter 1);
- individual freedoms (chapter 2);
- the right to move about freely, to choose a residence, to leave one's country and to seek for asylum (chapter 3);
- freedom of opinion, expression and the press ( chapter 4);
- freedom of association and of assembly ( chapter 5);
- freedom of belief (chapter 6);
- the pre-determination of offences and penalties by the law and the non-retrospective effect of the law (chapter 7);
- right to fair trial ( chapter 8);
- the right to take part in the management of public affairs, to vote and to be voted and to gain access to any position in the country's public service (chapter 9).



## CHAPTER 1 : THE RIGHT TO LIFE, PHYSICAL AND MORAL INTEGRITY

- 47 – It is the duty of the State to guarantee all persons under its protection the right to life, physical and moral integrity, by putting in place legal mechanisms to ensure that life is not taken away arbitrarily or that torture and other cruel, inhuman and degrading punishment or treatment are not inflicted on them.
- 48 – The law in Cameroon protects the individual from the time of conception by punishing abortion under section 337 of the Penal Code. Furthermore, it prohibits euthanasia and strictly regulates the implementation of the death penalty in accordance with article 6(2) of the International Covenant on Civil and Political Rights (referred to herein below as ICCPR) which stipulates that: *“In countries which have not abolished the death penalty, sentence to death may be imposed only for the most serious crimes in accordance with laws in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court”*.
- 49 - The right to physical integrity refers to the prohibition to cause injury or scars on any person save in cases of self-defence and provocation (section 84 and 85 of the Penal Code).
- 50 – The United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 defines *“torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

*Exceptional circumstances such as a state of war, internal political instability or any other public emergency may not be invoked as a justification of torture.*

*The orders of a superior or a public authority may not be invoked as a justification of torture”.*

- 51 – In Cameroon violations to physical and moral integrity are severely punished. Legislative and statutory enactments guarantee and protect the right to life, physical and mental integrity, in practice, administrative, disciplinary and/or criminal measures render them more effective.

### **Section I: Instruments to safeguard the right to life, physical and moral integrity**

- 52 – The Preamble of the Constitution stipulates, *“Every person has a right to life, to physical and moral integrity and to humane treatment in all circumstances. Under no circumstances shall any person be subjected to torture, to cruel, inhuman or degrading treatment”.*

- 53 - It equally affirms the attachment of the people of Cameroon to the *“fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations and the African Charter on Human and Peoples’ Rights, and all duly ratified international conventions relating thereto...”*

- 54 - Article 45 of the Constitution provides that *“duly approved or ratified treaties and international agreements shall, following their publication, override national laws, provided the other party implements the said treaty or agreement”*<sup>10</sup>

- 55 - Articles 55 and 56 of the United Nations Charter as well as Article 3 of the United Nations Universal Declaration of Human Rights of 1948 edict the right to life, the prohibition of torture, punishments or cruel, inhuman or degrading treatment.

- 56 - Article 5 (b) of the International Convention on the Elimination of all Forms of Racial Discrimination and Article 6 of the ICCPR equally protect the right to life, physical and moral integrity.

- 57 - Article 7 of the ICCPR provides:

*“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation”.*

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<sup>10</sup> It should, however, be noted that the international protection of Human Rights has adopted the idea of diplomatic immunity which should water down the provisions of art.45).



- 58** - Article 4 of the African Charter on Human and Peoples' Rights (ACHPR) reaffirms these provisions.
- 59** – Article 1(1) of the Convention on Torture or Cruel, Inhuman or Degrading Punishment or Treatment (1984) defines and condemns any justification of torture.
- 60** - Article 2 (2) provides, *“No exceptional circumstance whatsoever, whether a state of war or a threat of war, internal political instability or any other public exception, may be invoked as a justification of torture”*.
- 61** - Article 2(3) provides, *“order from a superior officer or a public authority may not be invoked as a justification of torture”*.
- 62** - It should be stated here, as per a judgment delivered by the Supreme Court of Cameroon that, *“state agents or civil servants cannot invoke orders from their superiors as justification or excuse; similarly, an accused may not invoke the orders of his employer to justify an offence, where such facts are established, they do not absolve the accused and personal acts are not expunged unless it was a case of force majeure”* (Judgment No. 4 of 7 October 1969).
- 63** – In the case of soldiers, the principle set forth in section 83 of the Penal Code<sup>11</sup> should be put in perspective, because absolute defence is subject to the fact that the order itself is not manifestly unlawful. In Judgment No. 297-97 of 26 August 1997 delivered by the Yaounde Military Tribunal, one HOUSSEINI, the Gendarmerie Company Commander of Poli was sentenced to 15 years imprisonment for ordering the summary execution of seven individuals presumed to be highway robbers. Five elements of his unit involved in this matter were convicted for capital murder and sentenced to terms of imprisonment from 10 to 12 years. The contention that the executions were carried out on the orders of their superiors was rejected by the judges who held that such orders were manifestly unlawful.
- 64** – Furthermore, Cameroonian judicial officers annul proceedings where it is established that confessions were obtained through torture as was illustrated in the case of The People vs. TONFACK Julienne and KAMDEM Robert (Judgment No. 69- No.69/00 of 21 September 2000). In the case of a land dispute between Robert KAMDEM and Mrs TONFACK Julienne, the latter lodged a complaint at the Dschang Investigation Brigade, where her brother-in-law, Sergeant DJUTO Richard, served as

<sup>11</sup> Section 83 of the Penal Code: (1) “No criminal responsibility shall arise from an act performed on the orders of a competent authority to whom obedience is lawfully due.

(2) This sub section shall not apply where the order is manifestly unlawful”.

Assistant Commander. The plaintiff explained that KAMDEM threatened her and her children with a locally made pistol, which he shot in the air to intimidate her. DJUTIO Richard proceeded to arrest *manu militari* Kamdem Robert.

Evidence adduced in the course of the trial established that DJUTIO Richard subjected KAMDEM Robert to inhuman treatment because of his relationship with Mrs TONFACK Julienne.

He was remanded in custody for twenty (20) days, which exceeds the legal time-limit, and beaten several times to force him to confess. He sustained injuries as a result of this treatment and finally confessed.

The conditions under which the confession was made, constitute, a glaring example of a flagrant and manifest violation of Human Rights;

The court ordered that proceeding, initiated by investigation warrant No. 073/MINDEF/062 of July 1999 by the Minister of State, Delegate at the Presidency in charge of Defence be annulled and KAMDEM Robert be immediately released.

**65** – This judgement illustrates that contrary to public opinion; military tribunals in Cameroon are not special courts<sup>12</sup>, but courts with special jurisdiction<sup>13</sup> (see 413 infra).

**66** – 66- Articles 19 and 37 of the International Convention on the Rights of the Child guarantees the right to protection from sexual violence, torture and cruel, inhuman or degrading treatment.

**67** - In Cameroon, there are still remnants of backward religious and cultural practices used by some parents and teachers to educate pupils. On 28 January 2003 in Maroua, the Movement for the Defence of Human Rights and Freedoms<sup>14</sup> informed the Minister of Justice of the poor treatment on children in a koranic school. This school had boarding and day students. The boarders were delinquent and recalcitrant children entrusted to the marabout for rehabilitation. Confessions by teachers and statements from pupils indicate that the methods used for the rehabilitation included crushing stones on the mountain and transporting them close

<sup>12</sup> In its 2005 Report on Cameroon, Amnesty International, referring to 18 presumed members of the Southern Cameroons National Council (SCNC), holds that these persons were sentenced "at the end of an unfair trial before a court controlled by the Minister of Defence. The Government announced in December that they were authorized to go on appeal, but no appeal had been filed by the end of the year".

The Chancellery received 22 letters from many personalities, some purporting to be members of Amnesty International, in which similar concerns were expressed to the Keeper of the Seals.

<sup>13</sup> This is an expression used by Professor Emmanuel DECAUX, member of the Sub-commission for the Promotion and Protection of Human Rights.

<sup>14</sup> A Human Rights defence NGO.

to the school, regular beatings, poor feeding and chaining by night and day for months and even years. The parents of these children were aware and appear to have approved of these practices. On the instructions of the Minister of Justice and after a prompt administrative investigation, proceedings were instituted against the marabout on 28 July 2003. He was indicted before the High Court of Diamare for torture and subsequently convicted for false arrest and sentenced to one year imprisonment suspended for three years, on 14 April 2005<sup>15</sup>.

- 68** – Although the Minister of Education has formally prohibited whipping, vestiges of this practice still exist in schools and colleges. A tragic case occurred at Government High School Mendong, Yaounde on 24 February 2004, when a teacher of Spanish by name, PAMGA EWAE NGUENG Elise, whipped a student with a domestic gas tube who died a few minutes later. The teacher was charged for assault occasioning death, remanded in custody and subsequently convicted and sentenced to 2 years imprisonment suspended for three years (Judgment No. 403-CRIM of 23 April 2004 by the High Court of Mfoundi)<sup>16</sup>.
- 69** - The violation of fundamental values such as life and physical or moral integrity is punishable under numerous provisions of the Penal Code.
- 70** - Provisions of the Penal code which protect life include dangerous activities (section 228), murder (section 275), capital murder (section 276), assault occasioning death (section 278), infanticide (section 340), assault on ascendant (351), abortion (section 337) etc.
- 71** – The Cameroonian legislator seeks to effectively protect physical and moral integrity through different forms of prosecution and relevant penalties. The following provisions protect physical integrity: assault occasioning grievous harm (section 279), simple harm (section 280), slight harm (section 281), assault on woman with child (section 338), indecency to minor between sixteen and twenty-one (section 347), assault on children (section 350), assault on ascendant (section 351), and act of violence (section 370 (1)).
- 72** – The effective prosecution of these offences, which is the daily lot of the courts throughout the country and needs no comment. It would therefore be fastidious to extensively cite numerous Judgments delivered accordingly.

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<sup>15</sup> This judgment is final.

<sup>16</sup> The civil party and the accused appealed against this judgment.

73 – By internalizing the offence on torture, the rights to life and physical and moral integrity are better protected. Law No. 97/009 of 10 January 1997 to amend and supplement certain provisions of the Penal Code, includes the insertion of a section 132(a) between sections 132 and 133 of the Penal Code, which reads as follows:

Section 132(a): Torture:

*“(1) « Where torture results in the unintentional death of the victim, it shall be punished with life imprisonment.*

*(2) Where, as a result of torture, the victim is permanently deprived of the use of the whole or any part of a limb, organ or sense, the punishment shall be for from ten to twenty years.*

*(3) Where torture results in illness or industrial disablement of more than 30 days, the punishment shall be imprisonment for from 5 (five) to 10(ten) years and a fine of from 100,000 to 1,000,000 francs.*

*(4) Where torture results in illness or industrial disablement of up to 30 days or in mental or moral pain and suffering, the punishment shall be imprisonment for from 2 (two) to 5(five years and a fine of from 50,000 to 200,000 francs”.*

For the purpose of this section:

*“a) “Torture” shall, within the context of this Code, mean any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the investigation of a public official or with his express or tacit consent on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or putting pressure on him or a third person, or for any other motive based on any form of discrimination whatsoever<sup>17</sup>*

*(b) Torture shall not include pain or suffering arising from, inherent in, or incidental to lawful sanctions.*

*(c) Exceptional circumstances such as a state of war, internal political instability or any other public emergency may not be invoked as a justification of torture.*

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<sup>17</sup> This definition of torture adopts in its entirety the definition of article 1 of the New York Convention of 1984.

*(d) The orders of a superior or a public authority may not be invoked as a justification of torture.*

*(e) The conditions provided for under Section 10(1) of this Code shall not apply to torture”.*

**74** – The provisions mentioned above are effectively applied by the courts and other competent authorities<sup>18</sup>.

## **Section 2 : Measures to promote and protect the right to life, physical and moral integrity**

**75** – Measures to promote and protect the right to life, physical and moral integrity are grouped into actions relating to training, directives and sanctions.

### **§ 1: Seminars and training**

**76- 1** - Major steps are taken to strengthen the intellectual and operational ability of persons in charge of effectively implementing international and national Human Rights norms. Seminars organised with or without the support of foreign partners, particularly, the United Nations Sub-Regional Centre for Human Rights and Democracy in Central Africa and the International Committee of the Red Cross and Red Crescents, could be mentioned:

**76- 2** - Seminars in Cameroon:

- Sub-regional workshop on the development of national action plans for the promotion and protection of Human Rights in Central Africa (Yaounde, 18 to 19 December 2001);
- Sub-regional Conference of Ministers of Justice or of Human Rights and Presidents of Supreme Courts (Yaounde, 13 to 14 June 2002);
- National seminar for officials of penitentiary administration (Yaounde, 20 to 22 October 2003). This seminar brought together different Government services and Non- Governmental Organisations to share ideas on the following topics:

<sup>18</sup> The following circulars by the Keeper of the Seals are worth mentioning:

- Circular No. 0026/03/032/AP/DAPG of 15 April 2002 prescribing the protection of the physical integrity and the image of a suspect.  
- Circular No. 39/CD of 28 May 2002 requesting Procureurs General to submit to the Keeper of the Seals all decisions relating to torture (section 132 (a) of the Penal Code).

- the Evaluation of the Effectiveness of Human Rights and Security in Prison;
- the Respect of Detainees' Rights and the Responsibility of Penitentiary Administration Staff;
- Prisons and the concerns of Human Rights Organisations;
- the Influence of Administrative Authority on the Efficient Management of Prisons;
- the Prison-Council collaboration within the Frame-work of the Improvement of the standard of Living of Inmates;
- the Preventive Management of Risks in a Prison;
- the Rational Management of the votes of Penitentiary Establishments;
- the Profile of a Good Prison Superintendent within the Frame-work of the Respect of Human Rights and Security requirements.;
- Sub-regional workshop on the civil society, Human Rights and the rule of law (Kribi, 2 to 4 February 2004),
- sub-regional workshop on the role of the civil society in the implementation of the Durban plan of action against racism, racial discrimination, xenophobia and related forms of intolerance (Yaounde, 12 to 14 July 2004).
- 14 to 18 March 2005 in Yaounde: Seminar on *"Human Rights and the Administration of Justice"*.
- 14 to 16 November 2005 in Douala: Sub-Regional training seminar on Human Rights in the Penitentiary Administration in Central Africa. Discussions touched on the following sub themes:
  - international norms on the rights of detainees;
  - detention conditions and obstacles to the implementation of international rules;
  - mechanisms of individual complaints and visits to penitentiary establishments;

- vulnerable groups in prison (women, minors, the sick...);
- the law and detention (awaiting trial, procedure for the execution of sentences, alternative penalties, overcrowding, reforms...).
- 21 to 25 November 2005 at Yaounde: Seminar on the Training of 26 senior officers of the Cameroon armed forces *"on the Implementation of International Humanitarian Law in Peace Keeping Operations"*.

**76- 3** - Cameroonian officials participated in seminars which took place at Libreville (Gabon) 13 to 15 January 2003, Malabo (Equatorial Guinea) 20-22 May 2003, Kigali (Rwanda), Brazzaville (Congo) 29 to 30 March 2004 and at Bujumbura (Burundi), 6 to 8 September 2004.

**77** - Generally, International Human Rights Law (IHL) and Humanitarian International Law (HIL) are taught at the police college, the gendarmerie school, the penitentiary administration school, the school of Administration and Magistracy and at universities.

**78** – It is equally important to underscore promotion actions, which are the favourites of the civil society and non-governmental organisations. These include the following:

-The setting up of a Human Rights Commission at the Bar Association responsible, inter alia, for monitoring the enforcement of the rule of law, reporting Human Rights violations and the promotion of Human Rights (Decision No. 017-BDA-07-99 of 30 July 1999). The main activities of the Commission consisted of:

- \* continuing with the programme to humanize detention through professional assistance of the Programme for the Improvement of Detention Conditions and Respect for Human Rights (PACDET) and certain NGOs which promote and protect Human Rights;
- \* participating in the cultural week organized by the association *"Le geste qui sauve"* in the Yaounde, Douala and Eseka prisons on the theme: *"Detention in Cameroon and the International Human Rights Law"*;
- \* participating in the validation of the National Programme for the Teaching of Human Rights in Cameroon initiated by the National Commission on Human Rights and Freedoms (NCHRF);

\* organizing a competition dubbed “*Youths, Human Rights and the Culture of Peace*” during the World Human Rights Day on 10 December;

celebrating the United Nations International Day for Support to Victims of Torture on 26 June, which is an opportunity to sensitize people on the ills of torture through the themes such as the one chosen in 2005 by the “Action des Chrétiens pour l’Abolition de la Torture” (ACAT) (Christians Action for the Abolition of Torture) Littoral chapter: The Persistence of Torture and other Violations of the Right of the Person: Cameroon, a State where the Rule of Law Prevails?

Participants emphasized the following recommendations:

- free access to justice for torture victims;
- eradication of private prisons in the North and South-West Provinces of Cameroon;
- reorganisation of conditions of detention in prisons all over the country by confining minors, women, the elderly and hardened criminals separately;
- celebration from 8 to 12 December 2005 of the 57th anniversary of the UDHR on the theme “Combating Torture” with the following sub themes:
  - \* international rules on torture;
  - \* collective endeavour for the prevention of torture in Cameroon;
  - \* the Criminal Procedure Code and the Prevention of Torture in Cameroon;
  - \* care for torture victims in Cameroon: experience of the Trauma Center and the “Fondation Idolé”;
  - \* judicial precedents and the Mukong case.

The NGO “*Nouveau Droit de l’Homme*” (New Human Rights) (NDH) Cameroon announced the setting up of a new permanent mechanism for the prevention of all forms of human rights violations, particularly, acts of torture. This gave birth to the programme “*Prevenir la torture pour une Nation plus respectueuse des Droits de l’Homme*” (Preventing Torture for a Nation that shows more Respect for Human Rights) in 2002. According to its promoters,



its objective is to provide the enabling environment where Cameroonians and persons living in the country shall no longer be victims of acts of torture and any other Human Rights violation. In 2004 and 2005, the Government of Cameroon and the NGO “*Nouveaux Droits de L’Homme*” carried out an extensive popularization campaign on the United Nations Convention Against Torture. Similarly, the Delegate General for National Security ordered that the said Convention and the provisions of Section 132 (a) of the Penal Code on torture be systematically affixed at all police posts and stations. Moreover, the Government of Cameroon welcomed the proposal to institute the Vieira De Mello Price to be awarded to the best initiatives and actions in the domain of Human Rights. This price was initiated by “*Nouveaux Droits de L’Homme*” in partnership with the United Nations Sub-regional Centre for Human Rights and Democracy in Central Africa, the National Commission on Human Rights and Freedoms, the National Commission for Justice and Peace and the Catholic University of Central Africa. The first prize award ceremony took place at the Conference Centre, Yaounde, on 27 May 2005.

Human Rights defence associations grouped under the canopy of “*La Maison des Droits de l’Homme du Cameroun*” (Human Rights House of Cameroon) met on 10 October 2005 in Douala, on the occasion of the first World Day against the death penalty, organised by “*La Coalition mondiale contre la peine de mort*”. (Global Coalition against the Death Penalty). Participants noted the worthlessness of the death sentence with regard to the characteristics of criminal sanction which should be indicative, dissuasive and corrective. Consequently, they decided to set up a “*Cameroon Chapter*” of the “*Global Coalition against the Death penalty*” whose objective is to cause Cameroon to abolish the judicial, extra judicial and traditional forms of the death penalty.

**79** – Whatever the case, the right to life is sacred in Cameroon and extra judicial executions are not tolerated. Each time government officials are informed of such summary executions, they institute judicial proceedings against the suspects. Such proceedings usually result in convictions and corresponding sentences.<sup>19</sup>

**80** – However, enforcement of the death penalty in accordance with international norms is a legal exception to this principle (see § 48 supra). Section 18 of the Penal Code provides “*the following are principal penalties*

- *death*;

<sup>19</sup> See Judgment No. 297/97 of 26 August 1997 delivered by the MT of Yaounde § 63 supra.

- *loss of liberty, whether by imprisonment or by detention;*

- *fine*".

**81** – Death is pronounced by competent courts and only for the most serious offences particularly capital murder (section 276 of the Penal Code). After an appeal is lodged, the Department of Criminal Matters and Pardon at the Ministry of Justice systematically examines applications for clemency, which are submitted to the appreciation of the President of the Republic<sup>20</sup>, who issues a decree either dismissing the appeal or commuting the sentence, after consulting the Higher Judicial Council. If the appeal is dismissed, the convict is executed.

**82** – It should however be noted that the last execution was carried out in 1997 and it may not be an over statement to say executions have been suspended de facto in Cameroon.

**83** – The President of the Republic chaired the Higher Judicial Council meeting of April 2005, at the end of which he signed Decrees No.2005/182 and No. 2005/183 of May 31 2005 to commute death penalties pronounced against certain persons to life imprisonment.

**84** – Besides, in accordance with article 37 (a) of the Convention on the Rights of the Child, the death penalty shall not be pronounced against minors of less than 18 years old in Cameroon.

**85** – No woman with child shall be executed until after her delivery (section 22 (3) of the Penal Code).

## **§ 2 : Directives and sanctions**

**86** –This section will focus on cases of violation of the right to life, physical and moral integrity, committed by civil servants and traditional authorities who are ironically legally empowered to enforce these rights.

**87** – By punishing torture, the legislator sought to target these authorities so as to remind them that they must respect Human Rights. The insertion of

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<sup>20</sup> Pursuant to Article 8 (7) of the Constitution, the President of the Republic shall exercise the right of clemency, after consultation with the Higher Judicial Council. Article 1 and 2 of Decree No. 2005 -122 of 15 April 2002 to organize the Ministry of Justice, and Article 30(1) provide that the Department of Criminal Matters and Pardon shall be responsible for "examining application files for clemency, rehabilitation and conditional release".

section 132 (a) in the chapter on offences committed by civil servants in the exercise of their duties is illustrative<sup>21</sup>.

- 88** – Decree No 77/245 of 15 July 1977 to organise traditional chiefdoms provides that the traditional authority is an auxiliary of the administration and his designation is subject to the supervision of the administrative authority who may equally revoke it.
- 89** – Measures, though not exhaustive, taken by government, administrative and judicial officials to prevent or punish violations of the rights referred to above are mentioned below. These measures are elucidated in the penitentiary administration, police, gendarmerie and traditional chiefdoms.

## THE PENITENTIARY ADMINISTRATION

- 90** – The Penitentiary Administration was attached<sup>22</sup> to the Ministry of Justice by Decree No. 2004-320 of 8 December 2004 to organise the Government. A Secretary of State assists the Minister in charge of Justice in managing this Administration.
- 91** – Any penitentiary staff found guilty of torturing or maltreating detainees shall be punished under the provisions of Order No. 080 of 16 May 1983 to lay down the disciplinary system in force. Sanctions range from detention to delay in promotion, without prejudice to criminal proceedings. The following cases may be mentioned:
- by service note No. 27-NS-REG-PC-BFM of 5 September 1999, the Superintendent of the Bafoussam Central Prison sanctioned a senior prison warder with 72 hours detention for “*ill-treating a detainee*”;
  - by Service Note No. 46-NS-REG-DBC of 7 June 1999, the same Superintendent sanctioned a prison warder with 03 days for “*cruelty to a detainee*”;
  - by Service Note No. 38-S-PCY-SAF-BP of 22 April 1997, the superintendent of the Yaounde Central Prison sanctioned a senior prison warder with 03

<sup>21</sup> The « lexique de termes juridiques », 13th ed. 2001, in defining authorities, refers to government. It defines the word as “Terms often used, although with a rather imprecise legal meaning, to designate State, and even sometimes local government, bodies. In so doing, this meaning also applies to public authorities, even though this expression’s meaning is more inelastic”.

<sup>22</sup> Formerly, this administration was managed by the Ministry in charge of Territorial Administration. The determination of the Head of State and recommendations by certain UN committees for the supervision of Human Rights provoked this change (See 9/c of the recommendations by the Committee Against Torture after reviewing Cameroon’s third Periodic Report relating to the Convention Against Torture and Other Cruel Inhuman or Degrading Punishments (doc. CAT/C/CR/316 of 20 November 2003).

days detention in a cell, for “senseless brutality on a detainee”;  
 - by Service Note No.17-PCY-SAF-BP of February 1998, the same Superintendent sanctioned a prison warder with 12 hours in detention for “abuse of authority and violence on a detainee”.

In his speech on 8 December 2005 during the graduation ceremony of students at the National School of Penitentiary Administration, Buea, the Secretary of State at the Ministry of Justice in charge of Penitentiary Administration reminded them that “it should be noted that nowadays the protection of the rights of detainees is a major priority because the international community has given the respect of Human Rights a universal dimension”.

92 – During the judicial year 2004-2005, various disciplinary sanctions were meted by Prison Superintendents on some of their collaborators for infringing on life, physical and moral integrity or deeds which violate these values. Disciplinary files have been opened for other cases pending as illustrated by the following table<sup>23</sup>:

N°	Grade, Name and First Name	Prison	Reason	Sanction/ observations
1	SW NOMA Claudine	Yaounde Central Prison	Drug trafficking	48 hours under detention
2	PW NDJIGUI NGUIMBOU Théodore	”	”	72 hours under detention
3	SW TENGA BELINGA Robert	”	Taking photographs in women’s section	48 hours under detention
4	PW EBA Pierrine Pauline	”	Drug trafficking	72 hours under detention
5	SPW BIOLO née NGO MOIU Yvette	”	”	24 additional hours of keeping guard
6	CPW CHE Joseph ALANG	”	”	24 hours under detention
7	PW NDJIGUI NGUIMBOUS Théodore	”	”	4 hours under detention

<sup>23</sup> Source: Department of Penitentiary Administration.

N°	Grade, Nom et prénom	Prison	Motif	Sanction/ observations
8	PW EBA Pierrine Pauline	„	Repeated trafficking in drugs	96 heures le 1er et 96 heures le 8 avril respectivement
9	PW TAMBA Jean	„	Taking photographs in women's section	72 hours under detention
10	PWs NKEMATEH Williams, MISSOUBA Guillaume	„	Fraudulent introduction of an individual in a prison	24 additional hours of keeping guard
11	ODI née MENAMA ATANGANA	„	Drug trafficking	24 hours under detention
12	YOUSSOUFFA	„	„	72 hours under detention
13	EBODE TSELE Amélie	„	Providing a telephone for a prisoner	48 additional hours of keeping guard.
14	PW NJEDA Jean	Douala Central Prison	Illicit trafficking	5 days under detention
15	PW NGWANYU Johnson	Yaounde Central Prison	Bringing in adulterated alcohol	24 additional hours of keeping guard
16	PW NGONGO Joachim	Nanga-Eboko Central Prison	Facilitating sexual intercourse among detainees during extraction	File under study in the Ministry of Justice
17	APs FONGOHO DIVINE TITAKUNA	Garoua Central Prison	Minor harm; violation of arrest and search instructions	„
18	PW ENGANIKOUL Casimir Blaise	Bafia main Prison	sexual intercourse with inmates	„
19	APs MBOKE NANE Joël	Kribi main Prison	Assault occasioning the death of a detainee	„
20	PCWs AWA LUC, MBA-ZOA et NSIMI BILOA	Ebolowa Central Prison	„	„

- 93** – Suspects of cruelty that resulted in more tragic consequences were charged before competent courts<sup>24</sup>. The most recent cases concern:
- Mr MBOKE NANE, Superintendent of the Kribi Prison arraigned before the High Court of the Ocean Division on an indictment for assault occasioning death, failure to provide assistance and torture. He was convicted for torture on a detainee and sentenced to 05 years imprisonment on 25 June 2004<sup>25</sup>;
  - Senior Prison Administrator BIKORO AIMÉ Parfait was sentenced to 03 years imprisonment suspended for 04 years by the High Court of Mvila. In the same matter, the court sentenced Chief Warders AWAH Luc, MBAZOUA and TSIMI BILOA to 03 years imprisonment suspended for 03 years each for assault occasioning the death of a detainee in the Ebolowa Central Prison;
  - judicial proceedings are pending against retired Warder ONANA ELOUNDOU for abuse of authority on a detainee.

## THE POLICE

- 94** - The General Delegation for National Security (DGSN) strives to inculcate the respect of Human Rights within the police corps. With the publication of Circular No.007808-SESI-S of 21 June 1993 on remand in police custody and inhuman treatment in police stations, the police corps is constantly sensitized on issues related to torture<sup>26</sup>.
- 95** - The General Delegation for National Security signed an agreement with the Regional Delegation of the International Committee of the Red Cross in Central Africa in August 2001, to provide training to police instructors on International Humanitarian Law and Human Rights.
- 96** - The Delegate General for National Security, in a speech made, during the graduation ceremony of The National Advanced Police College (ENSP) on 4 August 2005, reminded students that, the respect for republican legality, individual freedoms and Human Rights should be their major concern.

<sup>24</sup> Source: Department of Penitentiary Administration. Appeals were taken against some of the decisions mentioned in this report.

<sup>25</sup> Following an appeal by all the parties, the South Court of Appeal, in a judgment of 12 May 2005, reduced Mr MBOKE NANE's prison term to 2 years.

<sup>26</sup> The publication and popularization of the opusculé titled « la police camerounaise face au respect des Droits de l'Homme » (the Cameroon Police Force and the respect for Human Rights) is a major initiative which compounds courses on Human Rights and even international humanitarian law taught in the National Advanced Police College (ENSP) and the Mutengene Police College (CIAP).

- 97** - During the graduation ceremony of 657 new Police Inspectors on 16 August 2005, the Commander of the Mutengene Police College (CIAP) declared that the training underscored the respect of citizens' freedoms and rights and that the notions of citizen- friendly police, integrity and public service were equally inculcated in the batch.
- 98** – During the same ceremony, the Delegate General for National Security recommended that the police must first ensure that it is organised and it should strive to achieve the objectives prescribed by the Head of State in the road map to ensure a more efficient police force that respects Human Rights and is citizen friendly<sup>27</sup>. This is the essence of the setting up of a unit called the police of the police. In fact, a Special Division for the Control of Services was set up by decree No. 2005-065 of 23 February 2005. It ensures “the policing of the Police” (article 1(2) of the decree.

This unit shall be in charge of:

- carrying out civil or administrative inquiries and police clearance;
- protecting the secrecy, the state of mind, morale, loyalty of National Security personnel, employees and civil servants of the State or public authorities;
- actively participating in combating corruption;
- contributing to the enhancement of discipline and respect for professional ethics in the National Security;
- carrying out administrative and judicial inquiries concerning National Security personnel.

This structure, notwithstanding the duties of officials in charge of discipline, shall be responsible for preventing and curbing excesses committed during or out of service.

- 99** – To guarantee Human Rights, the following measures are prescribed in police stations:

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<sup>27</sup> Cameroon Tribune No. 8413/4621 of 16 August 2005. Speech made during the graduation ceremony of 657 new Police Inspectors.

- daily checks by officials in charge of detainees for early identification of the sick who shall immediately receive appropriate treatment;
- prohibition of inhuman or degrading treatment on detainees particularly;
- \* whipping to obtain confessions;
- \* abusive use of tear gas and other service weapons.

**100** - This is why the Cameroon police presently lays emphasis on new investigation techniques for data collection and analysis. These methods render extorting confessions through torture unnecessary. Rather, information will be obtained from data analyses. This was the subject matter of a seminar on criminal methodology with expertise from the "service français de la coopération technique internationale de la police" (French Service for Police International Technical Co-operation) to enhance capacity building in scientific investigation in Yaounde on 28 September 2005, by the "Cabinet Central d'Etudes de Recherches et d'Investigations" (CCERI) for Cameroon's police executives

**101** - The Criminal Procedure Code is a legal instrument that protects the physical integrity of persons. Section 122 provides:

*(1)(a) "The suspect shall immediately be informed of the allegations against him, and shall be treated humanely both morally and materially".*

*(2) "The suspect shall not be subjected to any physical or mental constraints, or to torture, violence, threats or any pressure whatsoever, or to deceit, insidious manoeuvres, false proposals, prolonged questioning, hypnosis, the administration of drugs or to any other method which is likely to compromise or limit his force of action or decision, or his memory or sense of judgment".*

**102** - Section 123 (1) of the same Code adds, *"the person remanded in police custody may, at any moment, be examined by a medical officer appointed by the State Counsel of his own motion. Such medical officer may be assisted by another chosen by the person on remand at his own expense"*.

**103** - Sub-section 2 provides, *"the State Counsel may also order such medical examination at the request of the person concerned, his lawyer or a member of his family. Such medical examination shall be carried out within twenty-four hours after the request"*.



Where in spite of the aforementioned measures, acts which affect or are likely to affect life or physical integrity are committed, criminal sanctions preceded by conservatory measures are meted on the police offenders. This was the case in:

- the decision to relieve Mr MIAGOUGOU DOM BELLO Japhet of his duty as First Assistant Commissioner of Public Security, Kribi, after he shot and killed a young man with his pistol in January 2005. He was remanded in custody in the course of a preliminary enquiry conducted against him for murder.

**104** - Other cases are outlined in the following table<sup>28</sup>.

N°	Name and first name, Grade and service	Acts committed and date	N° Décision	Duration of suspension
1	MOTAZE Jean Paul CPP - DPSN/ Littoral	Gross negligence ; 13/04/05 gave out a service weapon used to kill a police constable	n°-00033 of 18/04/05	3 months
2	TANG ENOW Lawrence CP-SP LIMBE	Serious unscrupulous act; killed an individual during a police operation on 07/04/05	n°-00028 of 11/04/05	3 months
3	AKOMEZOA AFANDA CP-DGNS	Unscrupulous act; shot a citizen on 09/2004	n°-00118 of 03/05/05	3 months
4	AMOULOU MVON- DO R OP2-SP Airport/Yaounde	Gross negligence, erroneous withdrawal of documents 27/06/05	n°-005/02 of 12/08/05	3 months
5	MVE OBAMA Timothée OP1- DPJ	Unscrupulous act and appropriation of seized object 24-25/05/05	n°-00324/ of 07/07/05	3 months
6	ENGOLO Alfred OP1 SP Airport, Yaounde	Gross negligence, erroneous withdrawal 27/06/05	n°-00503 of 12/05/05	3 months
7	ABESSOLO Roger OP1- SP Airport, Yaounde	Gross negligence, erroneous withdrawal 27/06/05	n°-00505 of 12/08/05	3 months
8	Robertson Serge S SP-DFGIL	Unscrupulous act and appropriation of object 24-25/05/05	n°-00329 of 07/07/05	3 months
9	ONGUENE Lazare Alain IP1-DST	Unscrupulous act and appropriation of object 24-25/05/05	n°-00325 of 07/07/05	3 months

<sup>28</sup> Source: Delegation of National Security.

N°	Nom et Prénom Grade et Service	Faits commis et date	N° Décision	Durée de suspension
10	NSI Nadège Carole IIFI-DST	Unscrupulous act and appropriation of object 24-25/05/05	n°-00322 of 07/07/05	3 months
11	ATANGANA Jean L Police constable GMI No.1	Serious unscrupulous act; shot and killed a citizen on the night of 08 to 09/04/05	n°-00032 of 11/04/05	3 months
12	NSILI Serges Hermery Police constable, GMI No.1 Yaounde	Serious unscrupulous act of 08 to 09/04/05 shot and killed a citizen	n°-00031 of 11/04/05	3 months
13	OSSOBO Benoît Police Constable GMI, No. 1 Yaounde	Yaounde Serious unscrupulous act; shot and killed a citizen on the night of 08 to 09 /04/05	n°-00030 of 11/04/05	3 months
14	ONDONGO Denis Serges Police Constable, GMI, No. 1 Yaounde	Serious unscrupulous act; shot and killed a citizen on the night of 08 to 09 /04/05	n°-00029 of 11/04/05	3 months
15	Toudo Djomo Hervé Police Constable, GMI, No. 2 Yaounde	Serious unscrupulous act; shot and killed colleague on 16-17/04/05	n°-00034 of 08/04/05	3 months

**105** - Upon the promulgation of Law No. 97-009 of 10 January 1997 to amend and supplement certain provisions of the Penal Code(see § 73 supra) the following were the first lot of civil servants of the police corps to be prosecuted, convicted and sentenced for torture:

- Police Constables EROUME À NGONG and MVOUTTI Alexandre as well as Superintendent of Police Moutassie Beinvenue were convicted for torture and sentenced to five years imprisonment each in Judgment No.176/Crim of 5 June 1998<sup>29</sup>;
- Superintendent of Police NSOM BEKOUNGOU and another police man were convicted on charges of torture and sentenced to six and ten years imprisonment respectively by Judgement No. 195/Crim of 26 June 1998 by the High Court of Mfoundi<sup>30</sup>;

<sup>29</sup>The Legal Department appealed against this judgment.

<sup>30</sup>An appeal was lodged against this judgment.

- Superintendent of Police MENZOUO Simon and Senior Police Constable Saboa Jules Oscar were convicted on charges of torture and sentenced to five years imprisonment each by the High court of Upper – Nkam on 27 February 2002;
- Police Constable AVOM Jean Christophe was convicted on a charge of torture and sentenced to ten years imprisonment by the High Court of Nyong and So'o on 06 March 2003;
- Police constables KAM John Brice, MIMOGA Louis LEGRAND AND GREBOUBAÏ Michel were convicted torture on a detainee and sentenced to five years imprisonment each by the High Court of Mfoundi in Judgment No. 318 /Crim of 26 August 2003<sup>31</sup>;
- Senior Police Inspector ETOUNDI Marc was convicted for failing to provide assistance and sentenced to three months imprisonment;
- Police constable EFFA NGONO AKAME Geoffrey was convicted for unintentional killing by the Military Tribunal of Yaounde and sentenced to two years imprisonment suspended for three years and three million francs damages.
- Senior Police Constable KEDIO NTCHINGUE and Police Constable Eyengue Jean-Marie were arraigned before the Court of First Instance, Yaounde, Administrative Centre on a charge of simple harm on a taxi driver;
- Police Constable Habit TANKEU was charged for murder committed with his service gun by the High Court of Mfoundi.

**106** - During the judicial year 2004-2005, the following judgments were delivered in proceedings against civil servants of the police corps:

- the Court of First Instance, Mokolo sentenced Inspector of Police ATEP, to a fine of ten thousand francs, for slight harm;
- the Adamawa Court of Appeal sentenced Inspector of Police MEIGARI BEDA, of Meiganga, to two years imprisonment suspended for three years and a fine of ninety-nine thousand francs for torture, threats, blackmail and false arrest<sup>32</sup>;

<sup>31</sup> This case is pending before the Court of Appeal of the centre province.

<sup>32</sup> This judgement is final.

- the North Court of Appeal, in a judgment of 4 February 2005, sentenced Inspector of Police AMADOU ABBA to six months imprisonment suspended for three years, on a charge of simple harm;

the High Court of Meme, convicted Inspector of Police Stephen Ngu for torture and grievous harm, and sentenced him to five years imprisonment on 24 October 2005<sup>33</sup>. There was no claim for damages<sup>34</sup>.

- the Court of First Instance, Yaounde, Administrative Centre on 8 December 2005, convicted Police Inspector Roger ZAMEYO and Police Constable Thomas NYAMEKONG in default on charges of abuse of office, refusal of service and torture, to two years imprisonment and damages in the sum of 2,090,000 francs. Bench warrants were equally issued against them.

**107-** The following matters are pending before the courts mentioned below:

**Court of First Instance, Yaounde, Administrative Centre:**

- \* The People vs. Police Constable SAMBA NGONO Innocent Bernadin charged with unintentional killing;
- \* Senior Police Inspector Mbarga Alogo Maxime charged with destruction, slight harm and illegal detention of property;
- \* The People v. Inspector of Police Zameyok and Senior Police Constable Nyamekong charged with torture, oppression and threats.

**Court of First Instance, Yaounde, Ekounou:**

- \* The People v. Police Officer Nanga Thérèse, Medou Obou and Tchokomeni jointly charged with torture, oppression, simple harm, failure to assist and destruction
- \* The People v. Inspector of Police Amougou Belinga Azérie for lack of self control and charged with unintentional killing;
- \* The People v. Superintendent of police Ondo Obah and Senior Inspector of Police Abate jointly charged with oppression, cruelty and harm;
- \* The People vs. Senior Police Inspector Bafon Philip charged with murder with the use of his service gun;

<sup>33</sup>Amnesty International's 2005 Report on this matter states that: « On 12 May, at Ikiliwindi, Police Officers are said to have handcuffed AFUH Bernard WERIWO before hitting and burning him in the presence of gendarmes. The victim aged 27, was arrested on the allegation of stealing a bicycle. He died on 10 July as a result of his wounds. Calls by witnesses and local human rights advocates for enquiries to be carried out and the presumed culprits charged to court remained a dead letter. On 12 May 2004, AFUH Bernard WERIWO, the bicycle thief, died of burns caused by fire set on him by Police Inspector Stephen NGU".

<sup>34</sup>This judgment is final.

### **Military Tribunal Yaounde;**

- \* The People vs. Police Constable Mapouna Tonye Dominique charged with dangerous use of weapon and attempted murder;

### **Centre Court of Appeal:**

- \* The People vs. KAM John Brice, BIMOGA Louis Legrand and Michel charged with torture;

### **High Court of Wouri;**

- \* The People v Police Constable MPACKO DIKOUME charged with murder with his service gun. A preliminary inquiry is pending;
- \* The People v. Police Constable NDIWA Joseph charged with murder of ENIE-FIOK PAYOS of Nigerian nationality with his service gun; preliminary inquiry pending;

### **Court of First Instance Bonanjo**

- \* The People vs. pupil Senior Police Inspector NDZOMO MBOUNA Claude charged with unintentional killing;

### **Court of First Instance Mbanga**

- \* The People v. Police Constable Manjeck charged with torture, misappropriation, grievous and simple harm;
- \* The People v Senior Police Inspector Ambata Hermes René and Police Constable Ngoumba Jean Dejoli Major jointly charged with oppression, invasion of residence, torture, false arrest, simple and other harm ; preliminary inquiry pending;

### **High Court of Benoue**

- \* The People vs. Wangboum Megfadji and Dassidi Simon charged with oppression and slight harm; convicted and sentenced in default to eight months imprisonment

## Supreme Court

\* The People vs. Avom Jean Christophe charged with murder committed with his service gun.

### THE NATIONAL GENDARMERIE

- 108** - Reminders to the National Gendarmerie High Command and instructions to Gendarmerie units reiterate the obligation to respect and protect Human Rights and to curb torture and other inhuman treatment.
- 109** - During the annual meeting of Legion commanders and officials of the central services of the Gendarmerie held on 12 December 2000, the Minister of State, Delegate at the Presidency in charge of Defence made a sensitization speech on the respect of rights and freedoms emphasizing that internally, gendarmes shall consider the respect for Human Rights, individual and collective freedoms and, above all, the rule of law, as a fundamental option of government's policy, the aspirations of Cameroonians themselves for peace and greater freedoms, which leave us with new challenges requiring individual and collective changes in behaviour.
- 110** - Thereafter, the Secretary of State for Defence in charge of the National Gendarmerie declared *"We should strive to render the Gendarmerie more efficient in this era of globalization and democracy so that it should remain true to type, that is, an institution whose organization and culture is proof of its profound concern to enhance security and foster the respect for Human Rights"*.
- 111** - With regard to the training of personnel, Human Rights are taught as a major course during refresher courses organized by the National Gendarmerie in its specialized centres, which benefit from the wide experience of French volunteers.

**112** - Thus, during training courses offered for the award of the Certificat d'Aptitude Technique n° I (Technical Aptitude Certificate No. I) at the specialization phase for the award of the Diplôme d'Etat-Major (Staff-Major Diploma) emphasis is laid on the:

- mastery and respect of statutory enactments on matters related to the judicial police, maintenance and reestablishment of law and order as well as defence operations across the national territory.
- review offences committed by civil servants in the discharge of their duties (torture, false arrest, illegal remand in custody, irregular search, invasion of residence;
- search for evidence to replace confession, which are often a source of torture in the course of investigations.

**113** - At the "*Centre de Perfectionnement des Techniques de Maintien de l'Ordre*" (Perfection Centre for Techniques on the Maintenance of Law and Order), Awae, courses offered and intervention techniques taught are based on respect for the person, be he a demonstrator or an adversary. Dissuasion is thus given preference to repression and force use as a last resort.

**114** - In order to scrupulously apply the skills and knowledge acquired and to improve on working and conditions of detention, all Officials of the Gendarmerie:

- shall give top priority to inspections and supervision of unit under their care. They are requested to submit reports on all abuses noted and corrective measures undertaken;
- shall closely supervise the management of cells, the treatment of persons remanded in custody, the improvement of conditions of detention (visits, medical care), the execution of outdoor duties by staff, such as traffic police, of their obligatory periodic action plan;
- shall reinforce restrictive measures with regard to the provision and use of firearms to curb excesses;

- shall carefully plan curfews, crackdowns or raids to avoid any excesses.

**115** - The Gendarmerie closely collaborates with Judicial and Legal Officers, Non Governmental Organizations and international Human Rights and freedoms defence bodies. Brochures on the promotion and protection of these rights are regularly affixed at these units for popularization.

**116** - The following figures are illustrative that sanctions are effectively meted on gendarmes who are perpetrators of excesses, who kill or inflict bodily or moral harm on citizens.

- in 1997, five non-commissioned officers and thirty two gendarmes were punished with 125 days of suspension and 621 days of imprisonment<sup>35</sup> for physical violence;

- in 1998, three non-commissioned officers and two gendarmes were punished with sixty days of suspension and twenty days of imprisonment. A non-commissioned officer and a gendarme were punished with sixty days of suspension and sixty days of imprisonment for capital murder;

- in 1999, thirteen non-commissioned officers and four gendarmes were punished with three hundred and fifteen days of suspension and one hundred and ten days of imprisonment for physical violence<sup>36</sup>.

**117** - The table below illustrates cases of excesses noted and sanctioned within the National Gendarmerie for the period 2004-2005.

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<sup>35</sup> Suspension and imprisonment are cumulative disciplinary sanctions.

<sup>36</sup> Source : Cameroon third periodic report to the United Nations Committee against torture.



NATURE OF OFFENCES	MEASURES AND REMEDIES
Torture and death of MOUTOMBI at the Head Quarters of the Territorial Gendarmerie Group of Douala, in February 2005 (involving a Senior Officer, two non-commissioned officers and a junior non-commissioned officer).	<ul style="list-style-type: none"> <li>- Administrative, disciplinary and pecuniary sanctions <sup>37</sup>;</li> <li>- Prosecution commenced and the persons concerned remanded in custody;</li> <li>- The Senior Officer appeared before the disciplinary board;</li> <li>- Rehabilitation of cells in Douala and improvement of the detention conditions in general.</li> </ul>
Illegal detention of users' official documents by the Brigade Commanders of Yaounde Airport and Mbalmayo noted by an inspection mission led by SED/SCGN.	<ul style="list-style-type: none"> <li>- Officials relieved of their duties and punished;</li> <li>- Company and Legion Commanders reprimanded.</li> </ul>
Murder by firearm, in 2004 at Carrefour Mvog-Mbi, in Yaounde by a gendarme.	<ul style="list-style-type: none"> <li>- Disciplinary and pecuniary sanctions;</li> <li>- Prosecution commenced and persons concerned remanded in custody.</li> </ul>
Several cases of illegal detention of documents at road blocks reported	<ul style="list-style-type: none"> <li>- Roadblocks removed, Unit Commanders reprimanded.</li> </ul>
Death of DJACBA BELLO on 27/02/2005 in the cell of the New-Bell Brigade in Douala	<ul style="list-style-type: none"> <li>- Investigations conducted by the Legion Commander for Littoral on the instruction of the commander No. 2 of the Gendarmerie Region;</li> <li>- Results of autopsy: overdose of indian hemp;</li> <li>- case pending before the Military Tribunal of Douala;</li> <li>- No sanction taken because remand in custody was legal.</li> </ul>

**118** - Soldiers both from the gendarmerie and other corps of the army are regularly indicted for all sorts of excesses related to torture or inhuman treatment.

**119** – Moreover and in compliance with section 83 of the Penal Code, obedience to lawful authority is an absolute defence. However, for this defence to apply, the order must be lawful. This implies that the

<sup>37</sup>Source: Ministry of Defence. In February 2005, after the death of Motoumbi Emmanuel in custody as a result of physical cruelty and while waiting for the findings of the judicial inquiry, the Secretary of State for Defence specially in charge of the Gendarmerie took conservatory measures against the staff of Territorial Gendarmerie Group of Douala who treated this file whose duties were suspended and who were recalled to the central services of the Secretary of State for Defence in Yaounde, namely:

- Major Bannem Anatole, commander of the Territorial Gendarmerie Group of Douala was subsequently sentenced to 06 months imprisonment for violating instructions;
- Chief Warrant Officer Domo Athanase was subsequently sentenced to 10 years imprisonment for torture;
- Chief warrant Officer Tchapi Leon was subsequently sentenced to 08 years imprisonment for torture;
- Chief warrant officer MBIAKOP Jean was subsequently sentenced to 08 years imprisonment for torture;
- Chief warrant officer MENANGA AHANDA Jean Claude was subsequently sentenced to 06 months imprisonment for torture.
- Staff Sergeant Minkeng Djemba Bathélemy was subsequently sentenced to 09 years imprisonment for torture. The appeal lodged against the judgment of 21/03/06 by the Military Tribunal of Douala sentencing the above-named persons is pending before the Littoral Court of Appeal.

execution of a manifestly unlawful order and overzealous enforcement of the law are prohibited and perpetrators held responsible be it during a normal or exceptional periods. This principle applies to all. Thus, whenever cases of the execution of a manifestly unlawful order are reported, their perpetrators are prosecuted and sentenced if convicted. See the following cases:

- The People and Kouigwa Jacques vs. Epote Christo (warrant officer) and Kaigama (sergeant) sentenced by the Military Tribunal, Douala in Judgment No. 31/00 of 27 April 2000 to three years imprisonment suspended for five years on charges of torture. These soldiers serving in the Military Security remanded an individual in custody in relation to a land dispute when they lacked jurisdiction;
- the matter referred to as “ the nine missing persons of Bepanda” in which the culprits were charged before the Military Tribunal for violating instructions, accessory in torture, accessory in capital murder and corruption. They were tried on 6 July 2002 in compliance with Decision No. 139-02. Two of the eight accused were convicted on some counts of the charge and sentenced to 15 months military detention suspended for 3 years, and 16 months imprisonment under military detention<sup>38</sup> respectively. It should be noted that in this matter, gendarmes from the grade of non-commissioned officers to senior officer were remanded in custody, charged and prosecuted for torture, poor treatment or other forms of Human Rights violation.

#### TERRITORIAL ADMINISTRATION TRADITIONAL RULERS

**120** - Chiefs who are accessories to the Administration have always been at the centre of controversy relating to the issue of their submission to the law and respect for Human Rights. Two examples illustrate this fact. The Special Rapporteur on torture in the document E-CN.4- 2005-62 Add. I informed the Government of Cameroon by a letter of 30 March 2004, that he had received information on cases of torture or poor treatment allegedly committed by traditional chiefs who were designated in accordance with local customs approved by the Territorial Administration.

**121** - The US Department of State, in its 2004 Report on Cameroon equally evoked the impunity of traditional rulers.

<sup>38</sup> These facts and the procedure relating thereto contradict the allegations contained in Amnesty International's 2005 Report on Cameroon on this matter which states that “ no enquiry has been opened, once more this year, on the presumed “disappearance” of nine adolescents in Bepanda Ornisport a neighbourhood in Douala. These young boys who were suspected of stealing a gas cooker and a gas bottle were arrested and tortured at the Gendarmerie Operational Command Centre, dubbed “Kosovo”, before their disappearance.

**122** – It should be recalled that in Cameroon the legal status of traditional chiefdoms is governed by Decree No. 77/245 of 15 July 1977 to organize chiefdoms. This legal instrument among others focuses on chieftaincy and the role of the chief.

**123** - The traditional chiefdom is an arm of the administration and Article 3 of the decree referred to above determines its territorial jurisdiction:

- first class chiefdoms cover the Division;
- second class chiefdoms cover the Sub-Division;
- third class chiefdoms cover villages or quarters in urban areas.

**124** - The chief, is chosen from among families called upon to exercise traditional customary authority. Candidates must meet the physical and moral conditions required and as far as possible, know how to read and write (article 8). The choice is made after consultation with local notables and becomes final upon the approval by the administrative authorities by way of an order. Consulted meetings with elders are presided over by administrative authorities to wit, the Senior Divisional Officer in the case of First and Second Class Chiefdoms and the Divisional Officers in the case of Third Class chiefdoms.

125. The subordination of traditional chiefs to administrative authority is consolidated by the Decree of 1977 which stipulates that:

*“Under the authority of the Minister of Territorial Administration, the role of chiefs shall be to assist administrative authorities in guarding the people<sup>39</sup>”;*  
*“They shall be responsible for transmitting the directives of the administrative authorities to their people and ensuring that such directives are implemented<sup>40</sup>”;*

- helping, as directed by the competent administrative authorities, in the maintenance of law and order<sup>41</sup>;
- in addition to the aforementioned duties, the chiefs must carry out any mission that may be assigned to them by the local administrative authority<sup>42</sup>.

**126** - Traditional rulers are subjected to rigorous rules and regulations. Sanctions depend on the gravity of the offence committed. They include:

<sup>39</sup> Article 19 of Decree No.77/245.

<sup>40</sup> Article 20(1) of the said Decree.

<sup>41</sup> Article 20 (2) of the said Decree.

<sup>42</sup> Article 20(4) of the said Decree.

- call to order;
- warning;
- simple reprimand;
- warning with suspension of all allowances for a period not exceeding three months;
- dismissal.

**127** - Article 29 of the Decree of 1977 implicitly prohibits traditional rulers from punishing or extorting from their "*subjects*". Any violation of this provision moreover is a cause for dismissal. The most recent example is the case of the Group Head of Foreke-Dschang, (second class chiefdom based on the nomenclature evoked herein above) who was dismissed for "*inertia, inefficiency and extortion on the masses*" by Order No. 111-CAB –PM of 22 August 2005 by the Prime Minister, Head of Government.

**128** - In other cases, they may be prosecuted and punished in accordance with law. During prior to the judicial year before 2005:

- the paramount Chief of Bafoussam was sentenced by the High Court of Mifi to five (05) years imprisonment suspended for five years and a fine of one million francs for depredation by band, arson, disturbance of quiet enjoyment and trespass on 6 May 2005;
- the Lamido<sup>43</sup> of Tcheboa, was charged with false imprisonment and forced labour, convicted and sentenced to one year imprisonment on 24 August 1993 by the High Court of Benoue. A bench warrant was issued against him,
- the Lamido of Douroum, was charged with extortion on his people, convicted and sentenced in two separate cases:
  - \* defamation and abuse in which sentenced to one month imprisonment and a fine of one million one hundred thousand francs on 7 May 2003;
  - \* disturbance of quiet enjoyment, destruction of property in which he was sentenced to two years imprisonment by the High Court of Mayo Louti on 13 August 2003.

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<sup>43</sup> Appellation of the traditional ruler in the Northern Provinces.

**129-** During the 2004-2005 judicial year:

- the traditional ruler of Bantoum III ( Bangante in the West Province) was sentenced to one (01) year imprisonment and a fine of ten thousand francs, for false arrest, by the Court of First Instance, Bangangte. A bench warrant was issued against him.
- the Paramount Chief of Balatchi Mbouda in the West Province) was charged for oppression, but discharged and acquitted by the Court of First Instance, Mbouda;
- the Chief of Bamengam (Mbouda in the West Province) was charged with false arrest but discharged and acquitted by the Court of First Instance, Mbouda;
- the Second Class Chief of Foulou (Lamidat of Mindjivin, Far-North Province) was sentenced to six months imprisonment, suspended for three years and 50,000 francs damages by the Court of First Instance for theft, false arrest as a co-offender and accessory in the threat;
- the Lamido of Bagana (Far-North Province) was sentenced to two years imprisonment, suspended for three years and two hundred and fifty thousand francs damages by the Court of First Instance Yagoua for false arrest and accessory after the fact.
- the Chief of Mbouasoum village ( Melong) was given a suspended sentenced of three years and ordered to pay a fine of fifty thousand francs for oppression and ninety thousand francs as damages on 4 January 2005 by the Court of First Instance, Nkongsamba;
- Bidjeke Mathias, third class quarter head, was charged with oppression by the Court of First Instance, Edea;
- the Fon<sup>44</sup> of Awing in the North-West is being prosecuted for whipping and undressing of a church minister;
- the representative of the Lamido of Rey Bouba in Touboro (North Province) is charged, , with false arrest, false pretences and threats in the course of a preliminary inquiry;

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<sup>44</sup> Appellation of traditional head in the North-West Province.

- A preliminary inquiry is being conducted against the Lamido of Douroum (North Province) who is charged with false arrest;
- the Lamido of Dagal (North Province) has been charged with false arrest before the Court of First Instance, Guider;
- Docto Aboh, Quarter Head and Gaga Ndozeng Michel Second Class Chief are being prosecuted for false arrest and accessory before the Court of First Instance, Bertoua.

**130** - Furthermore, current events have highlighted the obligation of Members of the National Assembly to respect the right to life and to physical and moral integrity. In its 2005 Report on Cameroon, Amnesty International stated that on 20 August, John Kohtem, an SDF leader, was beaten to death, near Bamenda, the headquarters of the North West Province, apparently by the supporters of a parliamentarian and local leader of the CPDM. At the wake of massive protests by SDF militants, 11 persons were arrested in September within the framework of investigations on this case of manslaughter. By the end of 2003, no charge had been preferred against the parliamentarian or the other 11 persons.

**131** - It should be noted however that some suspects had been handed over to the Legal Department and remanded in custody. They denounced the participation of the parliamentarian, who is a powerful traditional chief. On 14 February 2005, an absolute majority of the Bureau of the National Assembly comprising 18 members (16 voted for, 2 against and 0 abstention) waived the parliamentary immunity of Fon Doh GAH GWANYIN III in connection with the murder of Mr John KOHTEM. He was handed over to the Legal Department of Ndop on 14 February 2005 and indicted by the Examining Magistrate. He was granted personal bail. The proceedings are at the level of the preliminary inquiry<sup>45</sup>.

**132** - His immunity was waived in accordance with the Constitutional provisions of Law No. 721/1 of 8 June 1973 to lay down the standing orders of the National Assembly and its subsequent amendments as well as Ordinance No. 72/12 of 26 August 1972 to fix the immunities of members of the National Assembly.

\* \* \*

<sup>45</sup> Fon DOH GAGWAYIN III was sentenced to 15 years imprisonment on 12/04/06. He appealed to the North West Court of Appeal which has rejected his application for bail thrice.

**133** - From the above-mentioned examples, it would be inconsistent to maintain that impunity is rife in Cameroon. Admittedly, it is necessary that investigations, inquiries and trials be conducted faster. But no one, irrespective of position or social status, may toy with the life or physical and moral integrity of any person living in Cameroon with impunity.





## CHAPTER 2: INDIVIDUAL FREEDOMS<sup>46</sup>

**134** – The Preamble of the Constitution of 18 January 1996 stipulates:

*“Freedom and Security shall be guaranteed to each individual, subject to respect for the rights of others and the higher interests of the State;*

*No person may be prosecuted, arrested or detained except in cases and according to the manner determined by law”.*

**135** – The Constitution of Cameroon is in conformity with Section 3 of the Universal Declaration of Human Rights, Section 9 of the International Covenant on Civil and Political Rights (ICCPR) and Section 6 of the African Charter on Human and Peoples’ Rights.

**136** - Any violation of such freedoms is forbidden by legislative enactments in particular the Penal Code, the Criminal Procedure Ordinance and the *“Code d’Instruction Criminelle”*. The Criminal Procedure Code will soon enhance these freedoms.

**137** – In a bid to protect the higher interest of the State and for purposes of maintaining law and order, the legislator has set certain limits to such freedoms by granting special powers to administrative authorities. More so, in the prosecution of offences, the powers conferred on judicial police and judicial authorities further restrict these individual freedoms.

**138** - Individual freedoms as enshrined in the Constitution and international conventions are protected in Cameroon. But as it is the case all over the world, administrative, judicial authorities and police officers empowered to curb such freedoms, when necessary, do not always wield their powers within the purview of the law. Their actions or decisions are therefore punished before the courts.

### Section 1 : Legislative protection of individual freedoms

**139** – Individual freedoms are indiscriminately guaranteed to persons residing within the national territory. The law may only restrict them. Consequently, the legislator has regulated all measures, which undermine these freedoms. Such restrictions are found in administrative and judicial proceedings.

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<sup>46</sup>Individual freedoms mean the right to security that is, the right to be free from arrest or illegal detention.

## § 1 Administrative Procedures To Restrict Individual Freedoms

**140** – Individual freedoms may be restricted during normal or exceptional periods.

### NORMAL PERIOD

**141** – Law No. 90/054 of 19 December 1990 relating to the maintenance of law and order grants exceptional powers to administrative authorities, particularly in the fight against banditry. Banditry refers to attacks by individuals or armed groups against persons and/or property, acts of vandalism or pyromania, hold-ups or hostage-taking.

**142** - Under such circumstances, the competent administrative authorities may restrict individual freedoms by remanding suspects in custody. Section 2 of Law No. 90-054 cited above states that administrative authorities may, at all times (depending on the circumstances) in the maintenance of law and order, *“take measures to remand a person in custody for a period of 15 (fifteen) days renewable in order to fight banditry”*.

**143** - In compliance with the provisions of this law, the Senior Divisional Officer for Fako ordered the arrest and detention of one Neba Samuel and 6 others for sabotage of the SBM Company on 21 December 2004. The matter was referred to the High Court of Fako after six days and is still pending.

**144** - Administrative detention may also be ordered in case of serious disruption of public peace. On 5 September 2005 the Senior Divisional Officer for Fako ordered the detention of *“Pauline Mukete”* and 21 others following the disruption of public peace caused by a meeting of the *“Southern Cameroons National Council”*(SCNC), a movement which advocates for the secession of the English speaking provinces of Cameroon.

**145** – A detention order may be issued by the Governor or the Senior Divisional Officer. A detention order by the SDO is renewable only once. Any extension of the detention period beyond thirty days shall require an authorization from the Governor or the Minister in charge of Territorial Administration and Decentralisation (MINATD). This is the essence of Circular No. 02306/CAB/VPM/AT of 13 November 1997 to lay down the conditions for the application of administrative detention.

**146** - Administrative detention shall take place in the premises of the police, the gendarmerie or the penitentiary administration.

#### EXCEPTIONAL PERIOD

**147** – Law No. 90/047 of 19 December 1990 relating to the state of emergency also grants special powers to administrative authorities. Section 5 (7) of the said law empowers them for instance to “*order the detention of persons considered dangerous to public security... for a duration of 7 days by Senior Divisional Officers and 15 days by Governors*”.

**148** - Furthermore, section 6 empowers the Minister in charge of Territorial Administration to “*order the house arrest of any person residing in an area under a state of emergency*”. The Minister in charge of Territorial Administration may also order the detention of a person for a period of two months renewable once. Such detention shall take place in any premises, including in the special section of penitentiary establishments.

#### § 2 Judicial proceedings that restrict individual freedoms

**149** – The “*Code d’Instruction Criminelle*” (CIC), Law No. 58/203 of 26 December 1958 to adapt and simplify the said procedure and the Criminal Procedure Ordinance (CPO), empower judicial and legal officers and the judicial police to restrict the freedoms of offenders. The Criminal Procedure Code has redefined, restricted and updated the grounds of arrest, remand and detention of offenders.

#### REMAND IN CUSTODY

##### 1) Current Judicial Practice

**150** – Section 3(5) and (6) of Law No. 58-203 of 26 December 1958 cited above restricts remand in custody to cases of flagrante delicto offences. Generally, remand in custody may be ordered during preliminary investigations.

**151** - Remand in custody may take place in Police and Gendarmerie cells. Pursuant to the provisions of section 3 of the above-mentioned law, only persons suspected of serious offences may be remanded in custody.

**152** – Only Judicial Police Officers and the State Counsel may order remand in custody. Remand in custody shall be for twenty-four hours renewable thrice upon the authorization of the State Counsel. In practice, this period is not usually respected; and the issue is given special attention in the Criminal Procedure Code.

## **2- The Criminal Procedure Code**

**153** – During preliminary investigation, the Judicial Police Officer shall order the remand in custody of a suspect subject to specific time-limits and procedure. Therefore, a person who has a known place of abode shall be remanded in police custody only in the case of a felony and when there is strong corroborative evidence against him (section 118(2)). Remand under police custody shall be expressly authorized by the State Counsel.

**154** - To protect individual freedoms, remand in police custody shall not be ordered on Saturdays, Sundays and public holidays (section 119(4)). The person remanded in police custody shall not be subjected to any physical or mental constraints. At the end of the police custody, it shall be mandatory for the suspect to be examined by a medical practitioner if he so requests (section 123 (3)).

## **CUSTODY AWAITING TRIAL AND IMPRISONMENT**

### **1) Custody Awaiting Trial**

#### **a) The “CIC” and CPO**

**155** – Remand in custody shall commence with the arrest of a suspect following the issuance of the warrant by a competent magistrate. Court processes for preventive detention shall include: a remand warrant and a warrant of arrest (section 61 and 94 of CIC). The former law did not fix the maximum period for custody awaiting trial. Section 53 of the Penal Code provides that its duration shall be fully deducted from the computation of an imprisonment sentence and where the sentence of the trial court is for a fine only, it may relieve him fully or partially of the said fine.

**156** - The problem with the above provision is that the duration of custody awaiting trial may exceed the term of imprisonment to which the

convict is eventually sentenced. Moreover, suspects may be placed in custody awaiting trial for the commission of a felony or a misdemeanour. In order to ensure the protection of individual rights and freedoms, bail shall be the rule and remand in custody awaiting trial the exception under the CPO. In substance, sections 118 and 119 of the CPO provide that any suspect may be granted bail. When bail is not granted by the courts, a warrant shall be issued for the remand of the suspect. Section 326 of the CPO empowers the Examining Magistrate to issue a remand warrant during the conduct of a preliminary inquiry. The court may also issue a remand warrant against the person standing trial for a period not exceeding eight (08) days, except there is an extension of this time (section 236). The trial court may discharge or acquit the person standing trial. As the CPO does not make provision for compensation for illegal detention the courts often grant bail.

b) The Criminal Procedure Code

- 157** – The Examining Magistrate has the powers to issue a remand warrant. Remand in custody shall be an exceptional measure ordered in case of a misdemeanour or a felony, depending on the gravity of the offence committed by the suspect. The Examining Magistrate shall withdraw the remand warrant or grant the suspect self bail if, after a period of eight months in case of a misdemeanour or twelve months in case of a felony, he has not closed the preliminary inquiry (section 226 to 233).
- 158** - A person with a known place of abode shall not be remanded in custody except in the case of a felony where there is strong corroborative evidence against him or when the needs of public order so require (section 218 CPC). The Examining Magistrate may replace remand in custody with judicial supervision, which shall be implemented out of prison.
- 159** - Where a bench warrant of arrest is issued against a suspect in absentia it shall be deemed to have commenced from the date of execution of the said warrant in case any objection is raised.

### 3- Imprisonment

a) The “CIC” and CPO

- 160** – Where imprisonment is not preceded by remand in custody, it shall commence as from the date of execution of the remand warrant issued

during the judgment phase. If remand awaiting trial precedes the judgment, section 53 of the Penal Code cited above (see § 155 supra) shall apply and the trial court shall no longer issue a fresh warrant.

**161** - With regard to imprisonment, the provisions of section 252 of the CPO are identical to those of the CIC.

b) The Criminal Procedure Code

**162** – The Criminal Procedure Code (CPC) does not introduce major innovations on imprisonment. However, the court that does not suspend a sentence of a term of imprisonment shall neither issue a remand warrant nor a warrant of arrest, but an imprisonment warrant (section 397).

**163** - When the convict indicates his intention to appeal, if his term of imprisonment does not exceed one year, the court may, at his request grant him bail until the time for appeal has expired if he fulfils the conditions of representation and surety (section 397)

## **Section 2: Control and punishment of violations of individual freedoms**

**164** – A number of instruments control the legality of measures restricting individual freedoms while others institute proceedings to redress such measures.

### **§ 1 – Control of the legality of measures restricting individual freedoms**

#### ADMINISTRATIVE DETENTION AND DETENTIONS ORDERED BY TRADITIONAL RULERS

##### **1) Administrative Detention**

**165** – Section 23 (1) (new) of Ordinance No.72-4 of 25 August 1972 : Judicial Organization as amended, provides *“the public prosecution or Legal Department shall ensure the implementation of laws, regulations and Court decisions and may in the interest of the law, and before any Court to which he shall be represented, make submissions he considers necessary”*.

**166** - Generally, the State Counsel has no powers to control administrative detention by virtue of the principle of separation of powers. However,

pursuant to the provisions of section 23 above, he may verify whether the person is remanded in police custody on the strength of a valid warrant, particularly, a remand warrant issued by the competent administrative authority. If this is not the case, he may petition for habeas corpus under section 16(d) of the above-mentioned ordinance.

## 2) Detentions Ordered by Traditional Rulers

**167** – Government does not authorize traditional rulers to set up and run prisons separate from the official penitentiary system. Any abuses committed by these traditional rulers restricting individual freedoms are punishable by the courts where such facts are proven.

**168** - Government disapproves of the practice whereby some “Lamibés”<sup>47</sup> detain litigants in their palaces with a view to settling minor disputes. In such cases, Government causes investigations to be conducted and where the allegations have merits and substance, the rulers are charged, convicted and sentenced accordingly.

**169** - Thus:

- the Lamido<sup>48</sup> of Tcheboa, in the North Province was charged with false arrest and forced labour, convicted and sentenced in absentia to one year imprisonment on 24 August 1993 by the Benoue High Court. A bench warrant was issued against him;
- the Lamido of Doroum in the North Province is currently being prosecuted on a charge of false arrest;
- the Traditional Ruler of Bantoum III (West Province), one Mbianda Jean, was charged with false arrest sentenced in absentia to one year imprisonment and a fine of ten thousand francs. A bench warrant was issued against him;
- the Bamengoum Traditional Ruler (in Mbouda, West Province) Moko Moko was charged with false arrest but was discharged ;
- the Paramount Chief of Bagam (in Mbouda, West Province) Simo Tenkue Jean Marie, was charged with false arrest but was discharged;
- the Lamido of Matakam-South (in Mokolo Far-North Province) is currently being prosecuted for false arrest, and torture;

<sup>47</sup> Plural form for traditional head (lamido) in the northern provinces of Cameroon.

<sup>48</sup> Singular form for traditional head in the northern provinces of Cameroon.

- one Nassoukou Lame, second Class Chief of Foulou (Lamidat of Mindjivin, Far-North Province) was sentenced to six months imprisonment, suspended for three years and damages of 50000frs for false arrest, theft;
- one Woulina Kampete, Lamido of Bagana (Far-North Province) was sentenced to two years imprisonment, suspended for three years and damages of 250,000frs for false arrest, and receiving;
- one Boukakary Hamadou, Lamido of Dagal (North Province) is being prosecuted before the Guider court of First Instance on a charge of false arrest and;
- one Abdou Hamayadji Mayo Dogari (representative of the Lamido of Rey Bouba in Touboro, North Province), was charged with false arrest and a committal order was made after the preliminary inquiry;
- one Docto Aboh, Quarter Head and one Gaga Ndozeng Michel, Second Class Chief are being jointly charged with false arrest and abating at the Court of First Instance, Bertoua.

#### CUSTODY AWAITING TRIAL

- 170** –Circular No.2848/CD/9276/DAJS of 23 May 1990 by the Minister of Justice, Keeper of the Seals reminds and instructs State Counsels to carry out weekly visits to all Police and Gendarmerie cells in their respective jurisdictions and to systematically release illegally detained suspects.
- 171** - Cases of resistance by some Judicial Police Officers to such controls have been reported.
- 172** - Such incidents were commonplace when the CIC and CPO were in force, but shall considerably be reduced with the coming into force of the CPC. Except in cases where preliminary inquiries are conducted, felonies or cases of flagrante delicto, the State Counsel shall expressly authorized remand in custody of any person having a known place of abode. Victims of illegal detentions shall have greater opportunities to seise the competent courts.



## **§ 2 - Judicial control of the legality of measures restricting individual freedoms**

**173** – Where the remand in custody of the suspect is legal, the courts may grant him bail. When remand in custody is illegal, the court may order habeas corpus or immediate release. The court shall punish any illegal remand in custody and award damages to victims of such violations.

### **BAIL**

#### **1- The CIC and CPO**

**174** – Remand in custody shall cease when bail is granted. Bail is provided for by sections 113 and 114 of the “Code d’Instruction Criminelle” and sections 18 and 30 of the Criminal Procedure Ordinance (CPO).

**175** - Generally, bail is granted in the case of lawful detention and is left at the discretion either of the Examining Magistrate or the court.

**176** - Bail may be granted with or without surety at the request of a suspect who is in lawful detention. It is usually granted by the court when detention is no longer necessary for the manifestation of truth. In Judgment No.140/P of 10 January 2002 (The People vs. Nana Esaïe and SFIC), the Supreme Court, addressing the issue of bail, ordered that Nana Esaïe be released provided he was not detained for other reasons.

**177** - Judicial Police Officers, the Examining Magistrate or the Court may grant bail (sections 18, 30, 118 and 124 of the CPO). Bail was granted to Fon Doh Gah Gwanyin who was charged with the murder of John Kohtem, an official of the Social Democratic Front (SDF) party (see § 130) .

**178** – Bail shall be granted as of right, in case of simple offences. It shall be left at the discretion of the court in case of a misdemeanour or felony (section 118 (2) and (3) of the CPO). Only the High Court may grant bail for an offence punishable with death (section 118 (1) of the CPO).

#### **2 - The Criminal Procedure Code**

**179** – Bail may be ordered with or without a surety. The Examining Magistrate may, at any time before the closure of the preliminary inquiry, and of his own motion, withdraw the remand warrant and grant bail.

- 180** - When bail is not granted as of right or by the Examining Magistrate of his own motion, it may be granted on the application of the defendant and after the submission of the State Counsel, provided that the defendant enters into a recognizance to appear before the Examining Magistrate whenever convened to do so (section 222).
- 181** - Similarly, any person lawfully remanded in custody may be granted bail on condition that he fulfils one of the conditions spelt out in section 246 (g) to guarantee his appearance either before the judicial police or any judicial authority. The legislator excludes all persons prosecuted for felonies punishable with life imprisonment or death.
- 182** - Application for bail shall be filed either to the Judicial Police Officer, State Counsel, Examining Magistrate or the court.
- 183** - The surety shall be responsible for the appearance in court of the person granted bail. But he may, at any time, withdraw his surety; in such case, he shall be bound to present the person being prosecuted to the competent authority. The latter shall acknowledge the withdrawal of his surety and inform the defendant that he may remain on bail only if he produces another surety or if he pays a surety bond.
- 184** - The Examining Magistrate may replace bail with judicial supervision out of prison.
- 185** - Upon the expiry of the period of validity of the warrant, the Examining Magistrate shall, under pain of disciplinary sanction, order the immediate release on bail of the defendant, unless he is detained for some other reasons (section 221).

## HABEAS CORPUS OR IMMEDIATE RELEASE

- 186** – The Habeas Corpus Amendment Act of 1679 applicable in England<sup>49</sup> was introduced in the legal practice of the English speaking part of Cameroon by virtue of section 10 and 11 of the Southern Cameroon High Court Law of 1955 (SCHL). It was reaffirmed in section 16(d) of Ordinance No. 72/4 of 26 August 1972 as amended. Pursuant to the said section, the High Court shall have jurisdiction to hear and determine applications for immediate release made either by a person under detention or on his behalf where such applications are based on the absence of a remand warrant.

<sup>49</sup> Supplemented by a 1862 Act for implementation in English Overseas Possessions, "Habeas Corpus ad faciendum, subjiciendum and recipiendum..." is a judicial writ that ordered anyone who detained an individual to present him before a higher court or a royal judge for his case to be examined. Literally, it meant that the individual be personally presented before the court which issued the writ to hear its judgment.

- 187-1** - In cases of procedural errors, or where suspects are remanded in custody in the absence of a valid warrant, the procedure for habeas corpus apply before the High Court in the English speaking part of the country. In the case of NYO WAKAI and 172 others vs. The People, the administrative authorities responsible for the maintenance of law and order proceeded to arrest persons suspected of being involved in the destruction of property and other criminal acts committed during manifestations, which led to the state of emergency in the North West Province in October 1992. Their counsels applied to the Mezam High Court for the immediate release of their clients detained without valid warrants and those whose remand warrants had expired.
- 187-2** - The representative of the Administration raised a preliminary objection to the effect that the court lacked jurisdiction to control the legality of measures for the maintenance of law and order during the state of emergency. (Law No.90-47 of 19 December 1990 on the state of emergency)
- 187-3** – In its ruling, the High Court held that the action of the administration was a gross violation of the fundamental rights of the person, and could be likened to an administrative assault. The court further held that it had jurisdiction to entertain the matter and ordered the immediate release of the detainees.
- 188** - In the French speaking part of the country courts do not only make reference to section 16 of the Law cited above, but also to the Constitution to apply habeas corpus. In judgment No. 24/CRIM/TGI of the Mvila High Court of 07 July 1998 minors aged below 18 years and other antagonists of the son of the South Provincial Governor, involved in a scuffle during a basket ball match, were placed under administrative detention by the said Governor by virtue of section (2) of Law No.90-54 of 19 December 1990 (see § 141 supra) which empowers administrative authorities to order the remand in custody of suspects for a period of 15 days renewable, within the framework of the fight against banditry.
- 189** - Decisions on Habeas Corpus abound. The courts held that detention is unlawful in the following cases:
- where the time-limit provided for remand in police custody expires. This was the case in Judgment No. 348-CRIM of 03 November 1993 delivered by the Mfoundi High Court in the matter Olomo Nzana who had spent over 70

days in custody at the Special Operations Unit (G.S.O). By Judgment No. 26-CRIM of 03 November 1995, the same court ordered the immediate release of Mrs Yoh who had been in custody at the Judicial Police, Yaounde for more than 60 days;

- where the court does not rule on the validity of detention warrants following a decision to decline jurisdiction. The case of Ndiake is an ideal example. On the night of 19 to 20 February 2001, Ndiake Jonas, Nikam Dilou and Djimaso Pierre broke into the KILOMBO Inn at Bafoussam. They bore firearms, and stole the property belonging to some customers and the inn manager. Indicted on charges of aggravated theft as co-offenders, they were remanded in custody on 16 March 2001 pending the preliminary inquiry and subsequently arraigned before the Mifi High Court on 27 July 2001. By a judgment delivered on 15 April 2005, the court declined jurisdiction and advised the Legal Department to refer the matter to the competent court. On 18 February 2005, the State Counsel applied for the immediate release of the suspects. Since the court had not ruled on the validity of the detention warrants issued on 16 March 2002, any detention on the basis of these warrants was manifestly illegal. On 21 February 2005, the court ordered the immediate release of the suspects;
- where no detention warrant is issued . By Judgment No. 19/CIV/LI/TGI of 19 July 2002, the Mvila High Court ruled that the detention of Ngoa Jean Bienvenue and Tachoula Jean had been ordered without a valid warrant and ordered their immediate release. The suspects were detained at the Ebolowa prison on the strength of a remand warrant issued on 30/01/01 for theft committed in Equatorial Guinea. The court held that prosecution was illegal pursuant to section 10 of the Penal Code, yet the suspects were not released.

**190** – In judgment No.19/CRIM of 17 October 2003 in *The People vs. Aboubakar Bouba* the Mfoundi High Court ordered his immediate release on the grounds that no warrant had been issued for his detention.

#### SANCTION AND REDRESS FOR CASES OF ILLEGAL DETENTION

**191** – The Penal Code and the “Code d’Instruction Criminelle” sanction violation of freedoms. The Criminal Procedure Code upholds this sanction and introduces innovations in matters of remand in custody.

**a) The Penal Code**

**192** – Any person who violates individual freedoms may be prosecuted for oppression (section 140 of the Penal Code) and false arrest (291 of the Penal Code).

**193** - Furthermore, the trial court may award damages to victims who file civil actions, as was the case in *The People vs. the Lamido of Tcheboa* referred to above (see § 169 supra).

**b) The “Code d’Instruction Criminelle”**

**194** – In the “CIC”, provision for redress is made within the framework of compensation to victims of miscarriage of justice pursuant to article 55 of the Decree of 27 November 1947(see § 497 supra).

**c) The Criminal Procedure Code**

**195** – Redress for the aforementioned abuses shall be examined under the new procedure for compensation as laid down under section 236 and 237 of the Criminal Procedure Code. Section 236 provides:

*“1) Any person who has been illegally detained may, when the proceedings end in a no-case ruling or an acquittal which has become final, obtain compensation if he proves that he has actually suffered injury of a particularly serious nature as a result of such detention.*

*2) Illegal detention within the context in subsection (1) above shall mean:*

*a) detention by the Judicial Police Officer in disrespect of the provisions of sections 119 to 126 of this Code;*

*b) detention by the State Counsel or the Examining Magistrate in disrespect of the provisions of sections 218 to 235, 258 and 262 of this Code.*

*3) The compensation shall be paid by the State which may recover same from the Judicial Police Officer, the State Counsel or the Examining Magistrate at fault”.*

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- 196** – From what precedes, it is obvious that individual freedoms are fundamental rights jealously guarded in Cameroon. They shall be restricted exclusively by virtue of the law. Only administrative and judicial authorities shall, in cases of a state of emergency or exception, take measures which restrict such freedoms in accordance with the laws in force. The legislator has never authorized traditional rulers to take any measures restricting such freedoms.
- 197** - The legislator makes provision for control mechanisms to rapidly sanction any illegal detention or house arrest. Immediate release shall be ordered in cases of administrative, judicial or illegal detention. Bail granted by the courts in cases of detention or remand in custody equally falls under the ambit of these corrective measures.
- 198** - Lastly, the Criminal Procedure Code provides for compensation to victims of unlawful detentions.

## CHAPTER 3: THE RIGHT TO MOVE ABOUT FREELY AND TO ELECT ONE'S RESIDENCE, TO LEAVE ONE'S COUNTRY AND TO BE GRANTED ASYLUM

**199** – The right to move about freely and to elect one's residence, to leave one's country and to be granted asylum is another aspect of individual freedoms<sup>50</sup>. These rights are enjoyed within a specific legal and institutional framework with statutory peculiarities.

### Section 1: Legal and institutional framework

**200** – The fundamental rights referred to above are enshrined in many legal instruments which also restrict them.

**201** – The Preamble of the Constitution provides,

*“every person shall have the right to settle in any place and to move about freely, subject to the statutory provisions concerning public law and order, security and tranquillity”*

**202** – This provision is consistent with Cameroon's desire to internalize international instruments and declarations.

**203** – Article 13 of the Universal Declaration of Human Rights provides:

1. *“Everyone has the right to freedom of movement and residence within the borders of each State*

2. *Everyone has the right to leave any country, including his own, and to return to his country”.*

**204** – Pursuant to article 14 of this Declaration *“everyone has the right to seek and enjoy in other countries asylum from persecution”.*

**205** – Article 7 of The United Nations Convention on the Prevention and Repression of Genocide provides:

*“Genocide and other acts enumerated in article 3 shall not be considered as political crimes for the purpose of extradition.*

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<sup>50</sup>See submissions by PINAULT under the French State Council of 17 June 1983, AFFATIGATO, Gaz. Pal. 1984,1,34.

*The contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force”.*

- 206** – Articles 12 and 13 of the ICCPR guarantee everyone, without distinction, the right to move about freely and to freely elect residence within a country, except otherwise provided by the law.
- 207** - Article 5 of the United Nations Covenant on the Elimination of all Forms of Racial Discrimination equally grants these rights and provides that everyone has the right to leave any country, including one’s own, and to return to one’s country.
- 208** - Article 5(4) of The Convention on the Elimination of all Forms of Discrimination against Women stipulates that such rights are equally enjoyed by persons of all sexes.
- 209** - Article 3 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment forbid expulsion, turn back or extradition to an inhospitable destination<sup>51</sup> by providing that *“No State Party shall expel or return or extradite a person to another state where there are substantial grounds to believing that he would be in danger of being subjected to torture”.*
- 210** - Article 33 of the United Nations Convention of 28 July 1951 on the Status of Refugees provides that *“No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, social groups or political opinion”.*
- 211** - The African Charter on Human and Peoples’ Rights also underscores the right to asylum. Thus, article 12(3) provides, *“Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions”.*
- 212** – From the provisions cited above, it can be seen that refugees, foreigners and nationals are given special protection. This distinction is reflected in national protection instruments.

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<sup>51</sup>Law No. 97/010 to amend and supplement some provisions of Law No. 64/LF/13 of 26 June 1964 to lay down the system of extradition aimed at satisfying the requirements of art.3 of the Convention Against Torture.



## Section 2: Peculiarities of legal protection for refugees, foreigners and nationals

213 – Within the framework of protection of the above-mentioned rights, the case of refugees must be distinguished from that of ordinary foreigners and nationals.

### § 1- The protection of refugees

214 – Government has consistently shown concern for refugees, taking into account their ever-increasing numbers.

215 – Cameroon promulgated Law No. 2005/006 of 27 July 2005 relating to the status of refugees to provide an appropriate legal solution adapted to local realities. Section 2 of the Law adopts the definition of refugee contained in the Geneva Convention of 28 July 1951 on the Status of Refugees and the OAU Convention to govern aspects specific to the problems of refugees in Africa signed in Addis-Ababa on 10 September 1969. Pursuant to this section, the following shall be considered refugees:

*“Any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership to a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it;*

*Any person who, owing to an aggression, foreign occupation, foreign domination or events that seriously undermine public order in either part or all of his country of origin or nationality, is obliged to leave his habitual residence to seek refuge in another place outside his country of origin or nationality”..*

216 –By virtue of sections 7(1) and 15 of Law No. 2005/006, it is henceforth forbidden to extradite, turn back, or to take any measures whatsoever which force anyone, covered by the above definition, to return or remain in a country where his life, physical integrity or freedom could be threatened. If such a person is an illegal immigrant, no criminal sanction may be taken against him, but he shall present himself, without delay, to competent national authorities for regularization of his

situation (section 8). It should be noted however, that, a refugee on legal stay in Cameroon, may be expelled for reasons of national security and public order. A refugee shall enjoy economic and social rights and especially the right to naturalization.

**217** – The law cited above sets up a commission for eligibility for the status of refugee and yet another commission to examine petitions from refugees. The procedure for asylum has been significantly simplified and a mere deposit certificate allows the applicant to enjoy the fundamental rights recognized both by the Geneva Convention of 1951 and the Addis-Ababa Convention on Refugees. It must be noted that all these facilities also meet the objectives pursued by organizations defending Human Rights namely:

- defending the rights of refugees not to be returned to countries where their fundamental rights may be violated;
- defending the right of any asylum seeker to a fair and satisfactory application procedure;
- promoting the fundamental rights of immigrants;
- reinforcing the economic, social and cultural rights of refugees and migrants;
- improving on the protection of women, young and little girls who are refugees or displaced persons, who are particularly vulnerable to exploitation and sexual assault.

**218 – 1** - In support of government actions, the activities of some NGOs engaged in defending and protecting Human Rights, may be acknowledged.

**218 - 2** – Thus, the NGO “New Human Rights” set up in 1997 the Support Programme for Refugees (SPR) to ensure the scrupulous respect of the rights of refugees, in particular that to move about and elect residence freely, this NGO receives refugees and gives them advice and assistance in obtaining asylum and information about Cameroon so as to facilitate their choice of residence and access to the job market.

**218 - 3** – At a meeting organized on 26 June 2005 by the Christian Action for the Abolition of Torture (ACAT), to commemorate the United Nations International Day for Support to Victims of Torture, Mr. Daniel Moutzezo, chairman of the Association of Refugees without Borders (ARSF) and Mr. Armand Manta, a member of ACCAT for the

Littoral, presented a joint paper on “the Violation of the Rights of Children and Refugees”. Participants recommended among others “the adoption of a national law on refugees and the setting up of a national Commission on eligibility for the status of refugee”. Government had already addressed this issue as can be seen from the above-cited law (§ 215 supra).

**219** – In any case, Cameroon is striving to implement the prescriptions of International Conventions. Mr Jean-Bosco Rushatsi, an official of the Bureau of the High Commission for Refugees in Yaounde, stated in an interview published by the daily “Mutations” that for his five years stay in Cameroon, he had witnessed no case of border drive, forced repatriation or expulsion<sup>52</sup>.

## § 2 – Protection of nationals and foreigners

**220** – Law No. 68/LF/3 of 11 June 1968 to institute the Cameroon Nationality Code contains a very favourable provision which allows any person found in Cameroon, without a nationality, to be granted Cameroonian nationality. Section 12 provides that Cameroonian nationality shall be granted, as of right, by virtue of the birth in Cameroon, to any person who has no other nationality of origin.

The law on refugees provides for the “*right to naturalization*” (section 9).

**221** – In this vein, Law No. 90/042 of 19 December 1990 institutes the National Identity Card and Decree No. 91/160 of 11 March 1991 fixes the characteristics and lays down the conditions for issuing and delivering same. This shall be the only document required from nationals aged at least 18 to move about freely. Decree No. 90/1245 of 24 August 1990 on the issuing of passports and travel of nationals abroad institutes four categories of passports<sup>53</sup> and subjects the travel of nationals abroad to the presentation of this official document.

**222** – Law No. 97/09 of 10 January 1997 to lay down the conditions for entry, stay and exit of aliens and its enabling instrument No. 2000/286 of 12 October 2000 subject the stay of foreigners to the acquisition of a residence permit. These instruments englobe a certain number of liberal guarantees, such as authorizing the seising of an administrative court in case of objection against an expulsion order, without the necessity to petition hierarchy, as the court is bound to rule within a week. This law

<sup>52</sup> cf. the “MUTATIONS” Newspaper No.843 of 07/02/2005.

<sup>53</sup> These are ordinary, diplomatic, service and special passports.

considers border drive, escorting back to the border and expulsion as administrative measures. However, in the case of any conviction for infringement of immigration laws, the court may order the above measures without prejudice to other penalties.

**223** – The Cameroonian nationals and any foreigner whose stay is legal move about freely and freely use their property. However, such freedoms may be restricted if general interest or public order so dictates<sup>54</sup>.

**224** – Law No. 90/054 of 19 December 1990 relating to the maintenance of law and order (see § 141 supra) empowers administrative authorities to:

- check the movement of persons and goods;
- requisition persons and goods in accordance with the law;
- requisition the police and gendarmerie to maintain or restore order;
- take measures to detain persons for a renewable period of 15 days to fight banditry.

**225** – Public meetings are governed by Law No. 90/055 of 19 December 1990 that mandates prior declaration of processions, demonstrations, parades, marches and rallies and in general, all manifestations on the high way (section 6(1))<sup>55</sup>.

**226** – Law No. 99/047 of 19 December 1990 relating to the state of emergency stipulates that the state of emergency may be proclaimed for a given period and geographical area. Under such circumstances, the courts shall still have jurisdiction to determine whether any detention is lawful or not, even if ordered by the administrative authority (See the case of NYO WAKAI and 172 others (§ 187 supra).

**227** – Law No. 97/101 of 10 January 1997 to amend and supplement certain provisions of Law No. 64-LF-13 of 26 June 1964 to fix the system of extradition prohibits the extradition of persons to destinations where they risk being subjected to torture. This law is an adoption of section 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Centre Court of

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<sup>54</sup> Law No.68-LF of 11 June 1968 to organize the system of requisitioning provides under section 13 for the possibility of requisitioning persons and properties. Decree No. 68-DF-417 of 15 October 1968 fixes modalities for its application. In this regard, persons and properties can be requisitioned under specific legal conditions. Besides, in case of illegal requisitioning, appeals can be taken and the possibility of obtaining compensations.

<sup>55</sup> See presentation on freedom of association and manifestation (§287 and following). Administrative authorities have often been accused of discrimination in granting these authorizations.

Appeal dismissed the order for the extradition of eight Rwandan nationals accused of genocide. It held in application of the above-mentioned law, that *“a person cannot be extradited to another country where there are serious reasons to believe that he runs the risk of being tortured”*<sup>56</sup>. It must however be noted that both the Convention and the Law are silent on extradition where persons risk being subjected to other cruel, inhuman or degrading treatment or punishment. The Criminal Procedure Code also prohibits such cases. Therefore, by virtue of section 645 (d) of the Code, extradition is not applicable *“where there are reasons for the country requested to believe that the person concerned shall be subjected to torture and other punishment or treatment which is cruel, inhuman and humiliating, in the requesting country”*

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- 228** – The movement of goods and persons by road is governed by Law No. 96/07 of 8 April 1996 on the protection of the road network, which empowers administrative authorities to erect temporal rain gates when circumstances so dictate<sup>57</sup>. Circular Letter No. 3047/DGSN of 7 September 1990 to Inspectors General, Technical Advisers, Directors, Heads of Divisions and Provincial Service Heads of the National Security on the withdrawal and confiscation of documents belonging to road users is intended to put an end to some excesses and to clearly state the conditions and procedures for withdrawing vehicle and personal official documents.
- 229** – In a communiqué of 25 July 2005, the Delegate General for National Security prescribed certain measures to his collaborators on the organization and functioning of police check points as well as their behaviour along the highway. He ordered that fixed check points during the day be lifted so as to ease movement and the freedom of citizens to move about. Similarly, he empowered only Judicial Police Officers to charge road users for any traffic offences and when necessary to withdraw their documents. Users hold this prescription does not seem to be respected.
- 230** – At the National Gendarmerie, similar instructions were given. Significant actions have been taken by the Inspectorate General to stamp out any abuses. Thus, in 2005, an inspection mission conducted by the Secretary of State noted the abusive withdrawal of official documents belonging to road users by the Brigade Commanders of the Yaounde airport and Mbalmayo. These officers were relieved of their

<sup>56</sup> Judgement No.337-Cor of 21 February 1997.

<sup>57</sup> Order No.3962-A-MTPT of 23 July 1991 to regulate the stopping and impounding of vehicles which specifies cases where the personnel of the Ministry of Transport can stop vehicles belonging to private individuals.

duties and disciplinary sanctions meted against them. The Company and Legion Commanders under whom the said unit heads served (see chapter 1, § 117) were reprimanded.

- 231** – Cases of abusive withdrawal of documents at roadblocks have been reported. Such roadblocks were ordered to be lifted and warnings were issued to the Commander of the units concerned. The follow-up of the implementation of these measures needs to be reinforced.

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- 232** – In conclusion, the right to move about and to freely choose one's residence, to leave a country and be granted asylum is, with regard to the legal and institutional framework put in Cameroon, guaranteed nationals, foreigners and the specific category of foreigners known as refugees.

## CHAPTER 4: FREEDOM OF THE PRESS, OPINION AND OF EXPRESSION

- 233 – Both the print and audio-visual media are vectors of opinions. In order to contribute to the edification of a democratic culture conducive to economic, social and cultural development, it must be independent and free from political and economic influence.
- 234 – Freedom of expression as reiterated by the African Commission on Human and Peoples' Rights "is a foundation on which the very existence of a society is based. It is indispensable for the formation of public opinion. It is also a sine qua non for the growth of political parties, trade unions, cultural associations and in general, those who wish to influence public opinion"<sup>58</sup>.
- 235 – Respect for these principles has cause some people to refer to the press as the fourth power<sup>59</sup>.
- 236 – It should be noted that there can be no power without responsibility, as both constitute two sides of the same coin.
- 237 – The law on freedom of the press, of opinion and of expression may make provision for restrictions. This law is part of the legal and institutional framework to protect the press. Promotion and protection measures stem essentially from administrative and court decisions as well as from the activities of associations.

### Section 1 : The legal and institutional framework to protect the press, freedom of opinion and of expression

- 238 – The Preamble of the Constitution states, "*freedom of communication, of expression, of the press,... shall be guaranteed under the conditions fixed by law*".
- 239 – Pursuant to article 19 of The Universal Declaration of Human Rights no individual shall be threatened because of his opinions.
- 240 – Article 5(d) of The United Nations International Convention on the Elimination of all Forms of Racial Discrimination reiterates this right among others.

<sup>58</sup> Communication 236/2000, Curtis Doebbler Vs. Soudan.

<sup>59</sup> The three traditional powers in a democracy are the Executive, Legislative and Judicial powers. They are enshrined in the fundamental law, the Constitution.

- 241** – Freedom of expression and the responsibility of the journalist are reaffirmed under articles 19 and 20 of the ICCPR.
- 242** - The African Charter on Human and Peoples' Rights provides that every individual shall have the right to receive information (section 9).
- 243** - Article 13 of The International Convention on the Rights of the Child acknowledges children's right to freedom of expression.
- 243** - It is necessary to give a brief history of the evolution of national laws on this issue.
- 244 – 1** - Cameroon was a German Protectorate from 1884 to 1914, then a Franco-British condominium from 1914 to 1916 and was subsequently placed under Franco-British mandate from 1922 to 1960 (see § 4 supra). During this last period, each of these countries transferred her substantive law to the part of Cameroon under her mandate.
- 244 - 2** - The Law of 29 July 1881 on Freedom of the Press was applicable in East Cameroon under the French trusteeship. It fostered the development of the press and the full exercise of its activities as it comprised a restrictive list of press offences. It was repealed by section 89 of Law No. 90/05 of 19 December 1990 relating to freedom of mass communication.
- 245** – The Common Law was applied in West Cameroon under British trusteeship. The English Law made provision for only two categories of press offences – libel (press offences committed through the print medium) and defamation (press offences committed through audiovisual communication organs).
- 246** - After the independence of East and West Cameroon in 1960 and 1961 respectively, both states continued to apply the laws inherited from their colonial masters. In 1961, they were reunified under a federal system of government. The problem of the harmonization of the legal instruments inherited from France and Great Britain arose and it became necessary to set up a purely national press law.



- 247** - Law No.66 L/18 of 21 December 1966 on the press, amended several times<sup>60</sup>, was adopted. The final provisions of this law expressly repeal sections 1 to 22 and 42 to 46 of the 1881 Law.
- 248** - Sections 23 to 41 on press offences remained in force. The Penal Code was promulgated in 1967 by Law No. 67/LF/1 of 12 March 1967 to institute Book II of the Federal Penal Code, which adopted the offences contained in the 1966 Law. Annexure II of the 1967 Law indicated that sections 23 to 41 of the 1881 Law were repealed. With the promulgation of the Law of 12 March 1967, certain provisions of the Penal Code were applicable to offences committed through the print medium or audiovisual communication organs.
- 249** - It should be stated that though it maintained the system of prior authorization, the 1990 Law had already made provision for the liberalization of the audio-visual press which became effective with the coming into force of Decree No. 2000/158 of 3 April 2000 to lay down the conditions for the setting up and running of private audiovisual communication organs<sup>61</sup>.
- 250** - This is the general framework under which freedom of the press is enjoyed in Cameroon. Special measures are taken to regulate this freedom with a view to greater responsibility.

## **Section 2 : Measures to protect freedom of the press**

- 251** – Special measures to promote and protect the above-mentioned freedoms are taken by competent authorities, who serve as administrative and judicial police as the case may be.

### **§ 1 - Administrative measures**

- 252** – At the wake of the communication forum organized from 29 August to 1 September 1994, several decisions were taken by the Government to better regulate freedom of the press.

## **AUTHORIZATION TO USE CABLES AND FREQUENCIES**

- 253- 1** – 253-1 By Decision No. 025/MINCOM/CAB of 19 September 2003, the Minister of Communication (MINCOM) granted a temporary authorization to certain private audiovisual communication organs

<sup>60</sup> These include amendments by Laws No.69/LF/13 of 10 November 1969, No 73/6 of 7 December 1973, No.76/27 of 14 December 1976, No. 80/18 of 14 July 19810 and No. 87/019 of 17 December 1987 to lay down the audiovisual communication system.

<sup>61</sup> Radio Reine was the first private radio station to broadcast from Yaounde.

to broadcast programmes of general interest through cable and frequencies.

- 253 - 2** – Even before the statutory enactment, the Minister of Communication had granted temporary broadcast rights to some private radio stations who were given a deadline to conform with the Decree of 3 April referred to above.

#### PUBLIC ASSISTANCE TO PRIVATE COMMUNICATION ORGANS

- 254 - 1** – The involvement of the private media in the mission of nation-building accounts for the State's contribution through various forms of support to their professional growth. Public assistance to private communication is instituted by Order No. 017/MINCOM of 23 September 2002 to fix the setting up, organization and functioning of the National Committee to examine applications for public assistance to private communication organs.

- 254 - 2** - In this vein, a special financial aid was granted to the private media to enable them cover the council and legislative elections of 2002 as well as the presidential election of 2004.

#### EXEMPTION FROM CUSTOM DUTY

- 255** – In compliance with the Florence Agreement of 1950 on the importation of educational, scientific or cultural equipment and of its Nairobi Annex Protocol of 1976, equipment and inputs intended for private press organs have been exempted from VAT. However, this measure was temporarily suspended, as it led to fraud and also because of constraints linked to Government's ongoing economic programme.

#### LIBERALIZATION OF THE MEDIA

- 256** – The public media is open to all political parties, and those represented at the National Assembly have airtime to express their views.

## ACCESS TO INFORMATION BY JOURNALISTS

**257** – Decree No.2002/2170/PM of 09 December 2002 to lay down the conditions for issuing the Press Card<sup>62</sup> states *“the holder of the Press Card or the letter of accreditation shall benefit from special provisions taken in favour of the representatives of press organs by public authorities. Subject to respect for the laws and regulations in force and to the needs of maintenance of public order, he shall have, in particular, access to sources of information and in general to all the places where he is called upon to perform his duties”*.

**258** – Every journalist, who possesses a press card issued under the conditions laid down by the regulations in force, shall be granted eased and protected access to information.

The Central Bureau for Press Relations is an organ responsible for permanently providing national and international media with information on current events and other issues to enlighten public opinion on Government activities and the functioning of public services. Its Head Office called *“Communication House”* was set up by Decision No. 044/MINCOM/CAB of 02 July 2004 to be an interface between the private and foreign press and the Ministry of Communication.

## TECHNICAL COMMITTEE IN CHARGE OF EXAMINATION OF APPLICATION FILES FOR LICENCES

**259 -1** – On 14 June 2005, the Minister of Communication signed an order to fix the composition of the Technical Committee responsible in charge of examining of application files for licences to set up and operate audiovisual communication organs. In a press release of 8 August 2005, he invited operators wishing to set up a private audiovisual communication structure to submit their files at the competent services of his ministry.

**259 - 2** - The technical committee referred to above effectively met from 31 August to 6 September 2005 and its report was forwarded to the National Communication Council for its expert opinion.

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<sup>62</sup> The press card is the “official document which identifies a journalist”. Decree No. 2002-2170-PM of December 2002 to lay down the conditions for issuing the press card.

## THE NATIONAL COMMUNICATION COUNCIL (NCC)

**260** – Decree No.91-287 of 21 June 1991 fixes the organization and functioning of the National Communication Council which is the regulatory authority. This organ met on 23 August 2005 and its Permanent Secretary summarized its programme of action as follows<sup>63</sup>:

- the composition of teams to visit Head Offices of broadcasting houses and other organs;
- the organization of seminars related to issues of ethics;
- participation in international meetings in Johannesburg, Benin...;
- the organization of a seminar from 19 to 22 September 2005, in Yaounde, on the capacity building of journalists, a joint initiative of the Cameroon section of the International Union of the Francophone Press and the "*Hear Africa Foundation*". This was the second of such seminars.

**261** – Besides the work done by NGOs in the defence of Human Rights, professional media organisations are also fighting for the consolidation of freedom of the Press. These include:

- the Union of Cameroon Journalists;
- the National Trade Union of Cameroon Journalists;
- the Cameroon Association of English Speaking Journalists;
- the Cameroon Association of Commonwealth Journalists;
- the Cameroon Media Council;
- the Trade Union of Employed Journalists of Cameroon; and
- the Union of Free Journalists of Cameroon.

**262** – In this vein, the Union of Cameroon Journalists, in partnership with the U.S Embassy, organized a forum on corruption in Cameroon's media on 21 October 2005. It dealt on the role of the journalist as an independent critic in a society prone to corruption and the means of eradicating same. Though it is obvious that some media in Cameroon represent

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<sup>63</sup> The Permanent Secretary of the said Council, in Cameroon Tribune No. 8417/4616 of 22 August 2005.

and will always represent powerful political or economic lobbies, the Chairman of the Cameroon Branch of Transparency International<sup>64</sup> opined “*media should denounce and avoid mental, intellectual, and worst still, financial corruption*”.

**263** - The partners of Cameroon constantly support the consolidation of freedom of the press. This is illustrated by the training seminar organized by the British High Commission for Cameroonian journalists on Good Governance, Democracy and Ethics in Journalism in Yaounde, from 24 October to 02 November 2005. At the end of the seminar, the British High Commission donated equipment and documents worth 10,000,000 FCFA to the “*Communication House*”.

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**264** – There has been a proliferation of press organs with the emergence of a culture of freedom which, in some cases, borders on permissiveness, since the promulgation of Law No. 90/052 of 19 December 1990 relating to freedom of mass communication as amended and the signing of Decree No. 2000/158 of 03 April 2000 to lay down the conditions for setting up and operating private audiovisual communication organs.

**265** – Such deliberately liberal policy has led to a real media explosion and freedom of speech, thus asserting the rule of law as illustrated by the following table<sup>65</sup>

	<b>Public Sector</b>	<b>Private Sector</b>
Written Press	National daily paper: 1 Official Gazette: 1 Several publications by Communication Units in the various Ministries and some State Corporations.	About 200 private papers published at various intervals including three dailies.
Audio-visual Press	- Public radio: 1  - Public Television:	- Private radios authorized (general and specialized): 30  - Community radios: 27  - Private Television: 9

<sup>64</sup> See Cameroon Tribune No. 8461-4660 of 21 October 2005, p. 9.

<sup>65</sup> Source: Ministry of Communication. According to the UJC only about 50 private papers in the table are published regularly.

	Public Sector	Private Sector
Cyber Press		05 organs
Teledistribution Sector		02 recognised enterprises
Printing	Public Printing Press: 03	Private Printing Press: 05 of industrial nature.
Advertisement enterprises	Public: 01	Private: 86 distributed as advertisement groups and commercial-agencies.
Communication Associations		08 associations

**266** – From what precedes, it is evident that freedom of the press is effective in Cameroon.

**267** - As it is the case the world over, and given the nature and specificities of each of these media, the print medium has never been subjected to the same regulations as audio-visual communication.

**268** - For technical reasons related to the scarcity of frequencies for the transmission of radio electrical signals, audio-visual communication is subjected to prior authorization whereas the print medium is subjected to simple declaration.

**269** - In this vein, section 7 of the Law of 19 December 1990 relating to freedom of mass communication requires, for the setting up of a private written press organ, a written declaration signed by the publisher and addressed to the competent Senior Divisional Officer. Also, Section 7 of the Law of 04 January 1996 to amend and supplement some provisions of the 1990 Law indicates that the Senior Divisional Officer shall be bound within a time-limit of fifteen days from the date he is seized to issue a declaration receipt to any applicant who submits a complete file. Thereafter, his silence shall be considered as approval.

**270** - In case of refusal by the Senior Divisional Officer to issue a declaration receipt, the applicant may seize the competent court for a settlement.

**271** - Section 8 of the Law of 19 December 1990 subjects audio-visual communication activities to the prior obtention of a licence issued by order of the Minister of Communication after consultation with the National Communication Council.

**272** - By virtue of the normal powers of the administrative police, measures to redress the profession, consistent with the laws in force, were taken against some press organs and audio-visual communication enterprises.

**273** - These included:

- The "*Tribune de l'Est*", a periodical of general information edited in Bertoua, whose publication was forbidden by the Minister of Territorial Administration and Decentralization for want of prior declaration.

- "*Magic FM*", a private radio station broadcasting in Yaounde, was suspended by Order No. 22/MINCOM/SG/CJ of 14 March 2003 by the Ministry of Communication for Contempt of the President of the Republic, public bodies, spreading of false news and incitement to sedition, likely to endanger public order and good morals. This order was made in compliance with the provisions of Decree No. 2000/158 of 03 April 2000 following a road accident on the Yaounde-Douala Highway with many victims.

- The television channels "*RTA*" and "*Canal 2*" and the radio stations "*VERITAS*" and "*Freedom FM*"<sup>66</sup> broadcasting from Douala were temporarily closed for operating illegally.

**274** – The above press organs and audio-visual corporations resumed their activities after they subsequently regularized their situation. There was therefore no muzzling of the press as Amnesty International and the U.S. Department of State<sup>67</sup> claimed, but rather the implementation of the regulations in force<sup>68</sup>.

**275** – In the final analysis, the role of administrative authorities in communication is restricted to measures that permanently refer to the diptych freedom-responsibility, as public order demands, legality and the

<sup>66</sup> This was the ground for the filing of communication No. 230/04 against Cameroon before the African Commission on Human and Peoples' Rights by the NGO called Open Society Justice Initiative on behalf of Pius NJAWE, owner of this radio station.

<sup>67</sup> The 2004 Report by the US Department of State on Cameroon mentioned the refusal to grant licences to independent private operators but exclusively to CRTV (a public audiovisual communication organ) for which Government collect taxes from taxpayers.

Amnesty International's 2005 Report shared this same view by stating that the constant refusal of press freedom illustrates government's long-standing fear of uncensored information. The ban in 2003 on some radio and television stations, accused of illegal broadcasting, is still in force. The Government has refused to grant them broadcasting rights.

<sup>68</sup> Some media professionals, in particular the UCJ, hold that the implemented of the decree is discriminatory in particular with regard to public audio-visual media.

enhancement of the freedom of the press. Judicial authorities equally intervene to protect public order.

## § 2 - Legislative and Judicial Measures

**276** – Law No. 90/052 of 19 December 1990 relating to mass communication as amended does not list offences that may be committed by press or audio-visual communication organs. Punishable acts are common law offences under the Penal Code and are referred to as follows:

- Defamation: (section 305);
- Abuse: (section 307);
- Simple threat and conditional threat (sections 301 and 302);
- Contempt of the President of the Republic and Public Bodies: (sections 152 to 154);
- Spreading false news: (section 113);
- Contempt of race and religion: (section 241);
- Justification of crime: (section 267);
- Seditious writings and utterances: (section 154);
- Resistance: (section 157);
- Credit of the State: (section 222);
- Tendentious Comments: (196);
- Forbidden publications: (section 198);
- Ambiguous publications: (section 226);
- Obscene publications: (section 265);
- Corruption of morals: (section 264).



- 277 – As was held, *“national and sometimes international opinion<sup>69</sup> is not always well informed of the ground for the conviction of a journalist, and may take sides with what is considered to be an innocent victim whom authorities may wish to silence because he is an obstruction to free looting. Most press court cases concern only public dignitaries or highly placed persons in the society. When such stories are published in the media, it is believed, though sometimes wrongly, that they contain some element of truth. National and international NGOs that defend press freedom and/or Human Rights contribute greatly to this confusion by lending support to journalists who are unjustly imprisoned as they do to those who are under the axe of the law”<sup>70</sup>.*
- 278 – The same accusations levied on administrative authorities with regard to administrative police are equally made against the judiciary. Just as there is much outcry when a newspaper is seized or when an audio-visual press organ is suspended, so is there a general mobilization to protest against the arrest or conviction of a journalist. By concluding that this is repression, a major aspect of the diversity litigation related to the press is overlooked. Judgments to promote and protect the press have been delivered in matters opposing press organs to the Administration. This was the case in ruling No. 761 of 4 July 1997 of the Yaounde Court of First Instance as confirmed by Judgment No. 39/CIV of 24 October 1997 of the Centre Court of Appeal. The facts are here below.
- 279 – By a decision of 24 June 1997, the Vice-Prime Minister in charge of Territorial Administration banned the publication of *“Mutations”* newspaper throughout the national territory on the grounds that an article published therein titled *“Ballot or bullet”* was a threat to public order as it contained comments which could incite the population to rebellion as well as other acts of violence. The Publisher filed a motion before the court for the annulment of that decision. Contrary to the contention by the Administration’s that the motion could have been filed before the Administrative court, the court ruled that it had jurisdiction and granted Mutations’ prayer.
- 280 – In any case, press offences still fall under the ambit of the penal law and journalists do not enjoy immunity. In a case reported by the Special Rapporteur on the strength of an article in the Newspaper *“l’Oeil du*

<sup>69</sup> In his letter No.0210/DIPL/D3/SDUN/PJ of 15 June 2005, to the Vice-Prime Minister, Minister of Justice, Keeper of the Seals, the Minister of External Relations refers to the Special Rapporteur’s request for the promotion and protection of freedom of opinion and expression. The request mentions the closure of radio and television stations and sentencing of the journalist ERIC WIRKA TAYU in Kumbo.

By letter No. 02168/DIPL/D3/SDUN/PJ of 16 June 2005, the Minister of External Relations forwarded to the Vice-Prime Minister, Minister of Justice, Keeper of the Seals, the request of the Special Rapporteur on the promotion and protection of freedom of opinion and expression in reference to the sentencing of the journalist GUIBAI GATAMA and in relation to the newspaper *“L’Oeil du Sahel”*.

<sup>70</sup> Extract of the preface by Pr. Maurice Kamto of the book: *Le contentieux pénal de la presse et de la communication audiovisuelle au Cameroun* par EYIKE-Vieux ET YOUSSOUFA BOUKAR.

*Sahel*” whose publisher is Guibai Gatama, allegations of oppression were made against the Commander of the Fotokol Gendarmerie Brigade who filed a suit at the Maroua Court of First Instance for defamation. The publisher neither served the State Council nor the plaintiff with his memorandum within the prescribed time limit spelt out in Section 81 of the Law on mass communication which states that “*an accused person who wishes to provide evidence of defamation shall have five days after the summons to inform the Legal Department or the plaintiff at his address for service as the case may be*”. He forfeited this right and was convicted and sentenced accordingly

**281** – Circular letters have been issued with directives on matters relating to the prosecution of press offences, considering the delicate nature of allegations, process and any pressure the press may bring to bear which are incompatible with careless comments and hasty conclusions. For example, Circular letter No. 0026/03/32/AP/DAPG of 15 April 2002 by the Minister of Justice to prescribe protection of the physical integrity and reputation of suspects in criminal matters.

**282** – The public and private press are not exempt from prosecution. In the case of Rhym à Seyi Lin Jean against the “*Cameroon Radio and Television*” (CRTV) and others, by a writ of summons dated 31 May 2001, the heirs of late Seyi à Koul Julien sued CRTV and others at the Akonolinga Court of First Instance for defamation and abuse contrary to sections 74, 305 and 307 of the Penal Code and sections 74 to 78 of Law No. 90/052 of 19 December 1990. They alleged that some time in February 2001 in a local language programme a journalist of the Provincial CRTV radio station for the Centre invited a soothsayer, one Kigum Manifi, who asserted that late Seyi à Koul was specialized in the physical elimination of persons through occult practices and was responsible for the death of two persons whose names were given. This programme was broadcast four times that same month, to the hearing of Raym à Seyi the administrator of the estate, while he was in Akonolinga. The heirs of Seyi à Koul claimed they suffered a major prejudice as they were stigmatised everywhere they went, especially at Bafia, their place of origin. They also claimed damages<sup>71</sup>.

**283** – In yet another case against SOPECAM, the Ngoumou Court of First Instance dismissed the prosecution’s case<sup>72</sup>.

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<sup>71</sup> The file is still pending before the Court of Appeal for the Centre to decide on the petition to challenge the President of the High Court and the Court of First Instance of Akonolinga.

<sup>72</sup> Judgment of 23 July 2003 in the matter Mveng Ebanda Joseph vs. Marie Claire NNANA, SOPECAM and Others.

- 284** – Considering the number and diversity of print and audio-visual press organs in Cameroon, as well as administrative and judicial measures, it is evident that the legal and institutional set up in Cameroon is conducive for an effective liberalization of the press.
- 285** - The challenge in Cameroon today is not so much the punishment of press offences but the building of the intellectual capacity of journalists. The following remark made by one of their peers in 1997 is still relevant: *“contrary to what happens in many African countries and elsewhere in the world, journalists in Cameroon behave as they wish, depending on the editorial policy of their newspaper. Everyone can bear witness to this fact. To be convinced, it suffices to visit a few newsstands and read a variety of newspapers. News and commentaries published in Cameroon newspapers are sometimes false, which is contrary to professional ethics. In some cases, “such information” is simply a figment of the author’s imagination. The increasing number of court cases involving the media points to the fact that journalists do not always respect the laws and regulations in force. If press laws were systematically applied, many newspapers would be sanctioned and very many publications would no longer exist<sup>73</sup>”*.
- 286** - The same flexibility is noted in the area of associations and freedom of assembly.

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<sup>73</sup> ESSAMA ESSOMBA: « sauvons la liberté de la presse » (Let Us Save Freedom of the Press), Cameroon Tribune No. 6341/2630 of 2 May 1997.



## CHAPTER 5 : FREEDOM OF ASSOCIATION AND ASSEMBLY

**287** – Freedom of association and assembly is guaranteed by the Preamble of the Constitution which states “... *the freedom of assembly, of association, of trade unionism... shall be guaranteed under the conditions fixed by the law*”. Such recognition of freedom of association and of assembly is consistent with the provisions of Article 20 of the Universal Declaration of Human Rights and Articles 21 and 22 of the ICCPR.

**288** - Special instruments govern the exercise of such freedoms. They include:

- Law No.90/053 of 19 December 1990 relating to freedom of association;
- Law No. 90/055 of 19 December 1990 to lay down regulations governing public meetings and processions;
- Law No. 90/056 of 19 December 1990 relating to political parties;
- Law No. 99/014 of 22 December 1999 relating to Non-Governmental Organisations;
- Decree No. 93/574 of 15 July 1993 to determine the form of professional trade unions admitted for registration and other instruments relating to professional trade unions for civil servants.

**289** - The diversity of instruments in this regard can be explained by the different regulations applicable for each form of association, public meeting and procession.

**290** - These instruments aim at asserting and protecting freedom of association and assembly. Also, the legislator tends to promote groups whose dynamism may yield positive results at the economic, social and cultural levels. This is especially the case with NGOs.

### Section 1: Promotion and protection of freedom of association

**291** - Section 1(2) of Law No. 90/053 of 19 December 1990 relating to freedom of association defines such freedom as “*the right to set up an association and to be or not to be a member of an association*”. Sub-section 3 on, non-discrimination in the exercise of such freedom adds “*it shall be enjoyed by all natural persons and corporate bodies throughout the*

*national territory”.*

**292** - The Cameroon legislator has facilitated the setting up of associations in conformity with his definition of freedom of association.

### **§ 1 Setting up of associations**

**293** - Association may be set-up as:

- Civil associations;
- NGOs;
- Trade Unions; and
- Political parties.

#### **CIVIL ASSOCIATIONS**

**294 – 1** - The setting-up of civil associations is the simplest. Section 5 of Law No. 90/053 of 09 December 1990 distinguishes two types of associations: the declaration type and the authorization type.

**294 - 2** – Foreign and religious associations fall under the authorisation types.

**294 - 3** – All other forms of associations fall under the declaration types.

#### **THE DECLARATION TYPE**

**295** - The sole purpose of declaration is to confer legal status on associations. Associations which fall under the declaration system are formed freely. The declaration comprises a file deposited against a receipt at the Senior Divisional Office of the division where the said association has its head office. The Senior Divisional Officer's shall reply within a time-limit of two months following the deposit of the file. Upon expiry of this time-limit, the SDO's silence is considered as an approval and tantamount to the acquisition of legal status. The simplification of the procedure for declaration has enabled a significant number of associations to be set up so much so that attempting to give their exact number is illusory.

**296** - The authorization type concerns foreign and religious associations.

## THE AUTHORIZATION TYPE

### a) Foreign associations

**297** - Foreign associations are those whose head offices are abroad or which are managed by foreigners or over half of their members are foreigners although they are based in Cameroon. Applications for authorization to set up these associations are forwarded to the Minister of External Relations who transmits same to MINATD with his opinion. The authorization order may be granted on a temporary basis or be subject to periodical renewal. As of September 2005, 223 foreign associations had been authorized in Cameroon.<sup>74</sup>

### b) Religious associations

**298** - Religious associations are authorized by a Presidential decree after a reasoned opinion by MINATD.

**299**- In September 2005<sup>75</sup>, Cameroon had 77 officially recognized catholic religious congregations and 46 religious denominations.

### NGOs

**300** - Section 2 of Law No. 99/014 of 22 December 1999 governing NGOs defines an NGO as a declared or foreign association authorized in accordance with the laws in force, and approved by the Administration to participate in the execution of missions of general interest.

**301 - 1** – Approval is granted by Order of the Minister in charge of Territorial Administration and Decentralization following the expert opinion of the technical committee in charge of reviewing applications.

**301 – 2** – The Minister shall take a decision within a maximum time- limit of seventy-five days from the date the file was submitted to the Provincial Governor. If this time limit has lapsed and the Minister fails to notify the NGO's founder or representative of the refusal and grounds for such refusal, approval shall be deemed to have been granted.

**302** – As of 30 September 2005, there were 15 NGOs and 3 unipersonal NGOs in Cameroon<sup>76</sup>.

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<sup>74</sup> Source : MINTAD.

<sup>75</sup> Idem.

<sup>76</sup> Source : MINTAD-Approved NGOs.

## PROFESSIONAL TRADE UNIONS

**303** – The law recognizes the right of workers and employers, without any restriction nor prior authorization, to freely set up professional trade unions whose objectives are to study, defend, develop and protect their economic, industrial, commercial and agricultural interests as well as the social, economic, cultural and moral progress of their members. This is the purport of section 3 of Law No. 92/07 of 14/08/92 on the Labour Code.

## TRADE UNIONS IN THE PRIVATE SECTOR

**304 - 1** – These trade unions must be registered to have legal status.

**304 - 2** – The registration certificate of a trade union issued by the Registrar of Trade Unions confers legal status on same. The conditions for obtaining this certificate are simple. Section 2 of Decree No. 93/576 of 15 July 1993 to fix the formalities for the registration of a trade union prescribes the following conditions:

- the complete name and the head office of the trade union concerned;
- the date and registration number;
- the stamp and signature of the Registrar of Trade Unions.

**304 - 3** – The registration of a trade union is automatic when the file is complete. Where the file is incomplete the Registrar may delay registration of the file in order to call upon the applicant to complete same.

**305** – Given the ease with which trade unions may be formed, it is not surprising that private sector in Cameroon<sup>77</sup> has about five hundred and fifty professional trade unions. This explains the absence of litigation relating to the registration of trade unions.

## PROFESSIONAL TRADE UNIONS FOR CIVIL SERVANTS

**306** – MINATD is the competent authority to legalize professional trade unions for civil servants. As of 30 September 2005, eight professional trade unions for civil servants had been authorised.

<sup>77</sup> Source: Ministry of Labour and Social Security (2004-2005).



PROFESSIONAL TRADE UNIONS FOR CIVIL SERVANTS APPROVED BY  
LAW<sup>78</sup>

Number	NAME	HEAD OFFICE	AUTHORIZATION DECISION
1	Syndicat National des Fonctionnaires du Services Civils et Financiers(National Trade Union for Workers of Civil and Financial Services) (SYNAFCIF)	Yaounde	Decision No.10/Dminat/DAP/SALP/SAC of 11/05/1994
2	Syndicat National des Personnels du Techniques (National Trade Union for Personnel of the Technical Sector) (SYNAPTEC)	Yaounde	Decision No. 168/D/MINAT/DAP/SALP/SAC of 25/07/1994
3	National Trade Union of Teachers of Cameroon(SYNEC)	Yaounde	Decision No. 292/D/MINAT/DAP/SAC/ of 11/11/1994
4	Syndicat des Personnel Médico-Sanitaires (Trade Union for Health Personnel) (SYNPEMS)	Yaounde	Decision No. 292/D/MINAT/DAP/SAC/ OF 01/09/1995
5	Syndicat National des Instituteurs et Professeurs des Ecoles Normales (National Trade Union for Teachers and Lecturers of Teacher Training Colleges) (SYPROTEL)	Yaounde	Decision No. 292/D/MINAT/DAP/SAC/ of 26/07/2000
6	Syndicat des Professionnels des Télécommunication du Cameroun (Trade Union for Telecommunication Professionals of Cameroon)	Yaounde	Decision No. 292/D/MINAT/DAP/SAC/ of 29/08/2001
7	Syndicat National des Travailleurs des Medias du Cameroun(National Trade Union for Media Workers of Cameroon) (SUNATMEC) Yaounde	Yaounde	Decision No. 292/D/MINAT/DAP/SAC/ of 29/08/2001
8	Syndicat National des Professionnels de l'Enseignement Technique et de la Formation Professionnel (National Trade Union for Professionals of Technical Education and Professional Training (SNAPTEEP)	Yaounde	Decision No. 292/D/MINAT/DAP/SAC/ of 06/05/2004

<sup>78</sup> Source: Ministry of Labour and Social Security (2004-2005).

## POLITICAL PARTIES

- 307 - 1** – Section 1 of Law No. 90/056 of 19 December 1990 relating to political parties defines them as associations which may take part in elections.
- 307-2** - This law provides for the free formation of political parties and the free exercise of their activities within the framework of the Constitution.
- 307-3** - The decision to legalize a political party is taken by MINATD on an application file forwarded by the competent provincial Governor.
- 307-4** – In the event of quiescence for a period of three months from the date the file is deposited at the Office of the competent Governor, (section 7(2) of the above- mentioned law), the party is deemed to exist legally.
- 307-5** – In the case of civil associations, the Minister’s competence is restricted and non-discretionary. Any refusal to grant authorization must be justified and notified to the applicant.
- 307-6** - As of 31 December 2005, Cameroon had 197 officially legalized political parties<sup>79</sup>.

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<sup>79</sup> Source : MINATD.

**LIST OF LEGALIZED POLITICAL PARTIES IN ACCORDANCE WITH LAW No.  
90-056 OF 19 DECEMBER 1990 RELATING TO POLITICAL PARTIES**

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
01	Cameroon People's Democratic Movement	01-09-66 (CNU) 1985 name changed from CNU to CPDM	CPDM	Yaounde	Paul BIYA
02	Union of the Populations of Cameroon.	Decision of 12/02/1991/ MINAT No.0049/D/MINAT	U.P.C	Douala P.O box 8647	DICKA AKWA
03	Social Democratic Front	Decision of 01/3/91 No.0065/D/MNAT	S.D.F	Bamenda P.O box 89	NI John FRU NDI B.P 11115 Yaoundé
04	Integral Democracy of Cameroon	Decision of 12/02/91 No.0048/D/MINAT	D.I.C	Douala P.O box 8282	Gustave ESSAKA
05	Movement for National Unity	Decision of 11/03/91 No. 0070/D/MINAT	R.U.N	Yaounde P.O box 100 Foubot	SEUNKAM François
06	Liberal Democratic Party known henceforth as Liberal Democratic Alliance	Decision of 11/03/91 No.0071/D/MINAT	L.D.P /L.D.A	P.O box 116 Buéa P.O box 68	OBENSON Gabriel
07	Union of Democratic Forces of Cameroon	Decision of 1/03/91 No. 0067/D/MINAT	U.F.D.C	Yaounde P.O box 7190	HAMENI MBIALEU Victorin
08	Republican Party of the People of Cameroon	Decision of 1/03/91 No. 0066/D/ MINAT	P.R.P.C	Bertoua P.O box 6654 Yaoundé	ATEBA NGOA André
09	Democratic Socialist Party	Decision of 25/03/91 No.0097/D/MINAT	P.S.D	Douala P.O box 141	NSAME MBONGO Joseph
10	Republican Union of Cameroon	Decision of 25/03/91 No. 0098/D/MINAT	U.R.C	Douala P.O box 4435	KOUMBIN BILITIK Ernest
11	National Union for Democracy and Progress	Decision of 25/03/91 No. /D MINAT	U.N.D.P	5019 Yaounde P.O box 656 Douala	BELLO BOUBA MAI-GARI
12	Party for the Democrats of Cameroon	Decision of 05/03/91 No. 0111/D/MINAT	P.D.C	Yaounde P.O box 6909	Dr MBIDA Louis Tobie
13	Panafrican Congress of Cameroon	Decision of 05/03/91 No. 113/D/MINAT	C.P.C	Douala P.O box 1248	NOUCHI TCHOKAGO
14	Social Democratic Action of Cameroon	Decision of 05/03/91 No. 113/D/MINAT	A.S.D.C.	Maroua	EL HADJ SADJO SAID SINDAN
15	Cameroon Democratic Union	Decision of 26/04/91 No.133 /D/MINAT	U.D.C	Yaounde P.O box 1638	ADAMOU NDAM NJOYA

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
16	People's Action Party	Decision of 26/04/1991 of No. 134/D/MINAT	P.A.P	Kumba P.O box 79	Victor MUKWELLE Ngoh
17	United Socialist Party	Decision of 26/04/91	P.S.U	Douala P.O box 12106	SHOFONE Daniel
18	Social Movement for New Democracy	Decision of 03/05/91 No. 142/D/MINAT	M.S.N.D	Douala P.O box 1641	YONDO MANDENGUE Black
19	Cameroon National Party that becomes Cameroon National Democratic Party	Decision of 03/05/91 No.140/D/MINAT	C.N.P C.N.D.P	P.O box 14703 Yaounde P.O box 230	ALHADJI TITA FOMUKONG
20	National Democratic Party merges with the LDP becomes L.D.A.	Decision of 03/05/91 No.141/D/MINAT	N.D.P	Buea P.O box 116	FOSSUNG Henry
20	Cameroon Socialist Party	Decision of 03/05/91 No.139/D/MINAT	P.S.C.	Douala P.O box 12501	NSETH NSETH Apollinaire
22	People's Solidarity Party	Decision of 15/05/91 No.153/D/MINAT	P.S.P	Yaounde	NGOUO WOUNGLY MASSAGA
23	Social Democratic Union becomes (Union for the party and Solidarity	Decision of 04/06/91 No.164/D/MINAT	(U.S.D.) U.P.S	Yaounde P.O box 7125	Jean-Pierre MBELLE
24	(Cameroon's Alliance for the Progress and Emancipation of the Destitute) now known as Union for the Republic	Decision of 04//6/91 No. 165/D/MINAT	(A.C.P.E) U.P.S	Yaounde P.O box 6527	BOHIN BOHIN Augustin
25	Alliance for Democracy and Progress of Cameroon now known as Alliance for Democracy and Development of Cameroon	Decision of 04/06/91 No./D/MINAT	A.D.P.C A.D.D	Garoua P.O box 231	ABOUKAR KOKO GARGA HAMAN
26	Liberal Alliance Party	Decision of 10/06/91 No.175/D/MINAT	PAL	Douala P.O box 13233	BEDZIGUI Célestin

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
27	Cameroon Progressist Party	Decision of 10/06/91 No./D/MINAT	PPC	Yaounde P.O box 755	PAHAI Jean
28	Liberal Convention	Decision of 10/06/91 No.177/D/MINAT	CL	Douala P.O box 2363	Pierre Flambeau NGAYAP
29	Union for National Entent Initiatives	Decision of 10/06/91 No.203/D/MINAT	U.I.E.N	Douala P.O box 10081	TCHEMO DJAMEN Blaise
30	Authentiques of Cameroun	Decision of 04/07/91 No. 209/D/MINAT	DAC	Yaounde P.O box 4452	YISSI NTSAMA Jean Baptiste
31	(Parti des Fourmis) qui devient People's Democratic Front	Decision of 08/07/91 No. 210/D/MINAT	PDF	Yaounde P.O box 20447	BOO Daniel Dieudonné
32	Cameroon Ideological Party	Decision of 08/07/91 No. 211/D/MINAT	CIP	MUYUKA	OBEN Isaac ENOW
33	Nationalisme des Pacifistes du Cameroun pour Bien Etre et l'Unité Réelle Contre les Souffrances des Humains	Decision No. 230/D/MINAT of 30 July 1991	NPC/ BUSH	Bafoussam P.O box 241	HAMENI MBIALEU Victorin
34	Green Party for Democracy in Cameroon	Decision No.231 /D/MINAT of 30 July 1991	PVDC	Douala P.O box 2606	FOGOU M Justin Aimé
35	National Party for Progress	Decision No. 232/D/MINAT of 30 July 1991	PNP	Douala P.O box 6014 Yaounde	ANTAR GASSAGAY
36	Progressive Mouvement	Decision No. 247/D/MINAT of 23 August 1991	MP	Douala P.O box 2500	EKINDI Jean Jacques
37	(National Union for the People of Cameroon) now known as Action for National Redress	Decision No.248/D/MINAT of 23 August 1991	U.N.P.C ARN	Douala P.O box 2748	NAGAMBO MAHA- MAN
38	Regrouping of Nationalist Forces	Decision No.249/D/MINAT of 23 August 1991	RFN	Douala P.O box 1722	POLOG Richard
39	Regrouping of Patriotic Forces	Decision No. 250/D/MINAT 23 August 1991	RFP	Yaounde P.O box 4022	EMA OTU
40	Cameroon Liberal Congress	Decision No. 252/D/MINAT of 23 August 1991	CLC .	Bamenda P.O box 4022	TAFOH GUIJOH

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
41	Movement for Justice and Freedom	Decision No.252/D/MINAT of 23 August 1991	MJL	Yaounde P.O. BOX 895	TSOUNGUI François Xavier
42	Democratic Movement for the Defence of the Republic	Decision No.283/D/MINAT of 09/October 1991	MDR	P.O. BOX 6428 Yaounde	DAKOLE DIASALA
43	Cameroon's Patriotic Movement	Decision No. 248/D/MINAT of 09 October 1991	MPC	Douala P.O. BOX 6017	ALLI ADAAM ARAB
44	Union Front of Cameroon	Decision No. 285/D/MINAT of 09/October 1991	FUC	Douala P.O. BOX 4372	NJEUGA Jean POSSI
45	Movement for the Progress of the Republic	Decision No.287/D/MINAT of 09 October 1991	MPR	Yaounde P.O. BOX 6222	NJEUENKOU Zacharie
46	Movement for the Progress of the Republic	Decision No. 287/D/MINAT of 09 October 1991	MDPC	ESEKA P.O. BOX 203	MATIP LIBAM Henri
47	Cameroon's Movement for the Republic	Decision No. 302 /D/MINAT of 23 October 1991	RCR	Bandjoun P.O. BOX 452	WAMBO Samuel
48	Worker's United Party of Cameroon	Decision No.33/D/MINAT of 29 October 1991	POUC	Yaounde P.O. BOX 3148	BIZOLE Dieudonné
49	Autonomous Socialist Party	Decision No.313 /D/MINAT of 29 October 1991	PSA	Douala P.O. BOX 1445	DIFFOUM David
50	Cameroon's Defence of the Environment	Decision No. 0334/D/MINAT of 18 November 1991	DEC	Yaounde P.O. BOX 6361	NKEH NDIH
51	Cameroon's Social Democratic Front	Decision No. 335/D/MINAT	P.S.D.C	Bafoussam P.O. BOX 04	TEKAM Jean Michel
52	Cameroon's Social Democratic Party	Decision No. 361/D/MINAT of 09/December 1991	MORPA	Douala P.O. BOX 779	TENGUE Joseph Ledoux
53	(Popular Party for the Evolution of Liberty and Democracy) now known as Union for KARTSProgressist	Decision No. 370/D/MINAT	( PPELD) UPK	Douala P.O. BOX 12284	(Richard NYODOG)
54	Union pour la Bienveillance of Cameroon	Decision No. 371/D/MINAT of 26 December 1991	UBC	Yaounde P.O. BOX 5652	BEKADA Alexandre 975-65-32
55	Cameroon People's Party	Decision No. 372/D /MINAT	CPP	Yaounde P.O. BOX 1228	TITA Samuel FON

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
56	Cameroon's National Alliance	Decision No. 377/D/MINAT of 31 December 1991	ANC	Yaounde P.O. BOX 1228	BABA YOUSOUFA
57	Cameroon's Social Union	Decision No. 037/D/MINAT of 31 December 1991	USC	Yaounde P.O. BOX 744	Nicole OKALA
58	People's Patriotic Liberation Front	Decision No. 379/D/MINAT of 31 December 1991	FPLP	Yaounde	MEBADA Antoine Samuel
59	Democracy for the New Republic	Decision No.01/D/MINAT of 06/January 1992	DRN	Yaounde P.O. BOX 1289	OLINGA Dominique
60	Hope of the People of Cameroon	Decision No.02/D/MINAT of 06 January 1992	EPC	Ngaoundere P.O. BOX	NKAME BAYA Emmanuel
61	Movement for the Action for Liberation Panafricanism now known as Democrats and the Independent	Decision No.03/D/MINAT of 06/January 1992	M.A.P M.D.I	Douala P.O. BOX 8372 2956	KAMGA Pierre
62	Cameroon's Workers and Peasants Party	Decision No. 04/D/MINAT of 07 January 1992	POPPC	Yaounde P.O. BOX 2956	ABEGA Adolphe
63	National Movement for the Democracy	Decision No.028/D/MINAT of 07 January 1992	RNDD	Douala P.O. BOX 13240	OWONA Paul Christophe
64	National Democratic Union	Decision No. 29/D/MINAT of 07 January 1992	UND	Yaounde P.O. BOX 11309	GARBA BALLA
65	Movement for the Fatherland	Decision No. 30/D/MINAT of 07 January 1992	RAP	Douala P.O. BOX 3543	NINTCHEU Jean Michel
66	National Unity	Decision No. 43/D/MINAT of 16 January 1992	UN	Douala P.O. BOX 15035	FOTSO AYATA
67	Union Democratic Patriots of Cameroon	Decision No.52/D/MINAT of 31 January 1992	UDPC	Yaounde	TSOBENI Joseph
68	The Conservative Republican Party	Decision No.88/D/MINAT of 13 March 1992	CRP	LIMBE	Samuel OBEN BESONG
69	Movement for Democracy and progress	Decision No.88/D/MINAT of 13 March 1992	MDP	Yaounde P.O. BOX 2639	MUKURI MAKAAARON Samuel EBOUA B.P 8379 Douala
70	Republican Congress	Decision No.95/D/MINAT of 26 March 1992	CR	Bafoussam P.O. BOX 77	NIMANGUE HEMADE Emile
71	Cameroon's Revolution for a United People	Decision No.271/D/MINAT of 06 October 1992	RCPU	Ngaoundere	ABBA ABOUBAKAR

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
72	National Solidarity Front	Decision No./D/MINAT of 16 December 1992	FSN	Douala P.O. BOX 2961	PAHMI GARRINGO Zachée
73	Party for the Progress of the Youth	Decision No.354/D/MINAT of 16 December 1992	PPJ	Yaounde P.O. BOX 3667	BIEDI Jules
74	National Front for Popular Salvation and Reconciliation	Decision No.019/D/MINAT of 28 August 1993	FNSP	Douala P.O. BOX 5350	MOO BIDOUM Dieudonné
75	Democratic and Fraternal Universal Union	Decision No.035/D/MINAT of 12 February 1993	UDFU	Yaounde P.O. BOX 1258	ONANA ABOGO SOUPA Lonis
76	Force of the People of Cameroon	Decision No.040/D/MINAT of 22 February 1993	MDS	Yaounde P.O. BOX 702	MALANGANDINIBOLE Guy Roger
77	Social Democratic Movement	Decision No. 039/D/MINAT of 27 February 1993	FPDC	Douala P.O. BOX 7407	BOSTON NJOYA ALI-DOU
78	Forum of Social Democratic Patroits	Decision No. 158/d/MINAT of 29 March 1993	UDF	Garoua P.O. BOX 752	FOGUE Jean-Jacques
79	(United Democratic Front) now known as United Democratic Party	Decision No. 0062/D/MINAT of 02 April 1993	UDP	Bamenda	EL HADJ LAWAN BAKO
80	National Recovery Front	Decision No.75/D/MINAT of 27 April 1993	FNR	Maroua P.O. BOX 43	WASSILE WASSOUNI
81	United Solidarity Front	Decision No.125/D/MINAT of 1er July 1993	FUS	Douala	TONYE Lonis
82	Revolutionary Democratic Front	Decision No. 146/D/MINAT of 05/August 1993	FDR	Yaounde P.O. BOX 554	OLINGA Cyprien
83	Movement for the Liberation of Cameroon's Youth	Decision No.0270/D/MINAT of 09 September 1993	MLJC	Eseka P.O. BOX	228-64-34 714-87-50 601-04-76
84	Popular Front	Decision No.0267/D/MINAT of 06/09/1993	FP	Yaounde P.O. BOX 20043	DIMI Charles R.
85	Nationalist Option for Development and Democracy	Decision No.0270/D/MINAT of 09 September 1993	OND .	Yaounde P.O. BOX 13971	Salymo Tél. : 23-36-02 poste 467/308 27-15-16
86	Patroitic Salvation Movement	Decision No.0276/D/MINAT of 23 September 1993.	RPS	Edea P.O. BOX 6701	LITOPE



Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
87	Cameroon Party for Progressists Democrats	Decision No. 275/D/MINAT of 22 September 1993	PDPC	Yaounde P.O. BOX 6589	MAMA ETOGO François
88	Movement for Patriotic Democrats	Decision No.0280/D/MINAT of 13 October 1993	RPR	Yaounde P.O. BOX 3616	BINZI EBODE F. Tél : B. 23-74-34 D.31-78-11
89	Cameroon universal Youth and Common Man	Decision No.0286/D/MINAT of 26 October 1993	JBPCU	Douala P.O. BOX 17193	MESSOS MEDOUING Albert
90	Communist Party of Cameroon	Decision No. 0307/D/MINAT of 24 November 1993	PCC	Yaounde	NGAMBI J. Pierre B.P. 13190 Yaoundé Tél : 23-61-57
91	National Front Patriotic of Cameroon	Decision No.0307/D/MINAT of 24 November 1993	FNP	Douala	KADEM
92	Union of Ecologists of Cameroon	Decision No.322/D/MINAT of 24 December 1993	UEC	Yaounde P.O. BOX 245	KAMNGANG François Marie
93	National Liberation Party	Decision No.003/D/MINAT of 10 January 1994	PNP	Yaounde	NDANA AHANDA Laurent B.P.1488 Tél : 20-95-28
94	Popular Union of Democrats of Cameroon	Decision No.0072/D/MINAT of 12 April 1994	UPDC	Yaounde P.O. BOX 25695	MINKOE Vincent
95	Pan Africanist Popular Party	Decision No.0096/D/MINAT of 04 April 1994	PPP	Yaounde P.O. BOX 2895	BOMBA Hubert
96	Party for Democratic Progress	Decision No.108/D/MINAT of 04 May 1994	PPD	Yaounde P.O. BOX 2025	AMBASSA B. Paul
97	Cameroon Front	Decision No.198/161/D/MINAT of 19 July 1994	F.C	Douala P.O. BOX 3508	TANKWE NYA Bernard
98	Democratic Solidarity Progress	Decision No.161/D/MINAT of 19 August 1994	ADS	Mbanga Yaounde P.O. BOX 7018	Messi Philippe Adonis
99	Popular Democratic Front	Decision No.0209/D/MINAT of 17 August 1994	FDP	Douala P.O. BOX 7250	FONDJAN NGOMSI
100	Union of Libero-Humanist Democrats	Decision No.0254/D/MINAT of 05 October 1994	UDLH .	Bafia P.O. BOX 171	NGON à ZIEM NHON Walter
101	AHOM of Africa	Decision No.0281/D/MINAT of 26 October 1994	ADA	Kumba P.O. BOX 008	W. MBONG MESUMBE
102	Union of Progressist Communists	Decision No.0019/D/MINAT of January 1995	UCP	Yaounde	BIYAGA Monclard

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
103	Movement Africain pour la Nouvelle Independance et la	Decision No.0054/D/MINAT of 03 March 1995			
104	Democracy Union of New Forces	Decision No.0058/D/MINAT of 08 March 1995	UFN	Yaounde P.O. BOX 5700	GUIJOE Joseph B.P. 899 Yaoundé
105	Peasant Action	Decision No.0058/D/MINAT of 08 March 1995	PAP	Messa Yaounde P.O. BOX 8132	WANDA Justin
106	Social Democratic Party	Decision No. 062/D/MINAT of 17 March 1995	SDP	Yaounde P.O. BOX 813	Mme NGATCHOU
107	National Movement	Decision No.078/D/MINAT of 07 April 1995	M.N	Yaounde P.O. BOX 13994	ABE ONANA MAX
108	The People's Democratic Front	Decision No.0084/d/MINAT of 12 April 1995	F.D.P	Douala P.O. BOX 731	DJENGUE Emile
109	The People's Gratitude Party	Decision No.114/D/MINAT of 08/May 1995	PARENA	Yaounde P.O. BOX 12527	ENOH Dieudonné
110	Cameroon's Youth Patriotic Movement	Decision No. 0165/D/MINAT of 12 July 1995	MPJC	Yaounde P.O. BOX 2490	NDONGO Didier
111	Africa's Revolutionary Party for Democracy, Economic and Social Integration	Decision No.0166/D/MINAT of 12 July 1995	PARA-DIES	ABONG MBANG P.O. BOX 517	MBIDA Vincent
112	Union of Democrats for Work In Cameroon	Decision No.0166/D/MINAT of 12 July 1995	UDT	Douala P.O. BOX 2340	KAMENI DJONTEU Dieudonné
113	Social Democratic Party for the Redress of Cameroon	Decision No.186/d/MINAT of 19 July 1995	PSR	Douala P.O. BOX 2458	BIMAÏ Jacques
114	National Patriotic Front	Decision No.217/D/MINAT of 31 August 1995	FPN	Yaounde P.O. BOX 3767	NGOUND MBARGA Benoît
115	Movement for New Democrats	Decision No. 219/D/MINAT of 31 August 1995	MONO-DE	Yaounde P.O. BOX 12527	NDI Benoît
116	Innovated Democratic Party of Cameroon	Decision No. 220/D/MINAT of 31 August 1995	PDCI .	Garoua P.O. BOX 121	BOUBAKARY SIDIK
117	National Alliance for Democracy and Progress	Decision No. 222/D/MINAT of 31 August 1995	ANDP	Yaounde P.O. BOX 1628	HAMADOU MOUSTAPHA

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
118	Social Democrats Forum	Decision No. 0241/D/MINAT of 22 September 1995	FORUM	Yaounde P.O. BOX 7915	Mr. SIGA ASNGA
119	United Democratic Forum	Decision No. 246/D/MINAT of 27 September 1995	PUR	Yaounde P.O. BOX 4818	MR. ABE Narcisse 231-94-69 989-61-24
120	Popular Party of Cameroon	Decision No. 0252/D/MINAT of 09 October 1995	Le PPC	Bafang	FONDONJO FOMO Elie
121	Rally for Change for a New Republic	Decision No. 2060/D/MINAT of 12 October 1995	RCNR	Yaounde P.O. BOX 13701	NGOUBENE Ferdinand
122	Patriotic Front for the Reconstruction of Cameroon	Decision No. 0277/D/MINAT of 1er November 1995	FPRC	Yaounde P.O. BOX 20470	ENGAMA NGOGO 221-99-52 997-11-78
123	Democratic Movement for the People without Borders	Decision No. 0295/D/MINAT of 22 November 1995	RDPF	Dschang P.O. BOX 153	NDEMMANU Antoine
124	Democratic Movement for National awareness	Decision No. 320/D/MINAT of 31 1995	MODEC-NA	P.O. BOX 1010 Yaounde	DEFFO Bruno
125	National Movement for the Progress of Cameroon	Decision No. 318/D/MINAT of 1995	M.N.P.C	Ngaoundere	MHAMADOU B.P. 118 Ngaoundéré
126	Party for the Promotion of Humanised Capitalism	Decision No. 123/D/MINAT 06March1996	P.C.H	Yaounde P.O. BOX 13661	KANIYONG Emmanuel 779-25-00
127	Democratic Liberal Party	Decision No. 229/D/MINAT of 18 June1996	PL.D	Bayangam	LIAPOE Jean Robert B.P.4764 Douala
128	Union for New Democracy	Decision No. 0349/D/MINAT of 19 July1996	U.N.D	Yaounde	MBARGA Thaddée B.P 811 Yaoundé
129	Party for Legality and Respectiv for Human rights	Decision No. 0581/D/MINAT 30 September 1996	PELRDH	Yaounde	NDJENG Albert B.P 1407 Yaoundé
130	Movement for the Development and Democracy	Decision No. 06606/D/MINAT of 21 October 1996	MDD	Okola	MVOGO Léopold Marc S/C Mille METENE Urbaine B.P. 40 Yaoundé
131	Movement for National Fraternity	Decision No. 0614INAT of 05 November 1996	M.F.N	Yaounde	KETSCHIEMEN Paul-Denis B.P 2313 Yaoundé

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
132	Union for the People of Africa	Decision No. /D/MINAT of 31 August 1995	U.P.A	Yaounde	KAMGANG Hubert B.P 12858
133	Parti Libre Démocrate Camerounais	Decision No. 0013/D/MINAT of 15 January 1997	PLDC	Douala	TEUPA Abraham B.P 18181
134	Rassemblement des Travailleurs pour le Développement	Decision No. 0014/D/MINAT of 15 January 1997	RTD	Yokadouma P.O. BOX 12	ALI B.P 2523 Yaoundé Tel : 22 33 15 224 28 40
135	Potentiel Humain	Decision No. 0015/D/MINAT of 15 January 1997	PH	Bafoussam	KONGUE TCHEMT-CHOUA Désiré B.P 545 Bafoussam Tel : 44 35 43
136	La Nationale	Decision No. 0023/D/MINAT of 27 January 1997		Ebolowa P.O. BOX 904	EYINGA Abel B.P 152 Ebolowa Tel : 28 46 94
137	Union Nationale	Decision No. 0024/D/MINAT of 27 January 1997	U.N	Bafia	FRAM Gilbert Théophile B.P 141 Bafia
138	Cameroon People's National Convention	Decision No. 0052/D/MINAT of 17 February 1997	CPNC	Limbe	MOTUBA SAKWE Tobias C/O.P.O BOX 909 Limbé
139	La Coordination des Forces Alternatives	Decision No. 0060INAT of 03 March 1997	La C.F.A	Douala	Mme ETEKI-OTABELA B.P 5618 Douala
140	Cameroon Youth Movement	Decision No. 0061/D/MINAT of 03 March 1997	MJC	Douala	TCHEKOUTOUO Flaubert B.P 4512 Douala
141	Party for Democrats	Decision No. 0065/D/MINAT of 12 March 1997	PPD	Douala	SOUB Lazare B.P 1055 Douala Tel : 337 30 09
142	Organization for Young Liberators of the People of Cameroon	Decision No. 0072/D/MINAT of 31 March 1997	OJLPC	Yokadouma P.O. BOX 12	ALI B.P 2523 Yaoundé Tel : 22 33 15 224 28 40
143	Potentiel Humain	Decision No. 0015/D/MINAT of 15 January 1997	PH	Bafoussam	KONGUE TCHEMT-CHOUA Désiré B.P 545 Bafoussam Tel : 44 35 43
144	Youth Action for Change now known as Cameroon's Regrouping for Progress	Decision No. 0092/D/MINAT of 15 April 1997	R.CP	Douala	B.P. 1780 Douala
145	Union for the Economic Redress of Cameroon	Decision No.0094/D/MINAT of 15 April 1997	UREC.	Douala	NJOUMOU Léopold Stèves B.P. 2123 Douala 221-50-82

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
146	Union of Ethnic Groups of Cameroon	Decision No. 0101/D/MINAT of 21 April 1997	UCE	Yaounde	FOTIE Pierre P.O. BOX 601 Yaounde
147	Reform Party	Decision No. 0300/D/MINAT of 28 July 1997	AMEC	Douala	AGBOR ASHU Emmanuel P.O. BOX 12830 Douala Tel : 40-29-43
148	Action for Meritocracy and Equal Opportunities	Decision No. 031/D/MINAT of 28 July 1997	L.D.P	Yaounde	Dr Joachim Tabi OWONO P.O. BOX 200354 Yaounde
149	Labour Democratic Party	Decision No. 337/D/MINAT of 15 September 1997	A.D.S.T. C	Mamfe	
150	Democratic Action of Hawkers, Transporters and Traders of Cameroon	Decision No.338/D/MINAT of 15 September 1997	C.N.C	Douala	WAFFO Albert P.O. BOX 17316 Douala
151	Cameroon National Congress	Decision No. 0340/D/MINAT of 19 September 1997	M.A.S	Yaounde	TAMEGHI Boniface P.O. BOX 869 Yaounde
152	Absolute and Supreme Mission	Decision No.2359/D/MINAT of 22 September 1997	M.B.A	Garoua P.O. BOX 11475	KEME WANGUE Arnold P.O. BOX 786 Garoua
153	Movement of the Builders of Africa now known as Social Democratic Movement	Decision No. 444/D/MINAT of 30 December 1997	S.D.M	Yaounde	TAKOUDJOU P.O. BOX Bafoussam, MAHAMAT SOULEMANE Yaounde
154	Cameroon Democratic Group	Decision No.03/D/MINAT of 05 January 1998	G.D.C	Yaounde	OKALI BELIBI Bernard P.O. BOX 7904 Yaounde
155	Movement of the Ecological Forces for Boosting the Economy	Decision No. 17/D/MINAT of 14 January 1998	R.F.E.R.E	Yaounde	BESSIPING P.O. BOX 43 PENKAMICHEL
156	Dynamics for National Rebirth	Decision No.038/D/MINAT of 12 January 1998	La Dynamique	Douala	Albert DZONGANG P.O. BOX 473 Douala Tel : 42-32-86
157	Unity for Democracy and Social Progress in Cameroon	Decision No.163/D/MINAT of 29 June 1998	UDPSC	Douala	N'FALEU ROUSSEAU P.O. BOX 8300 Douala
158	One Cameroon	Decision No.163/D/MINAT of 29 June 1998	O.C	Douala	MAYOA BECK François P.O. BOX

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
159	Movement of the Ecologists of Cameroon	Decision No. 188/D/MINAT of 02 September 1998	MEC	Douala	NGO Fritz Pierre P.O. BOX 1551 Douala Tel : 42-28-11 40-38-53
160	Movement for the Liberation and Development of Cameroon	Decision No.249/D/MINAT of 15 December 1998	MLDC	Edea P.O. BOX 486	YONDO Marcel P.O. BOX 486 Edéa Tel : 46-44-31
161	Social Democratic Force	Decision No. 023/D/MINAT of 12 January 1999	FSD	Yaounde	NANA Jean Pierre P.O. BOX 3080 Yaounde Tel :48-53-13
162	Cameroon's Social Republican Party	Decision No. 061/D/MINAT of 04 May 1999	PRS	Yaounde	MONGBET LAMARE Marc P.O. BOX 5974 Yaounde Tel :30-17-68
163	Socialist Democratic Party	Decision No.11/D/MINAT of 04 May 2000	PDS	Bafoussam	TEKAM Jean Michel P.O. BOX 04 Bafoussam
164	Youth Ecological Party of Cameroon	Decision No.46/D/MINAT of 19 May 2000	MOJEC	Yaounde	BILONG Théophile Alain Junior P.O. BOX.53-79 Yaounde
165	Social Republican Party	Decision No. 50/D/MINAT of 05 June 2000	PSR	Douala	NJAPOU KAPNANG Blaise P.O. BOX 6851 New-Bell Douala
166	Social Liberal Congress	Decision No. 56/D/MINAT of 13 June 2000	SLC	DOBGIMA	Dr NYAMNDI George P.O. BOX 06 Buea
167	Young Socialist for Democracy	Decision No.107/D/MINAT/DA P/SDLP/SPP of November 2000	P.S.D	Yaounde	MIYEME MIYEME Michel P.O. BOX 465 Edea Tel: 46-46-29 ou 46-49-34
168	Socialist Labour Union	Decision No.107/D/MINAT/DA P/SDLPSPp of 04 October 2000	USP	Yaounde	MBOCK MBEGDE Daniel B.P 12319 Yaoundé
169	Labour Movement	Decision No. 108/D/MINAT/DAP/SDLP/SPP of 13 novemre 2000	RPT	Yaounde	EKASSI Magloire P.O. BOX 3944 Yaounde
170	National Labour and Development Party	Decision No.31/D/MINAT/DAP/SDL/SPP of 13 November 2000	NLDP	Bamenda	GEMOH Nicodemous ASEH P.O. BOX 5066 Bamenda
171	Progrss Party	Decision No.13/D/MINAT/DAP/SDLP of 20 January 2001	PP	Yaounde	Dr MOUNBAGA Emmanuel SEIDOU P.O. BOX 1365 Yaounde

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
172	United Social Front	Decision No.020/D/MINAT/DAP/SDLP/SPP of 24 January 2001	USF	Yaounde	KOUEGOUE Edouard
173	Republican Union of Cameroon's Democrats	Decision No. 203/D/MINAT/DAP/SDLP/SPP of 27 August	URDC	Foumbot	NJOYA LAMARREE MADI-MAMA P.O. BOX 114 Foumbot
174	Movement for the Emergence and Awakening of Citizens	Decision No. 254/D/MINAT/DAP/SDLP/SPP of 12 October 2001	MERCI	Yaounde	FEZEU Isaac P.O. BOX 5376 Yaounde
175	Movement for the Alliance of the People	Decision No. 289/D/MINAT/SDPL/SPP of 25 November 2001	RPA	Yaounde	NGOURAN MBODONGO P.O. BOX 30067 Yaounde
176	Movement of Cameroon's Democrats for Peace	Decision No. 44/D/MINAT/DAP/SDLP/SPP of 13 January 2002	MDCP	Yaounde	GAMEL ADAMOU ISSA P.O. BOX 766 Yaounde
177	Union for the Total Independence of Cameroon	Decision No. 47/D/MINAT/DAP/SDLP/SPP of 19 January 2002	UNITOC	Yaounde	TATSINFANG Daniel P.O. BOX 1301 Yaounde
178	New Popular Force	Decision No. 48/D/MINAT/DAP/SDLP/SPP of 20 January 2002	NFP	Douala	DJINO Léandre P.O. BOX 1139 Douala
179	Democratic Alliance for the Freedom of the People		ADLP	Bafoussam	Mathieu Blaise MBE
180	Cameroon's National Reconciliation Party	Decision No. 17/D/MINAT/DAP/SDLP/SPP of 14/02/2003	PCRN	Yaounde	KONA Robert P.O. BOX 2979 Yaounde
181	Alliance of Progressists Forces	Decision No.57/D/MINAT/DAP/SDLP/SPP of 16 April 2003	AFP	Douala	DAIDOU MAIDADI YAYA P.O. BOX 4724 Douala
182	Justice and Development Party	Decision No. 198/D/MINAT/DAP/SDLP/SPP of 25 August 2003	JDP	Yaounde	FORBIN Boniface
183	Cameroon's Social Movement	Decision No. 237/D/MINAT/DAP/SDLP/SPP of 30 September 2003	MSC	Yaounde	KARI HAMADOU
184	Popular Salvation Party	Decision No. 57/D/MINAT/DAP/SDLP/SPP of 01 April 2004	PPS	Douala P.O. BOX 335 Douala	DIN EDONG Mathurin
185	Popular Front for Justice	Decision No. 108/D/MINAT/DAP/SDLP/SPP of 14 May 2004	FPJ	Yaounde	MBANG Luc Frédéric

Number	Name of Party	Date of recognition	Initials	Head Quarters	Founder
186	Democratic Renewal of Cameroon	Decision No. 109/D/MINAT/DAP/SDLP/SPP of 1 <sup>st</sup> September 2004	RDC	Yaounde P.O. BOX 25040	Madame OBAMA née OWONA Juliette
187	National Unity Party	Decision No. 182/D/MINATD/DAP/SDLP/SPP of 1 <sup>st</sup> September 2004	NUP	Yaounde P.O. BOX 294	MANI Marcel Joseph Aubin
188	Democratic Public Opinion of Cameroon	Decision No.182/D/MINATD/DAP/SDLP/SPP of 1 <sup>st</sup> September 2004	OPDC	Mbouda P.O. BOX 18	TAPEO FOUTSA-GOUNG Napoléon
189	Party for the Alliance of Cameroon	Decision No.1/D/MINATD/DAP/SDLP/SPP of 11 January 2005	PAC	Yaounde P.O. BOX 16205	MVILONGO Paul
190	Movement for Hope for the Youth	Decision No.02/D/MINATD/DAP/SDLP/1 January 2005	MEJ	Yaounde	NTSELE Jean Claude
191	National Front of Democratic Saviours	Decision No. 25/D/MINATD/DAP/SPP of 15 January 2005	FNSD	Douala	LEPODE Dieudonné
192	The Republican Party of Cameroon	Decision No. 38/D/MINATD/DAP/SDLP/SPP of 1 <sup>st</sup> March 2005	REPAC	Yaounde P.O. BOX 15957	Madame KAMGA Raneline
193	Independent Party of Grand Electors		PIGE	Yaounde P.O. BOX 106	ENOGA Sébastien Honoré
194	Grouping of Farmers of Cameroon	Decision No.231/D/MINATD/DAP/SDLP/ISPP of 13 October 2005	GAC	P.O. BOX 3062 Yaounde P.O. BOX 106 Makak	BITJONG François
195	Cameroon of Values	Decision No. 285/D/MINATD/DAP/SDLP/SPP of 28 December 2005	CAM-VAL	P.O. BOX 31224 Yaounde	Dr DJEKENG Jean Marc
196	Liberal Communal Party	Decision No. 286/D/DAP/SDLP/SPP of 28 December 2005	PLC	P.O. BOX 8279 Douala Tel : 606 51 69	MBOUNGUENG Berni
197	Cameroon Youth Party	Decision No. 290/D/MINATD/DAP/SDLP/SPP of 28 December 2005	PJC	P.O. BOX 6508 Douala Tél : 932 46 26	FAGNA TCHAKOUTE Farquet Felix



## § 2 – Organization and functioning of associations

### MEASURES TO PROTECT ASSOCIATIONS

#### 1- Administrative Excesses

##### a) Refusal to Grant Authorisation

**308** – The law makes provision for appeals when administrative services dismiss applications to legalise civil associations, NGOs, trade unions and political parties.

**309** - In the case of political parties, section 8 (2) and (3) of Law No. 90/056 authorizes the applicant to appeal before the courts, particularly the Administrative Bench of the Supreme Court.

**310** – As for trade unions, section 14 of the Labour Code provides that a member of a trade union or any person aggrieved by the Registrar's decision to annul or refuse registration of a trade union may, within thirty days of notification of the said decision refer the matter to the Administrative Court. Its judgment is subject to appeal. The Registrar has the right to testify at all stages of the proceedings.

##### b) Control of Activities

**311** – Associations (NGOs, trade unions and political parties) are sanctioned with suspension or dissolution. In most cases, such sanctions are taken by MINATD in compliance with section 13 (1) and (2) of Law No.90/053 of 19 December on freedom of association and section 22 of Law No. 99/14 of 22/12/99 on NGOs.

**312** - However, such sanctions may not be arbitrary.

**313** - Section 17 (2) of Law No. 90/056 governing political parties makes provision for appeal before the administrative court against abusive suspension. Section 18(2) makes provision for appeals against dissolution decisions.

**314** - A decision to suspend or dissolve an NGO may be challenged by motion filed before the Administrative Bench of the Supreme Court. The court shall deliver its ruling within 30 days, (section 22 (3) of Law No. 99/014 of 22/12/99).

## **2) Mismanagement**

**315** – Officials or members of an NGO convicted of misappropriation of funds or property, belonging to the NGO, shall be punished under sections 184 and 225 of the Penal Code on misappropriation of public funds and loans. The severity in sanctions is due to the fact that property belonging to NGOs are deemed to be State property.

## MEASURES TO PROMOTE ASSOCIATIONS

### **1) NGOs**

**316** – The law makes provision for tax and customs exemptions for NGOs. Section 18 of Law No. 99/014 of 22/12/99 stipulates:

*“Duly approved NGOs shall be exempt from taxes and registration duties, in accordance with the General Tax and Registration Code. They shall also be exempted from value added tax in accordance with the laws in force”.*

### **2) Political Parties**

**317** – Legalized political parties may obtain public funding for elections. Such funding shall cover normal party activities and election campaigns. Conditions for obtaining public funds are determined by Law No. 2000/015 of 19 December 2000.

**318** – Political parties freely use public audio-visual communication media. Decree No. 92/030 of 13 February 1992 lays down the conditions for the use of the said media.

### **3) Associations Serving Public Interest**

**319** – Considering that nation building requires the mobilization of all forces, the State encourages the setting up and the smooth functioning of associations.

**320** – Section 32 of Law No. 90/53 of 19 December 1990 to lay down the regulations governing public meetings and processions provides *“any association which makes an effective and decisive contribution towards the realization of government’s priority objectives may, upon request... be recognised, by a decree of the President of the Republic, as serving the public interest”*.

## **Section 2 : Protection and promotion of public meetings**

**321** – The Constitution and Law No. 90/055 of 19 December 1990 to lay down regulations governing public meetings and processions. guarantee freedom of public meetings.

### **§ 1) Organization of public meetings and processions**

**322** - Professional trade unions organize their meetings within their premises without prior authorization. Their premises are inviolate.

**323** – Law No. 90/055 of 19 December 1990 stipulates that the organisation of public meetings and manifestations shall be free. Section 3 provides *“persons shall be free to hold public meetings, no matter their purpose”*. The competent authority supervises the manner in which this freedom is exercised.

## FLEXIBLE SUPERVISION

- 324** – Section 3(2) of the law referred to above, subjects the holding of meetings to a prior declaration. Only meetings to be held on public highways are forbidden. The authorization to hold a meeting is issued as soon as the declaration is made to the competent District Head or Sub-divisional Officer.
- 325** – Public processions shall equally be subject to prior declaration in accordance with section 6 of the above-mentioned law. The competent District Head or the Sub-divisional Officer shall ban meetings only when they are a threat to the maintenance of law and order.

## RESTRICTIONS TO SUPERVISORY POWERS

- 326** – The administrative authority shall ensure supervision through its representative at the meeting or public procession (Section 5 of Law No. 90/055 of 19 December 1990). However, some associations demand more equity in the granting of authorizations.
- 327** – Meetings may be organized during an electoral campaign, without prior declaration, subject to the maintenance of law and order.
- 328** – The Government attaches a lot of importance to the implementation of these directives. The Senior Divisional Officer of Mvila Division was relieved of his duty by the MINATD following a ban on a meeting by the leaders of parties of the National Coalition for Reconciliation and Reconstruction on 22 May 2004 in Ebolowa, during the presidential election campaign that year.
- 329** – Pursuant to section 6 (2) of the law on public meetings, prior declarations are not necessary for processions on the public highway that conform to local traditions or religious and practices. The Administration shall intervene only when public order is disrupted.

During religious and cultural manifestations, processions march along the streets without prior declaration.

## **§ 2) Protection of public meetings and processions : Legal redress**

**330** – When a procession is banned, the organizers may file a motion before the competent High Court. The parties shall be heard in chambers, within eight days. The ruling delivered shall be subject to appeal under section 5(3) of the above-mentioned law.

### PROCEDURE FOR SETTLEMENT

**331** – Section 73 of Law No. 92/010 of 17 September 1992 as amended, referred to above, institutes the procedure for settlement between the administration and the organizers of meetings suspended or banned during electoral campaigns.

**332** – Pursuant to this law, in the event of a threat or serious actual disruption of public order, the administration may ban one or several of such meetings. It shall, in each case, reschedule a date or venue for the meeting with the organisers.

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**333** – There is effective freedom of association and assembly in Cameroon as buttressed by the impressive number of active civil associations, NGOs and political parties.

**334** – It is a fact that the law encourages the setting up of associations because they are economic, social and political assets.

**335** – Activities of associations are restricted only to preserve public order. These restrictions are subject to judicial supervision.



## CHAPTER 6 : FREEDOM OF BELIEF

- 336** – The preamble of the Constitution proclaims that the State shall be secular, independent and neutral. It affirms freedom of religion and worship as stipulated by article 18 of the UDHR, article 18 of the ICCPR and article 8 of the ACHR.
- 337** – In Cameroon Christians, Muslims and Animists coexist peacefully. Members of the various religions meet indiscriminately both in private and public sectors of life.
- 338** – Religious associations are authorized by decree of the President of the Republic. Many of them become key development actors and those that serve the public interest, are granted the status of NGOs so as to promote freedom of association and to realize certain economic, social and cultural objectives.
- 339** – The legislator provides for freedom of belief in the Penal Code, in Law No. 90/053 relating to freedom of association and in Law No. 99/014 of 22 December 1999 governing NGOs.
- 340** – The laws relating to freedom of belief has enhanced free worship.

### Section 1 : Laws relating to freedom of belief

- 341** - These laws are related to the setting up of religious associations and congregations, their worship, and the acquisition and protection of their property.

#### § 1) The setting up of religious associations and the acquisition of property

- 342** – The Constitution guarantees freedom of worship and the law facilitates the setting up of religious associations and the acquisition of property by such associations.

#### SETTING UP OF RELIGIOUS ASSOCIATIONS

- 343** – Section 22 of law No. 90/053 relating to freedom of association provides:

*“the following shall be deemed to be religious congregations:*

- any group of natural persons or corporate bodies whose vocation is divine worship,*
- any group of persons living in a community in accordance with a religious doctrine”.*

**344** – Pursuant to sections 23 and 24 of the above-mentioned law, the President of the Republic shall authorize by decree, the setting up of all religious congregations.

#### ACQUISITION OF PROPERTY

**345** – Section 25(1) of the above-mentioned law prohibits religious congregations from receiving public grants or landed property as gifts or legacies. However, sub-section 2 makes allowance for receiving landed property as gifts or legacies for their activities.

### **§ 2) Protection of property and worship by religious congregations**

#### Worship

**346** – Articles 18 of the UDHR and ICCPR provide that freedom of thought, conscience and religion implies the freedom to express one’s religion or opinion, alone or in a group, in public or in private, through worship, rites, practices and teachings.

**347** – These same instruments stipulate that no one shall be subject to pressures that may alter his religious beliefs or convictions.

**348 -1** – The law in Cameroon enforces the above-mentioned provisions by sanctioning offences to freedom of worship.

**348 - 2** – Under section 272 of the Penal Code whoever by disturbance or disorder obstructs, delays or interrupts religious worship in the place where it is customarily offered shall be punished with imprisonment of from fifteen days to one year or a with fine of from five thousand to one hundred thousand francs or with both such imprisonment and fine.



**348- 3** – Section 269 of the Penal Code punishes whoever by interference or threat compels or prevents the practice of any form of religion, which does not involve the commission of an offence.

#### PROTECTION OF PROPERTY

**349** – Sections 26 and 27 of law No. 90/53 referred to above require religious congregations to keep accounting records and to present them upon request to MINATD.

**350** – When religious congregations are recognized as serving public interest and raised to the status of NGOs, their property is considered as state property and protected by sections 184 and 225 of the Penal Code on the misappropriation of public funds, loans and subsidies.

**351** – This favourable legal framework enables certain religious congregations to become real development actors.

#### **Section 2 : Religious growth in Cameroon**

**352** – There are three major religions in Cameroon: Christianity, Islam and Animism. Each of them comprises a multitude of distinct entities.

**353** – This is glaring proof of freedom of belief as enshrined in the Constitution and other legal instruments referred to above.

#### **§ 1) Religious diversity**

**354** – Cameroon is a religious mosaic wherein Christians, Muslims and Animists coexist peacefully.

#### CHRISTIANS

**355** – There are three main Christian denominations: Catholics, Protestants and Jehovah's witnesses.

## 1 - Catholics

356 – Catholicism, with a following of about 2 600 000<sup>80</sup>, constitutes the country's biggest religious group in terms of number and geographical area covered since it is found throughout the national territory. It is equally the religious group with a distinguished structure. As of 31 December 2005, there were seventy-seven legal catholic congregations in Cameroon.

## 2- Protestants

357 – Protestants with a population of about 1,900,000<sup>81</sup> come third after the Muslims. They comprise thirty-nine different legal denominations including, Adventists, Baptists, Presbyterians, Africans, Lutherans, Apostolic, Evangelists, Spiritualists, Behaviourists, Anglicans, Universalists etc.

## 3- Jehovah's Witnesses

358 – – It is the smallest group of Christians in Cameroon. They form a single congregation, which are Jehovah's witnesses of Cameroon approved by Decree No. 93/043 of 3 February 1993

## MUSLIMS

359 – Muslims, with a population of about 2,586,000 constitute the second largest religious group in Cameroon. They are mostly found in the northern part of the country and in urban areas. There are three legalized Islamic associations in Cameroon:

- "*Islam*" authorized following receipt No. 6/ATF/ A9/2 of the 20 October 1964;
- "*Islamic Cultural Association*" of Cameroon authorized by Decree No. 88/319 of March 1998;
- "*Islamic Solidarity Association of Cameroon*" (ASSVIC) authorised by decree No. 92/032 of 21/02/92

<sup>80</sup> Cameroon's initial report to the African Commission on Human and Peoples' Rights.

<sup>81</sup> Idem.

## ANIMISTS

**360** – Animists cannot be pecked to a given area in the national territory because the notion of traditional religion is difficult to define.

However, animism is a reality in Cameroon and is practised in respect of public order and accepted standards.

### § 2) Religious Congregations as Development Actors

**361** – Cultural activities and education tend to be the favourites of religious congregations.

## EDUCATION

**362 -1** - Almost all religious denominations are involved in education either to spread their doctrine or to train citizens.

**362 - 2** - Catholic seminaries and protestant theological schools teach Christian religion and provide classical education.

**362 - 3** - Denominational schools offer basic, secondary general and technical education in most of Cameroon.

**362 - 4** - In higher education, the Catholic University in Central Africa constitutes the hallmark of catholic missionary work. The Adventists also have a University at Nanga Eboko

## CULTURAL ACTIVITIES

**363 - 1** - The impressive number of Christian choral groups (catholic and protestant) is proof of their booming cultural activities.

**363 - 2** - Traces of traditional religions can be deciphered through these cultural activities.

**363 - 3** - The Ngondo, a “sawa” cultural feast illustrates the spiritual values of the coastal people. It renders communication between “sawa” representatives and their ancestors possible.

- 363 - 4** - Other tribes have equally preserved their traditional beliefs. These include cultural festivals such as the “*Tokna massana*” of the massa tribes in the Far-North and the Ngouon of the Bamoun tribe.
- 363 - 5** - These celebrations rally the members of these tribes to exhibit their cultural values and identity.
- 363 - 6** - The Ministry of Culture promotes these values and is always represented by a senior official.

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- 364** – Modern and traditional religions peacefully coexist in Cameroon.
- 365** - The law restricts freedom of belief only to protect public order.
- 366** - This was the position of the Supreme Court in the Eitel MOUELLE KOULLA, Jehovah Witness vs. The United Republic of Cameroon,( judgment No. 1/A of 9 January 1975).

## CHAPTER 7 : PREDETERMINATION OF OFFENCES, CORRESPONDING PENALTIES AND NON-RETROSPECTION

- 367** – Predetermination of offences and corresponding penalties stems from the adage “*nullum crimen, nulla poena sine lege*”. This means the law shall define criminal acts and corresponding penalties.
- 368** - Peoples’ freedoms would be seriously threatened if government could penalise them for acts not punished by the law. This is a fundamental legal principle to prevent arbitrary punishments.
- 369** - The non-retrospection of crimes and punishments is the outcome of the above principle, which holds that no person may be judged, and punished, except by virtue of a law enacted and published before the commission of the offence.
- 370** - The predetermination of offences and corresponding punishments by the law as well as its consequent non-retrospective effect, are established in Cameroon by legal instruments and protected by the courts.

### Section 1 : Legal protection

- 371**– In Cameroon, the predetermination of offences and corresponding penalties is guaranteed by the Constitution, which stipulates, “*no person may be prosecuted, arrested or detained except in the cases and according to the manner determined by law*”. This provision is in conformity with articles 9 and 11(2) of the UDHR and article 9 of the ICCPR.
- 372** – Pursuant to article 26(6) of the Constitution, the determination of crimes and offences and the institution of all forms of punishments, criminal procedure, civil procedure, enforcement of punishment and amnesty shall be reserved to the Legislative Power.

- 373** - The non-retrospection of the law is enshrined in the Constitution, which stipulates, *“the law may not have retrospective effect. No person may be judged and punished, except by virtue of a law enacted and published before the offence committed”*.
- 374** - These principles are equally stated in section 3 of the Penal Code which provides:  
*“no criminal law shall apply to acts or omissions committed before its coming into force or in respect of which judgment has not been delivered before its repeal or expiry”*.
- 375** – Section two of the Civil Code (CC) equally stipulates, *“the law provides only for the future; it may not have retrospective effect”*.
- 376** - It should be noted that enforcement of the principle of non-retrospection of the law is not absolute.
- 377** - Sections 4 and 5 of the Penal Code make provision for exceptions to this principle in cases of less severe laws and preventive measures. These provisions apply to cases still pending on the day such laws come into force.
- 378** - Non-retrospection does not apply to procedural laws. Such laws are enforced with immediate effect to ensure the sound administration of justice. The coming into force of a procedural law may be differed, as is the case with Law No.2005/007 promulgated on 27 July 2005 governing the Criminal Procedure Code, which shall come into force on 1 January 2007.

## **Section 2 : Judicial protection**

- 379** – Where there is no legal provision applicable to a matter referred to the courts, there shall be neither prosecution nor conviction. In this vein, penalties shall be pronounced only as provided by the law.
- 380** - An example is the famous case: The People vs. Célestin Monga and Pius Njawe. Mr Monga published an open letter to the President of the Republic in *“le Messenger”* newspaper<sup>82</sup> of 27 December 1990. He affirmed therein that in an address to the nation, the President had used an outrageously condescending paternalistic and pretentious tone.

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<sup>82</sup> Pius Njawe was implicated in this matter as editor-in-chief of the newspaper.

- 381 - 1** – The court held that Monga had been insulting, but did not find the accused persons guilty of contempt of the President of the Republic. In want of a penalty for this offence, the court discharged and acquitted them accordingly.
- 381- 2** - The courts' judgment reflects the reforms of the Penal Code. In effect, by Law No. 90/61 of 19 December 1990, the provisions of section 18 were amended to replace the term "*detention*" with "*imprisonment*". This amendment also affected sections 111, 114, 116, 122, 123, 124, 125, 126, 127 but omitted section 153 of the said Code which deals with contempt of the President of the Republic.
- 381- 3** – When Célestin Monga and Pius Njawe were charged in 1991, contempt of the President punishable with detention had been cancelled the previous year.
- 381- 4** - The court ruled that the court shall not interpret "*malam partem*", that is, by analogy. Therefore, the court may not substitute the law and relate a penalty to the law which does not make provision in case of breach of its own norm.
- 382** – In interpreting the law, the court relates the facts to a precise law. Where this is not feasible the suspect is discharged and acquitted. Criminal law shall be interpreted restrictively.
- 383** - The court shall not pronounce a penalty which is either more or less severe than that provided for by the law. The Supreme Court quashed Judgment No. 21/TGI/79/80 delivered on 10 April 1980, by the Kadey High Court that had sentenced Ambounje Pauline, Walango Benoît and Koumando Marcel to ten years imprisonment for practice of witchcraft. This offence is punishable with imprisonment of two to ten years and a fine of five thousand to one hundred thousand francs. The trial court violated the law by sentencing the accused persons to imprisonment without a fine especially as mitigating circumstances were not invoked.

**384** - Two judgments delivered by the Supreme Court illustrate non-retrospection:

- in Judgment No.197/S of 13 June 2002, ONPC vs. ZOCK SIMON, the Supreme Court dismissed the appeal on the ground that the dispute in issue commenced in 1988. Therefore the Court of Appeal cannot be accused of failure to apply the provisions of the Labour Code of 1992 by virtue of non-retrospection.
- in yet another case, the Supreme Court quashed Judgment No. 220/S of 05 May 1995 from the Littoral Court of Appeal for violating non-retrospection and section 43 of the Labour Code of 1974. The Court of Appeal held that Hotel IBIS had violated section 43 of the Labour Code of 1974 and that the dismissal of Pinyon was illegal. This employee was laid off in September 1991 in accordance with the procedure in force at the time of the dismissal.

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**385** – Predetermination of offences by law and non-retrospection are well established in Cameroon. They constitute fundamental legal principles and guarantee fair trial.



## CHAPITRE 8 : RIGHT TO FAIR TRIAL

**386** – The bi-jural legal system in Cameroon becomes more complex with the coexistence of customary and statutory law. Customary law is applicable only when it is compatible with statutory law.

Article 1 (2) of the Constitution provides *“the Republic of Cameroon ...shall recognize and protect traditional values that conform to democratic principles, Human Rights and the law”*<sup>83</sup>. The decisions of the Supreme Court adopt this view. In Judgment No. 70 of 8 July 1976, ATEBA Victor and Mrs ATEBA, it was held that *“the court shall discard custom repugnant to public peace and good morals when the solution provided by custom is less appropriate than that offered by statutory law”*.

**387** – The judiciary, initially an authority, under the 1972 Constitution, has been raised to a power under the Constitution of 1996, which also reaffirmed its independence (see § 32 supra).

**388** – Judicial organization is regulated by law. Since reunification on 20 May 1972, Ordinance No. 72/4 of 26 August 1972, as amended<sup>84</sup>, is the fundamental legal instrument on judicial organization. Other legal instruments relating to customary<sup>85</sup> and administrative courts<sup>86</sup> as well as military tribunals<sup>87</sup> have been enacted.

**389** – The administration of justice in Cameroon is based on substantive and procedural law as well as the general principles of law. Treaties and international agreements ratified by Cameroon override national laws.

**390** – The ICCPR and the ACHPR provide a procedural framework that Cameroon strives to progressively adapt as illustrated by Judgement No. 23/CC of 13 November 1977 in *SOCAR vs. Ets NGOWOUE*. In effect, the Supreme Court held that:

<sup>83</sup> It is necessary to note the close resemblance between this provision and the ACHPR that obliges individuals to preserve positive African cultural values (see art 29 of the Charter).

<sup>84</sup> Ord. No. 72/4 of 26 August 1972: judicial organization amended by Ordinances No. 72/21 of 19 October 1972 and 72/9 of 25 April 1973, the Laws of 25 July 1974 and 76-17 of 08 July 1976 and Law No. 89-019 of 29 December 1989 and No. 90-58 of 19 December 1990.

<sup>85</sup> Decree No. 69/DF/554 of 19 December 1969 : judicial organization and the procedure in customary courts in East Cameroon

<sup>86</sup> Law No. 75/17 of 8 December 1975 to lay down the procedure before the Supreme Court sitting in an administrative matter.

<sup>87</sup> Ord. No. 72/5 of 26 August 1975: military judicial organization amended by Law No. 97-008 of 10 January 1997.

*“Everyone has a right to a fair and public trial that is held within a reasonable time-limit by an independent and impartial court.*

*The Judgment delivered by a Court of Appeal that confirms a judgment condemning an insurance company on the grounds of a criminal decision to which the latter could not be a party and of which it was not aware, violates this constitutional and universal principle and therefore should be quashed”.*

**391** – By virtue of the law, all citizens have equal access to justice. Section 6(1) of Ordinance No. 72/4 of 26 August 1972 provides: *“justice shall be administered free of charge, subject only to the fiscal provisions concerning stamp duty and registration”.*

**392** –Laws, and judicial practice seek to ensure that litigants have fair trial as stipulated in article 14 of the ICCPR and the ACHPR<sup>88</sup>.

## **Section 1 : Legal guarantees to fair trial**

### **§ 1) The constitution of 18 January 1996**

**393** – The Constitution guarantees the right to fair trial.

**394** – In criminal matters, the preamble of the Constitution of 18 January 1996 affirms: *“the law shall ensure the right of every person to a fair hearing before the courts. Every accused person is presumed innocent until found guilty during a hearing conducted in strict compliance with the right of defence”.*

**395** – The organisation of the Judiciary is regulated by the Constitution. Article 37 provides:

*“(1) Justice shall be administered in the territory of the Republic in the name of the people of Cameroon.*

*(2) Judicial power shall be exercised by the Supreme Court, Courts of Appeal and Tribunals. The Judicial Power shall be independent of the executive and legislative powers. Magistrates of the bench shall, in the discharge of their duties, be governed only by the law and their conscience.*

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<sup>88</sup> See Solange Ngono: le process penal camerounais au regard des exigences de la Charte africaine des droits de l'homme et des peuples, thèse, Paris XIII, avril 2000.

*(3) The President of the Republic shall guarantee the independence of judicial power...".*

## **§ 2 – Legislative enactments**

**396** – Laws on judicial organization as well as procedural laws contain many provisions, which guarantee fair trial.

### JUDICIAL ORGANIZATION

**397** – A good judicial set up provides for reliability. Moreso, a litigant has a right to know in advance the court, which will try him. Thus, article 14(1) of ICCPR requires a court established by the law.

**398** – Courts in Cameroon are set up by law and their jurisdiction clearly spelt out.

**399** – Section 1(new) of Ordinance. No. 72/4 of 26 August 1972 as amended: Judicial Organization provides:

*"Justice shall be administered in the name of the people of Cameroon by:*

- Customary Courts;*
- Courts of First Instance;*
- High Courts*
- Military Tribunals;*
- Courts of Appeal;*
- the State Security Court;*
- the Supreme Court"*

**400** – Ordinance. No. 72/5 of 26 August 1972 as amended fixes the organization of military justice (see *infra*, independence of military tribunals, § 413 etc).

## PROCEDURAL LAWS

**401** – Two procedures exist in criminal and civil matters:

- in civil matters, Courts in the French speaking part of the country apply the Civil Procedure Code while those in the English part apply the Evidence Ordinance (Cap 62 of the Laws of Nigeria 1958), the Supreme Court Rules (Civil Procedure) Cap 211, the Southern Cameroons High Court Laws 1955, the Magistrate's Court Ordinance 1948(Civil Procedure), and the Customary Court Law. Partial harmonization has been introduced by the Organization for the Harmonization of Business Law in Africa (OHADA), which law, is being translated into English;
- in criminal matters, the CIC will remain in force in the French-speaking part and the Criminal Procedure Ordinance (Cap 43 of the Laws of Nigeria 1958), the Evidence Ordinance (Cap 62 of the Laws of Nigeria 1958), the Children and Young Persons Ordinance (Cap 32 of the Laws of Nigeria 1958), the Prisons Ordinance(Cap 159 of the Laws of Nigeria 1958), the Magistrates' Courts Southern Cameroons Law 1955, The Southern Cameroons High Court Law 1955, The Prevention of Crimes Ordinance(Cap 157 of the Laws of Nigeria 1958), The Provisions of the Federal Supreme Court Ordinance 1960 Part IV, V and VI as regards criminal trials, The Provisions of the Federal Supreme Court Rules 1961, Orders VII and IX as regards criminal trials, in the English-speaking part until 1 January 2007.

### **Section 2 : Judicial practice - guarantee to fair trial**

**402** – Article 14 of the ICCPR provides that the following shall constitute the "*minimum standards*" for fair trial:

- independence and impartiality of courts;
- competence of judges;
- hearings in public or exceptionally in camera;
- presumption of innocence, guarantees of the rights of the defence;
- guarantee of appeals;

- redress of judicial errors or abuses;
- respect for res judicata.

**403** – It is necessary to verify the effectiveness of these guarantees in practice in order to take an objective stance on the implementation of fair trial by the courts in Cameroon.

### **§ 1: Independence of courts**

**404** – The independence of courts can be assessed depending on whether they are civil courts or military tribunals.

#### INDEPENDENCE OF CIVIL COURTS

**405** – The independence of courts vis-à-vis the Executive and Legislative is guaranteed by article 37(2) of the Constitution which has raised the judiciary to a power (see § 32 and 387 supra)

**406** – The Magistrate of the Bench enjoys full autonomy erga omnes. Article 37(2) paragraph 2 referred to above provides that *“Magistrates of the Bench shall, in the discharge of their duties, be governed only by the law and their conscience”*.

This autonomy is reaffirmed in article 5 of Decree No. 95-048 of 8 March 1995 as amended.

**407** – The court is not answerable to the public as far as its decisions are concerned. Section 112(1) of the Magistrates’ Courts Law of 1955, the Penal Code and the “CIC” punish contempt of court and abuse or defamation of Magistrates in the discharge of their duties.

**408** – Matters of discipline involving judicial and legal officers are referred to the Higher Judicial Council (HJC).

**409** - Law No. 82/14 of 26 November 1982, as amended, to fix the organization and functioning of the HJC provides:

*(1) The chairman of the Higher Judicial Council shall be the President of the Republic.*

*(2) The Vice-Chairman shall be the Minister of Justice. However, the President of the Republic may appoint any other personality as Vice-Chairman.*

*(3) The following persons shall also be members of the Higher Judicial Council:*

*(a) three members of Parliament from a list of twenty members proposed by the National Assembly:*

*(b) three judicial officers of at least the 4th scale in active service from a list of ten members presented by the Supreme Court;*

*(c) a personality who is neither a member of Parliament nor of the judiciary and who is not an auxiliary officer of justice; appointed by the President of the Republic by virtue of his competence.*

*(d) The National Assembly shall appoint by secret ballot of a majority of two-thirds of the members, the twenty parliamentarians in the list provided for in subsection 3 (a) above.*

The Supreme Court sitting in a plenary session shall appoint the ten judicial and legal officers provided for in sub-section 3 (b) above.

**410** – It should be noted that due to the appointment of judicial and legal officers by the President of the Republic, Cameroon’s judicial system is often criticized for subservience to the Executive.

**411** – The following replies may be made to this assertion:

- although the President of the Republic appoints judicial and legal officers, this by no means makes them subservient because they discharge their duties with full authority. In effect, by virtue of article 37(3) of the Constitution, the HJC is consulted on all appointments to the bench and disciplinary action against judicial and legal officers. The HJC comprises (see § 403 supra) eminent personalities belonging to different institutions which ensure broad representation and balance.

- this practice is not unique to Cameroon. In other countries where such a system of appointment is in place, no mention is made of the Judiciary’s subservience to the Executive. On 22 October 1984, the European Human

Rights Court, on a matter relating to the independence of the Judiciary held that: *“the intervention of the Executive at one stage or the other in the appointment of Magistrates was insufficient to cast doubts on their independence or impartiality”*<sup>89</sup>.

\* \* \*

**412** – Legal and Judicial Officers are different in that the former are of the Legal Department while the latter are of the Bench. Given that Legal Officers represent the Executive in the Judiciary, they are bound to respect the principle of subordination to hierarchy. Article 3(1) of Decree No. 95/408 of 8 March 1995 governing the Rules and Regulations of the Judicial and Legal services provides: *“Members of the Legal Department and Legal Assistants shall be subordinate to the Minister of Justice”*.

#### MILITARY TRIBUNALS

**413** – The independence of the members of the bench extends to the military tribunal. Section 5 of Law No.97/008 of 10 January 1997 to amend certain provisions of Ordinance No. 72/5 of 26 August 1972 governing military judicial organizations provides that, *The military tribunal shall have exclusive jurisdiction to try the following types of cases involving persons of at least eighteen years of age:*

- *purely military offences provided for by the Code of Military Justice;*
- *offences of all kinds committed by servicemen with or without civilian co-offenders or accessories, whether within a military establishment or in service;*
- *any offence against the law relating to offensive and defensive weapons, and to theft committed with the aid of a firearm;*
- *any offences of all kinds involving a serviceman or any person ranking as such committed in time of war or in an area subjected to a state of emergency or siege;*
- *any offence which may be committed jointly with the above.*

<sup>89</sup> Case: SRAMEK vs Austria, judgment of 22 October 1984.

- 414** – Article 41 of Decree No. 75/7000 of 6 November 1975 to establish the Regulation of General Discipline in the Forces of Law and Order provides that military judges, in the discharge of their duties only, shall be independent of Command and shall be subordinate only to their hierarchy.
- 415** - It is important to note that military judges undergo the same training as their civilian counterparts at the National School of Administration and Magistracy (ENAM). They foster the protection of Human Rights (see § 64 and following).
- 416** – The set-up of the military tribunal makes provision for this protection, as the Examining Magistrate discarded in 1972 from civil courts, and reintroduced by Law No. 2005/07 of 07 July 2005 to lay down the CPC, has always been present in military courts.
- 417** – Appeals against judgments from military tribunals are referred to the military bench of the Court of Appeal presided at by the civil judicial officer. The procedure applied is that of the Court of Appeal entertaining a misdemeanour or felony.

## § 2- Impartiality of courts

- 418** – Impartiality is ensured by the separation of prosecution, inquiry and judgment in criminal matters. It is equally ensured by the right of litigants to challenge judges, request their cases to be referred to different courts, and to claim damages from the presiding Magistrate.

### SEPARATION OF PROSECUTION, INQUIRY AND JUDGMENT

- 419** – The CIC makes provision for the separation of inquiry, prosecution and judgment.
- 420** - In principle, inquiry, prosecution and judgment are separated even under Ordinance No. 72/4 of 26 August 1972, as amended. Inquiries are conducted by members of the Legal Department (see § 416 supra).
- 421** - In the discharge of their duties as Examining Magistrate, members of the Legal Department act as judges. The cumulating of powers was criticized and the CPC has put an end thereto. Section 142(3) of the CPC provides in effect that preliminary inquiries “*shall be carried out by the Examining Magistrate, who shall be a Magistrate of the Bench*”.



**422** – Separation of inquiry, prosecution and judgment is maintained, notwithstanding the transfer of legal and judicial officers based on service needs. It is prohibited for a judicial officer, who initially handled a matter in the Legal Department, to hear and determine the said matter. Equally, it is prohibited for a judicial officer who entertained a matter in a lower court to do so in a higher court. In Supreme Court Judgment No. 33/CC of 11 January 1979 it was held:

*“section 22 of Ordinance No. 72/04 of 26 August 1972 gives the Court of Appeal jurisdiction to hear appeals against judgments delivered by lower courts. By instituting the dual degree of jurisdiction and by conferring appeals to judicial officers of higher ranks, the law wanted to guarantee justice because, such appeal would be illusionary, if the same judicial officer could sit in both courts on the same matter. Therefore, the composition of the higher court must be completely different from that of the lower court”.*

#### REFERRALS TO DIFFERENT COURTS, CHALLENGING AND CLAIMING DAMAGES FROM JUDICIAL OFFICERS

**423** – These guarantees are enforced both before civil and criminal courts to protect litigants from the arbitrary actions of judicial officers.

##### **1) Challenging Judicial Officers**

**424** – In civil matters, section 159 of the *“Code de Procedure Civile et Commerciale”* (CPCC) provides in principle that *“any judicial officer may be challenged with reasons”*. This legal instrument enumerates such reasons. In criminal matters, section 591 of the CPC enumerates the reasons which justify such challenge and provides that:

\* *“Any magistrate of the bench or a judge may be challenged for any of the following reasons:*

(a) *where he or his spouse is a relative, guardian or relative by marriage up to the degree of uncle, nephew, first cousin or the child of the first cousin of one of the parties;*

(b) *where he or his spouse is employer, employee, next of kin, donee, creditor, debtor, companion of one of the parties, or director of an enterprise or company involved in the case;*

- (c) *where he has previously taken part in the proceedings or if he has been arbitrator or counsel or witness;*
- (d) *where he or his spouse is party in a case which shall be tried by one of the parties;*
- (e) *where he or his spouse is involved in any incident tending to show friendship or hatred towards any of the parties and likely to cast a doubt on his impartiality”.*

**425** – The following are cases where petitions for challenge were dismissed:

- by Judgment No. 20/CIV of 15 July 1993, the Far-North Court of Appeal, dismissed the petition by warrant officer AA against Mbandou Ernest, Magistrate at the Court of First Instance, Maroua, because the petition for challenge was filed after submissions by the Legal Department in violation of section 162 of the CPCC. The plaintiff alleged that during the court session of 16 June 1993, he had applied for adjournment to prepare his defence, but the Magistrate adjourned the matter for judgment to 14 July 1993;
- in Judgment No. 92/C of 19 April 1995, the Littoral Court of Appeal dismissed the petition by S.P against ELA Emmanuel Thierry, a judge at the High Court of Wouri. The plaintiff alleged that his opponent’s frequent visits to the judge’s office and the latter’s decision to adjourn the matter to five days from the last hearing, was proof of his partiality and bias. The Court of Appeal held that the President of the Court had discretionary powers to adjourn a matter and that the plaintiff did not adduce any evidence in support of his allegations;
- in Judgment No.02/AG of 7 March 1996, the Supreme Court dismissed the petition by company C against Mrs MENGUE Suzanne., Vice-President of the Centre Court of Appeal. The plaintiff alleged that she had entertained the matter and delivered ruling. The Supreme Court held that delivering ruling is not tantamount to hearing and determining a matter as provided for in section 159(8) of the CPCC.

**426** – The following are cases in which challenge was upheld:

- in Judgment No. 23/CIV of 7 September 1993, the Far North Court of Appeal granted a petition by staff sergeant A. against a presiding Magistrate of the

Court of First Instance, Mokolo. The petitioner alleged that the Magistrate was partial because the latter had threatened him, stating that he would lose the case if he refused to cohabit with his wife. The Magistrate refuted the allegation, but did not object to another Magistrate hearing the matter. The Court of Appeal upheld this argument in referring the case to another court for a good administration of justice;

- in Judgment No. 366/CIV of 3 June 2005, the Centre Court of Appeal applied sub-section 10 of the CPCC and upheld the petition filed against the President of the CFI Yaounde-Administrative Centre, for threatening the counsel of a party by ordering him to lift the garnishee on the goods of the THANRI Group of companies;

-in Judgment No. 473/CIV. of 5 August 2005, the Centre Court of Appeal applied sub-section 3 of the CPCC to grant the application to challenge the judge of the HC of Nyong and Mfoumou who, in spite of his blood relation with the plaintiff, insisted on entertaining the case of wrongful termination of the plaintiff by the Education Secretariat of the Yaounde Archdiocese.

## 2) Referrals to Different Court

**427** – In criminal matters, section 542 of the CIC provides that, the Supreme Court may, on the submission of the Procureur General, refer a matter, from one Court of Appeal or High Court to another, from a Court of First Instance to a similar court, from one Examining Magistrate to another for reasons of public security or legitimate suspicion.

A referral may also be made at the behest of the parties, but only for legitimate suspicion.

**428** – In judgment No.129 of 12 February 1976, the Supreme Court ordered the transfer of a case on adultery and accessory to adultery against Mrs. B. Anne, spouse of the Branch Manager of the Société Camerounaise de Banque of Bertoua, and E, Gendarmerie Legion Commander for the East, on grounds of public security, to the CFI Mbalmayo. The Court held that there was reason to refer the matter to a court other than the one in the province where the accessory to the offence discharged his high duties.

**429** – In Judgments No. 5 and 6 delivered on 17 October 1991, the Supreme Court equally ordered the transfer of two cases to the North Court of Appeal, between the General Manager of (La Société Assurance Mutuelles Agricoles) and Stamatiades, on grounds of legitimate suspicion where the matter had been adjourned for judgment by the Court of Appeal of the Centre province irrespective of the fact that one of the suits did not appear on the cause list and no order had been made for a joinder of the suits

### **3) Claiming Damages Against Judicial Officers**

**430** – Litigants may equally sue Judicial Officers for damages pursuant to sections 246, 249 to 257 of the CPCC.

**431 –1-** Judgment No. 31/C of 28 April 2005 of the North Court of Appeal, illustrates the procedure for suing judicial officers. Alioum Fadil, his brothers and sisters were declared co-heirs of their late father El Hadj Fadil Abdoulaye in judgment No. 42/C of 22 July 1998 by the Benoue High Court. Subsequently, Mohamadou Bayero Fadil, one of the co-heirs, fraudulently obtained judgment No. 27/C of 23 June 1999 from the very High Court appointing him administrator of the estate. He withdrew money from the estate's bank account. Informed, the other co-heirs instituted third party proceedings.

**431 – 2** – During the trial, the administrator of the estate petitioned the Benoue High Court, on 22 June 2000, to be maintained as the administrator. That very day, the court delivered ruling No. 10/99/2000. The other co-heirs were not served with the said ruling and Mohamadou Bayero Fadil, administrator by subterfuge, transferred more than a billion FCFA from the estate to his personal account abroad.

**431 – 3** – The fact that all these decisions were taken by the same Magistrate who was aware of the third party proceedings pending before him, in violation of section 13(2) of Ordinance No. 72/4 of 26 August 1972: Judicial Organization, as amended, which gives the President of the Court of First Instance exclusive powers to rule on a motion *exparte*, the plaintiff applied for a fiat to claim damages at the North Court of Appeal. His application was granted and the plaintiff sued for damages against Elong Martin.

**431 - 4** – In their pleadings, counsels for the Judicial Officer raised two objections:

- one based on the violation of the memorandum in accordance with section 255(1) of the CPCC which requires a plaintiff, suing for damages, to effect service on the defendant within three days and the latter to enter his defence within eight days;
- the other, based on the non payment of 7,000,000 FCFA deposit calculated from the amount of damages claimed by the plaintiff estimated to be 100,000,000FCFA.

**431 - 5** – Both objections were upheld, and the Court of Appeal dismissed the petition in Judgment No. 31/C of 28 April 2005.

### **§ 3 – Training of judicial and legal officers**

**432** - Judicial and Legal officers can be evaluated on the basis of their initial and continuing education.

#### INITIAL TRAINING

**433** –Pupil Magistrates, holders of a postgraduate degree (Maîtrise) in Law, are trained in the Judicial Division of the National School of Administration and Magistracy (ENAM).

**434** – Admission into the Judiciary is equally open to lawyers and lecturers in the faculty of law who fulfil certain conditions relating to qualifications, moral integrity, grade and professional experience in legal matters. Article 11 (3) of Decree No. 2004/080 of 13 April 2004 to amend certain provisions of Decree No. 95/048 of 08 March 1995 governing the Rules and Regulations of Judicial and Legal Services provides, *“notwithstanding the provisions of paragraph 1 above, the requirement of a diploma from the National School of Administration and Magistracy may be replaced by adequate professional experience acquired in Cameroon subsequent to the Maîtrise”* in Law, Economics or Finance or equivalent qualification, of five years as advocate, *“agrégé”*, master of a law faculty, associate professor or holder of the L.L.D (Doctor of Laws) degree, senior lecturer of Law or Economic Sciences, bailiff, court registrar, notary or category A civil servant, where the competence and professional activities of the candidate in legal, economic, financial or

*accounting matters qualify him to serve as a judge in judicial, administrative or audit matters”.*

## CONTINUING EDUCATION

**435** – The training of Judicial and Legal Officers is ensured through practice, seminars and refresher courses. In 2004, the Ministry of Justice organized training seminars on the OHADA laws in the 10 provinces of the country.

**436** – Judicial and legal officers who wish to acquire more knowledge are authorized to undergo continuing training. The French Digital Campus, “*campus ouvert Droit ethique*” (Open Campus on Ethical Law), which has been extended to the University of Yaounde II, Soa, is open to judicial and legal officers who wish to study international human rights law through continuing education.

**437** – The training received by Cameroonian Judicial and Legal Officers is gaining increasing international recognition. For example, in the ongoing restructuring of Rwanda, the Belgian Technical Co-operation is supporting the rehabilitation of the Judiciary by building the capacity of Rwandan Magistrates. Cameroon was identified as a country from which inspiration could be drawn. Thus, six Rwandan magistrates took a study trip to Cameroon from 17 to 28 October 2005. The study was carried out in two phases:

- the first phase, was a seminar for three days organized in ENAM, which focused on judicial organization;
- the second phase was based on the judicial system for minors in Cameroon through an internship for one week in the Courts of Yaounde and Douala.

## § 4 – Hearing conducted in public and in camera

### HEARING CONDUCTED IN PUBLIC

**438** – Hearings conducted in public guarantee independence and impartiality. Section 4 of Ordinance No.72/4 of 26 August 1972: Judicial Organization of Cameroon provides that justice shall be administered in public and any breach of sub-section (1) above shall render the intire

proceeding null and void ab initio. This provision is a reflection of section 153 of the CIC, which provides that hearings shall be conducted in public under pain of nullity.

**439** - Section 302 of the CPC reaffirms these provisions by stipulating, "*hearing shall be conducted in public*".

**440** - To ensure that hearings are conducted in public, dates and venues shall be scheduled in advance by the Minister of Justice at the beginning of the judicial year. In criminal matters, the Legal Department enlists matters and causes the parties to be served with summons through bailiffs. In civil matters, bailiffs serve writs of summons and judgments.

#### HEARING IN CAMERA

**441** – In certain cases, hearing in open court may be repugnant to public order and morality. In such cases, the court may, by a reasoned decision, rule that the case be heard in camera. This is the essence of section 4 (3) of Ordinance No.72-4 of 26 August 1972. In the case of the People vs. Ruzindana Augustin and Others, Judgment No.478/ADD/COR of 19 April 1996 the Centre Court of Appeal applied the provisions of this section.

**442** – Section 302 (2) of the CPC equally establishes proceedings in camera and provides, "*However, when a public hearing is repugnant to public order and morality, the court may at any time, of its own motion, or on the application of one of the interested parties and after the submissions of the Legal Department, rule either that the proceedings or any part thereof shall be held in camera or that public hearing shall be restricted*".

#### § 5 Presumption of innocence

**443** – Presumption of innocence in criminal matters, enshrined in the Constitution of 18 January 1996, is expressed with regard to issues related to burden of proof and right of audience.

## BURDEN OF PROOF

- 444** – Presumption of innocence presupposes that the burden of proof lies upon the plaintiff and that the benefit of the doubt is in favour of the suspect.
- 445** - Section 307 of the CPC reiterates this principle and provides, *“The burden of proof shall lie upon the party who institutes a criminal action”*.
- 446** - The prosecution, assisted by the victim of the offence, shall prove the guilt of the accused.

## RIGHT OF AUDIENCE

- 447 –1** - As a party to the matter, the suspect has a right to state his case and has a privileged position because he speaks last.
- 447 – 2** - In effect, section 153 of the CIC provides that, the suspect shall present his defence after the registrar in attendance reads the police report, where one exists, followed by witnesses for the prosecution and the plaintiff. This provision empowers him to call witnesses.
- 447 –3** - Section 335(3) of the CIC equally provides that the accused or his counsel shall have the last say. Sections 361 and 450 of the CPC replicate this requirement.

## § 6 – Guarantee of the right of the defence

- 448** – Pursuant to section 14(3) of the ICCPR, in the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantee in full equality:
- 1) to be informed promptly and in detail in a language which he understands, the nature and cause of the charge against him;
  - 2) to have adequate facilities for the preparation of his defence;
  - 3) to communicate with counsel of his own choosing;



- 4) to be tried without undue delay;
- 5) to be tried in his presence;
- 6) to examine or have examined the witnesses against him and to obtain the attendance of witnesses on his behalf; and
- 7) not to be compelled to testify against himself or to confess guilt.

**449** – These guarantees are upheld by decisions of the Supreme Court in Cameroon.

#### INFORMATION RELATED TO THE NATURE AND CAUSE OF THE CHARGE

**450** – In criminal matters, the condition for communicating information varies depending on whether the suspect is under detention or not.

##### **1) Service by a Bailiff**

**451** – In criminal matters, an accused who is not under detention is informed of proceedings by service effected on him by the bailiff of either a summons or a default judgment delivered against him.

**452** - Pursuant to section 56 (1) of the CPC *“service shall mean the delivery of a court process or judgment by the bailiff to the addressee. It shall be executed at the instance of the Legal Department or any other interested party”*. Sections 40 and 41 of the same Code contain similar provisions.

##### **2) Information Communicated by the JPO or by the Judicial and Legal Officer**

###### a) Judicial Police Officers

**453** – Section 31 of the CPC provides, *“except in the case of felony or misdemeanour committed flagrante delicto, the person effecting the arrest shall disclose his identity and inform the person to be arrested of the reason for the said arrest, and where necessary, allow a third person to accompany the person arrested in order to ascertain the place to which he is being detained”*.

b) Judicial and Legal Officers

**454** – Section 3(3) of the Law of 8 December 1879, which amended the CIC requires the Examining Magistrate, under pain of nullity, to inform the accused of the charges preferred against him and his right to reserve his statement. Section 167 of the CPC replicates these provisions.

**455** - Similarly, after the preliminary inquiry, the accused shall be informed of the charges preferred against him before he is committed to court. To this end, section 10 of the Law of 8 December referred to, requires the Examining Magistrate to inform the accused or his counsel, at the instance of the court registrar of the existence of any court order.

**456** – Section 410 of the CPC provides,

*“1) An accused in detention shall be notified of the committal order by the Examining Magistrate or the committal judgment of the Inquiry Control Chamber in accordance with the provisions of section 39 of this Code”.*

*2) The notice shall be served on him personally.*

*3) Where the accused is not detained or is under judicial supervision or is at large, he shall be served in accordance with the provisions of section 57”.*

**457** - Practice requires the judicial officer to read out the charge to the accused during the first hearing, and to readily grant applications for an adjournment to enable him prepare his defence.

## TIME FOR PREPARING THE DEFENCE

### **During the Preliminary Inquiry**

**458** – During the preliminary inquiry, the Examining Magistrate, after informing the accused of the charges against him, shall inform him during the first appearance of his right to reserve his statement and allow time to prepare his defence even if he has not briefed counsel. These prescriptions are contained in section 10 of the Law of 8 December referred to above.

**459 - 1** – Section 170(1) of the CPC provides, *“The Examining Magistrate shall inform the defendant during his first appearance that he is now before an Examining Magistrate and may not thereafter be heard by the Police or the Gendarmerie on the same facts except by rogatory commission and that if the inquiry confirms the charges preferred against him, he shall be committed for trial before the competent court”*.

**459 – 2** – Sub-section (2) adds:

*“ a) he is free to reserve his statement;*

*b) he has the choice to prepare his defence either without counsel; or with the assistance of one or more counsels;*

*c) where he is represented by more than one counsel, he shall give the name and address of one of them to whom all summonses and other processes shall be addressed;*

*d) where he cannot immediately brief counsel, he shall be free to do so at any time before the close of the inquiry”*.

The forms during the first appearance shall contain the same information that the Examining Magistrate shall read to the accused and records his reply.

**459 – 3** – The proceedings shall be null and void if this procedure is not respected.

**459 - 4** – The counsel for the accused is equally allowed time to prepare his defence. Section 9 of the Law referred to above requires the Examining Magistrate to inform counsel for the accused at least 24 hours before examination by ordinary mail and to leave the case file at his disposal on the eve of the said examination.

**459 – 5**- Where this prescription is not respected, the inquiry and subsequent acts shall be null and void.

## Information During the Trial

**460** – When an accused appears before the Court of First Instance for offences committed *flagrante delicto*, the court shall inform him that he is allowed time to prepare his defence (section 4 of the Law of 20 May 1963 on inquiries on offences committed *flagrante delicto*). Section 300 of the CPC replicates these provisions. If this formality is not respected the judgment shall be null and void.

**461** - In the case of a private summons, the accused shall have three days and an additional day for every fifty kilometres that separate him from the seat of the court (section 184 of the CIC). Section 52 of the CPC provides that the time-limit for the accused to appear shall be:

- five (5) days at least if the person summoned resides in the town or the locality where he is to be heard;
- five (5) days and an additional day for every 25 kilometres, if the person summoned resides out of the town or locality where he is to be heard;
- ninety (90) days if the person resides abroad.

**462** – Time-limits have not been fixed for cases, which require preliminary inquiry. But in practice, the judge often grants adjournments during the first hearing.

**463**- The silence of the law in the latter case may, undermine the rights of defence.

## BRIEF AND COMMUNICATION WITH COUNSEL

### 1) Briefing of Counsel

**464** – The assistance of counsel is mandatory in all matters before the Supreme Court. The same applies to cases of felonies before the trial court. It is optional in all other matters.

### a) Mandatory assistance

**465** – Briefing counsel is mandatory in criminal matters before the HC, the CA and the SC. Section 58 of Law No. 58/203 of December 1958 to adopt and simplify criminal procedure in Cameroon provides that if the accused fails to brief counsel, the court shall provide him with a counsel *ex officio*.

**466** - The Supreme Court systematically nullifies judgments delivered in breach of this formality.

### b) Optional assistance

**467** - In misdemeanour and simple offences before the lower courts and the CA, the accused shall decide whether to brief counsel or not.

## 2) Communication with Counsel

**468** - Section 8 of the Law of December 1897 referred to above provides that the accused may be prohibited from communicating with any person other than his counsel.

**469** – The implementation of this provision has been extended to all phases of the proceedings. Section 239 of the CPC permits a defendant in detention, subject to contrary instructions by the Examining Magistrate, to correspond without restriction with any person of his choice. More so, section 240 authorizes counsel to visit his client in detention between the hours of six (6) a.m. and six (6) p.m.

## TIME-LIMIT FOR JUDGMENT TO BE DELIVERED

**470** - Section 14 (3) (d) of the ICCPR requires that any person accused of a criminal offence should be guaranteed a fair trial free of excessive delay.

**471** - Some laws on procedure prescribe time-limits for the delivery of judgment. In criminal matters, time-limits are fixed for judgments to be delivered only after hearing is closed. Section 388 of the CPC provides, "*judgment shall either be delivered immediately or in the next fifteen (15) days after hearing is closed*". This provision does not exclude the possibility of re-opening hearing before judgment after an adjournment.

- 472** - The appeal must be heard and determined within two months (section 16(d) of Ordinance No. 72/4: Judicial Organization). Section 437 of the CPC provides that in the case of a ruling to determine a procedural issue, the CA shall give its decision within 7 days from the day following the date the records of proceedings are received.
- 473** – With regard to offences committed by press organs, section 83 of Law No. 90/052 of 19 December 1990 and supplemented by Law No.96/052 of 4 January 1996 provides *“in case of offences committed by means of mass communication organ, the competent court shall rule in normal time, within fifteen days with effect from the date of first hearing and during an election campaign, within forty-eight hours”*.
- 474** - With regard to labour matters, section 145 of the LC provides, *“the court shall proceed immediately with the examination of the case. If the parties so agree or if the president so decides, the case may be adjourned for not more than 15 days”*. Adjournment for deliberation shall not exceed 8 days.
- 475** - Time-limits for judgments to be delivered in other matters have not been regulated.
- 476** - Judicial practice is still marred by numerous bottlenecks, which prevent the rapid settlement of proceedings. This is, the Achilles’ heel of Cameroon’s judiciary as illustrated by the Human Rights Commission (Communication No.130/195 Abdoulaye Mazou vs. The State of Cameroon) and by the African Commission on Human and Peoples’ Rights (Communication No. 30/90 Annette Pagnoule and No. 59/91, Louis Emgba Mekongo vs. The State of Cameroon). Government envisages corrective measures particularly the recruitment of a larger number of judicial and legal officers.

#### PERSONAL APPEARANCE

- 477** – Criminal procedure in Cameroon requires the suspect to appear in court. Thus, detainees are produced before the court by the forces of law and order. An accused on whom personal service has been effected shall be bound to appear before the court.

- 478** - Sections 149, 152 and 186 of the CIC make provision for the appearance of an accused before the Court. Where he refuses to appear any judgment shall be deemed to have been delivered in his presence.
- 479** - The Presiding Magistrate may deliver judgment in absentia which allows the accused to apply for objection if it is established that there is no proof of service on him.
- 480** - In cases of felonies, the accused shall appear in court. The CPC replicates this mandatory appearance. However, it makes provision for exceptions. In certain cases, the accused may be tried in absentia. Sections 347, 348, 349 and 350 differentiate between obligatory and optional appearances.

#### TESTIMONY OF WITNESSES

- 481** - Section 153(4) of the CIC provides, *"any person who is summoned (detainee, accused) shall state his case and shall cause his witnesses to be heard..."*
- 482** - Under the CPO, the accused person may put questions to the witnesses of the prosecution and the defence that are relevant to his case.
- 483** - Section 180(1) of the CPC provides, *"the Examining Magistrate may summon any person whose testimony may, in his opinion, be relevant"*.
- 484** - Witnesses shall fulfil the conditions required by the law. The accused may challenge them in accordance with section 156 of the CIC.
- 485** - Testimonies are accepted based on the conditions provided for under pain of nullity (section 155 of the CIC). The CPC makes provision for testimony in sections 180 to 190 during judicial inquiry and in sections 322 to 327 during trial. The CPC borrows examination techniques from the CPO. These include:
- examination-in-chief or the examination of a witness by the party who called him;
  - cross-examination or the examination of a witness by a party other than the party who called him;

- re-examination or the examination of a witness after cross-examination, by the party who called him.

## CONFESSIONS

- 486** – A confession shall be valid only if it is made voluntarily before the Presiding Magistrate (see § 64 supra). The accused may plead guilty or not guilty. Confessions shall not only be made voluntarily, but the court shall ascertain veracity of their contents.
- 487** - The recording of pleas of guilty or not guilty, as practiced in the English-speaking provinces of Cameroon, has been included in sections 359,360, 361, 364 and 365 of the CPC.

## § 7 Juvenile courts

### THE PENAL CODE, THE CIC AND THE CPO

- 488** – Article 14(4) of the ICCPR provides, *“In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.”*
- 489** – In Cameroon no criminal responsibility shall arise from the act or omission of a person aged less than ten years (Section 80(1) of the PC). This was the position of the Legal Department of the High Court and Court of First Instance of Monatele, sometime in May 2002, in the case of a child aged 9 years who killed his cousin aged 12 years with a hunting rifle negligently kept by his father. The case was closed for *doli incapax*. A similar case of *doli incapax* was handled in 2003 by the Legal Department of the Courts of Limbe in a case where a child aged 5 years, inadvertently killed his father with the latter’s firearm.
- 490** – In accordance with Section 80(2) of the PC, a minor aged 14 years may be tried but shall neither be condemned to a sentence nor to any of the measures provided for adults by the penal law. The offence committed may attract only such special measures provided for by child legislation, which equally defines the competent courts in such matters.
- 491** – A minor aged below eighteen years may be convicted and sentenced but shall benefit from diminished responsibility under section 87 of the



PC. The courts avoid, as much as possible, sentences that may have consequences contrary to set objectives (amendment, rehabilitation, etc.).

## THE CRIMINAL PROCEDURE CODE

**492** – The CPC brings in innovations. Thus, the procedure gives more consideration to the child’s fragile nature as well as its standard of living. Personalities selected by the Ministers in charge of Justice and Child Protection, known for their interest in matters affecting juveniles and for their competence in that field, shall seat as assessors in the lower courts and at the Court of Appeal (Section 709 and 710 of the CPC). The minor standing trial shall be assisted as of right by counsel or by any other expert (Section 719). Hearing in camera is mandatory. The prison system equally encourages the minor’s rehabilitation after serving his sentence (Section 706, 724, 725, 726 of the CPC).

### § 8 Degrees of jurisdiction

#### REVIEW BY THE COURT OF APPEAL

**493** – Article 14(5) of the ICCPR provides : *“Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law”*.

Sections 37 and 199 of Law No. 58/203 of 26 December 1958 referred to here above provide for appeal.

**494** – The CIC provides that the CA shall only review a case on the grounds as raised in the notice and grounds of appeal. It may confirm, quash or annul a contested decision. The CPC grants it similar powers.

#### THE SUPREME COURT: A THIRD DEGREE OF JURISDICTION

**495** – The CPC has transformed the Supreme Court into a third degree court to review convictions. Thus putting an end to the shuttling of cases between Courts of Appeal and the Supreme Court. The CPC no longer allows remission after a judgment is quashed if the appeal is on the merits and not an issue relating to admissibility. This is the essence of Section 510 of the CPC.

## § 9) Redress in cases of miscarriage of justice

**496** – Article 14 (6) of the ICCPR provides : *“When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him”*.

**497** – The CIC provides that victims of miscarriage of justice may be awarded damages by virtue of article 55 of the Decree of 27 November 1947 which covers not only appeals but also cases where judgments may be referred to the Supreme Court including appeals for review. This procedure will no longer be in force as from the 1 of January 2007.

**498** – Section 544 of the CPC provides : *“the decision of acquittal may serve as the basis for an application for compensation before the competent commission provided for in section 237 above”*.

**499** – It should be noted that Section 237 of the CPC refers to a special commission that entertains applications for compensation with regard to illegal detention.

**500** – These actions may be brought against judicial and legal officers or judicial police officers.

**501** – Compensation shall be paid by the State that may recover same from the defaulting employee (Section 236(3) CPC).

## § 10: Res judicata

**502** – Section 14(7) of the ICCPR provides : *“No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and the penal procedure of each country”*.

**503** – Section 246 of CIC provides that where the Court of Appeal has ruled that the defendant shall not stand trial before the High Court, he shall no longer be prosecuted on the same facts. Section 360 appears to be





## CHAPTER 9 : THE RIGHT TO PARTICIPATE IN THE MANAGEMENT OF PUBLIC AFFAIRS

**510** – Article 25 of ICCPR provides,

*“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:*

*a) To take part in the conduct of public affairs, directly or through freely chosen representatives;*

*b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;*

*c) To have access, on general terms of equality, to public service in his country”.*

**511** – This article adopts in extenso Article 21 of the Universal Declaration of Human Rights.

**512** - Article 13 of The African Charter on Human and Peoples’ Rights contain the same provision.

**513** - Articles 2 and 3 of the Constitution of Cameroon adopt these provisions. Since multiparty politics was restored in 1990, several political parties have taken part in elections organized periodically in accordance with a certain number of instruments:

- Law No. 92/002 of 14 August 1992 to lay down the conditions for the election of councillors;
- Law No. 91/020 of 16 December 1991 as amended on legislative elections;
- Law No. 92/010 of 17 September 1992 as amended on the election and vacancy of the President of the Republic;
- Law No. 2000/016 of 19 December 2000 as amended, sets up the National Elections Observatory (NEO);

- Law No. 2000/015 of 19 December 2000 on the funding of political parties and electoral campaigns.
- 514** - Political parties and their candidates to the various elections have equitable access to public media for the electoral campaign, in accordance with a broadcasting distribution time allotted periodically before every election by the Minister of Communication, under the control of the National Communication Board.
- 515** - For better representation in State institutions, political parties shall take into consideration in the compilation of every list the various sociological components of the constituency. (Section 3(2) of Law No. 92/002 of 14 August 1992). The Supreme Court regularly annuls elections for breach of the above-mentioned principle.
- 516** - By Judgment No.135/CE/2001-2002 of 05 September 2002, the Administrative Bench of the Supreme Court annulled the council election of 30 June 2002 in the Muyuka Rural council constituency for violation of the Constitution and section 3(2) of Law No.92/002 of 14 August 1992. As a matter of fact, the Social Democratic Front list included only five indigenes out of forty-one candidates in their list (The matter of CPDM and Fako II Section – Muyuka vs the State of Cameroon ((MINATD) and SDF).
- 517** – In judgment No.59/Ce/2001-2002 of 3 September 2002, the Administrative Bench of the Supreme Court follows the same line of reasoning. The Municipal Election of 30 June 2002 in the Loum Rural Council constituency was annulled because the elected SDF list comprised thirty candidates from the West Province, five candidates from the North-West Province and no single indigene (Babong and Bokeng). The matter of N. Clobert, CPDM candidate vs. The State of Cameroon (MINATD) and SDF).
- 518** – The implementation of instruments to organise the right to participate in the management of public affairs is a reality in Cameroon, which is most apparent from the institutional framework for elections. Electoral disputes are a clear indication of the vitality of the political landscape in Cameroon.

## **Section 1 : The institutional framework**

**519** – The Institutional framework comprises organs that carry out or control electoral operations.

### **§ I) Organs responsible for the material organization of elections**

**520** – Organs responsible for the material organization of elections are:

- the National Elections Observatory (NEO);
- Elections Supervisory Commissions;
- the National Vote Counting Commission and Judicial Courts.

#### **THE NATIONAL ELECTIONS OBSERVATORY (NEO)**

**521** – NEO was set up by Law No. 2002/016 of 19 December 2000 as amended by Law No. 2003/036 of 22 December 2003. In accordance with section 1 of the said law the National Elections Observatory (NEO) is an independent and permanent body charged with supervising and controlling elections and referendums.

**522** – NEO members are appointed by the President of the Republic and are selected from political parties and the civil society. NEO members are personalities, reputed for their moral rectitude, intellectual honesty, neutrality and impartiality.

**523** – The State provides NEO with equipment and staff. Their running expenditures are included in the State budget.

**524** - Pre-election operations, particularly those relating to registration and the revision of registers of electors are carried out by the Elections Supervisory Commissions.

## PRE-ELECTION SUPERVISORY COMMISSIONS

### 1) Pre-election Commissions

- 525** – Law No. 91/20 of 16 December 1991 to lay down conditions for the election of members of Parliament sets up commissions in charge of preparing electoral operations. These include commissions for the revision of registers of electors (section 29), commissions to supervise the issuing and distribution of electoral cards (section 30).
- 526** - The above-mentioned provisions are adopted in Law No. 92/010 of 17 September 1992 to lay down conditions for electing the President of the Republic as supplemented by sections 12, 13, 14 and 15 of Law No. 97/020 of 9 September 1997.
- 527** - These very Commissions are equally operational for council elections, in compliance with section 1 of Law No. 92/02 of 14 August 1992 which provides that the provisions of Law No. 91/20 of 16 December 1991 lay down conditions for the elections of members of parliament shall be *mutatis mutandis* applicable to the election of municipal councillors, subject to special provisions under this law.
- 528** – Registers of electors shall be kept by administrative authorities, in collaboration with representatives of legalized political parties operating within their jurisdiction (section 12 of Law No. 92/010 of 17 September 1992)

### 2) Elections Supervisory Commissions

- 529** – Elections Supervisory Commissions vary depending on the election. The Divisional Supervisory Commission is a mixed organ chaired by the President of the competent High Court. It should be noted that in Divisions where High Courts do not exist or in those where the President of the High Court is unavoidably absent, the legislator has authorized the President of the competent Court of Appeal to appoint a judicial officer under his jurisdiction to assume the duties of the Chairman of the Mixed Divisional Supervisory Commission, and to replace the President of the High Court who is unavoidably absent. Decisions taken by the above mixed Commissions may be challenged before the Court of Appeal sitting in Chambers.



- 530** - Section 12 of Law No. 92/002 of 14 August 1992 to lay down conditions for the elections of municipal councillors provides for the setting up, in each council, of a Council Supervisory Commission in charge of ensuring that operations to elect municipal councillors are carried out legally, fairly and objectively.
- 531** – Section 39 of Law No. 91/010 of 26 December 1991 to lay down conditions for the election of members of Parliament and Section 24 of Law No. 92/010 of 19 September 1997 on presidential election provide for the setting up of Divisional Supervisory Commissions. They shall be responsible for controlling registers of electors and registration cards as well as hearing pre-electoral disputes.

**a) Controlling Registers of Electors and Cards**

- 532** – This is carried out by the Commission that is active only at presidential and parliamentary elections (Section 40 of Law No. 91/20 of 10 December 1991 and 25(new) of Law No. 92/010 of 17 September 1992 as amended). Its shall be charged with controlling operations for the compilation, keeping and revision of registers of electors. Where double registration or registration of persons having no capacity to vote is noted, the Commission prescribes the necessary rectifications.

**b) Pre-electoral Disputes**

- 533** – Divisional Supervisory Commissions hear and determine pre-electoral disputes, particularly claims and disputes relating to the registration of electors and distribution of cards.
- 534** – Thus, the *“Alliance for Democracy and Development Party (ADD) should have seised this commission on the matter that led to Judgment No. 136/CE/2001/2002 of 5 September 2002 rendered by the Administrative Bench of the Supreme Court (see § 541 infra).*
- 535** – Even more interesting is the case relating to the absence of ballot papers of the NUDP party in three councils in the Mbere Division (Adamawa Province) during the municipal and parliamentary elections of 30 June 2002. When it noted the absence of the ballot papers of the above-mentioned party in the said council, the Commission ordered the suspension of all voting in the council areas concerned. (Report No.

02/PV/CDSE of 23 June 2002 of the Mbere Divisional Supervisory Commission)

**536** – The said Commissions are also responsible for proclaiming election results.

## THE NATIONAL VOTE-COUNTING COMMISSION

**537** – The National Vote-Counting Commission was set up by section 44 of Law No. 91/20 of 16 December 1991. It is chaired by a judge from the Supreme Court and comprises two other judicial or legal officers, ten representatives of the Administration and ten representatives of political parties. It may make comments on the regularity of electoral operations (section 45 of Law No. 91/20 and section 30 of Law No. 97/020) and rectify material vote-counting errors.

### **Section 2 : Electoral disputes**

**538** – Electoral disputes may arise during the compilation of registers of electors or lists of candidates, or during voting counting.

#### **§ I – Disputes relating to registration of electors and compilation of candidates lists**

##### DISPUTES RELATING TO THE REGISTRATION OF ELECTORS

**539** – Section 11 of Law No. 91/20 of 16 December 1991 on parliamentary election and applicable to council elections provides that every person of Cameroonian nationality or any naturalized Cameroonian, of either sex, who has reached the age of 20 years and is not under any of the disqualifications laid down by this law, shall be entitled to be an elector.

**540** - Section 2 of Law No 92/010 of 17 September 1992 on presidential election adopts this provision in extenso. Persons of unsound minds, undischarged bankrupts and convicted persons fall under the disqualifications laid down by law.

**541** - To avoid multiple voting, electors are forbidden from registering themselves several times or to appear on candidates' lists for parties they do not belong to. In judgment No 136/CE/2001 - 2002 of 5 September

2002 the ADD party claimed that the two lists of candidates presented by the CPDM Party included candidates who were still members of the ADD Party, thus swelling the number of candidates to thirty instead of twenty five as provided by the law. The Supreme Court upheld the relevance of these claims and applied Section 22 of Law No. 92/002 to annul the disputed election in the Guidiguis Rural Council Constituency.

**542** - The envisaged computerization of election procedures should put an end to irregularities in the compilation of registers of electors and the distribution of voters' cards.

#### DISPUTES RELATING TO CANDIDATES' LISTS

**543** – Contrary to registration on registers of electors, conditions for declaration of candidacy for council, parliamentary or presidential elections are more stringent.

**544** – Section 8 of Law No 92/002 of 14 April 1992 mentioned above provides that No person may be a candidate for the council election if he is not actually resident in the territory of the Council concerned; however, non-resident persons may be candidates if they have an effective place of abode in the territory of the Council.

**545** – Section 17 of Law No 91/20 of 16 December 1991 on parliamentary election provides that every Cameroonian citizen without distinction to sex, who has the right to vote and is lawfully registered in an electoral register, aged 23 years on the election day and who can read and write English and French, may be registered on a list of candidates for parliamentary elections.

**546** – Conditions for eligibility as Municipal Councillor or as Member of Parliament are not as contested as those relating to the election of the President of the Republic.

**547** – Indeed, Section 8 of Law No 92/010 of 17 September 1992 provides, *“Candidates for the office of President of the Republic must be in full possession of their civic and political rights and must have attained the age of 35(thirty-five) years by the date of election. They shall be Cameroonian citizens by birth and show proof of having resided in*

*Cameroon for an uninterrupted period of at least 12(twelve) months and of having their names entered in the register of electors on the date of election”.*

**548** – Section 53 stipulates, “a candidate may be:

*1) either nominated by a political party;*

*2) or independent, on condition that he is presented as a presidential candidate by at least 300 (three hundred) dignitaries hailing from all the provinces, with 30 signatures from each province. Persons who qualify to append such signatures shall be either Members of Parliament or of the Chamber of Commerce and Agriculture, Municipal Councillors, or first class Chiefs.*

*The said dignitaries shall append to the candidate’s papers signatures authenticated by the competent administrative authorities of the area. Each dignitary may append his signature only once and for only one candidate”.*

**549** – At the presidential election of 11 October 2004, MINATD by Decision No.0024/D/MINATD/SG/DAJC of 20 September 2004 rejected the independent candidacy of Mr Tonye Jean Alphonse on the ground that he had not attached a list of the required 300 signatures to his declaration of candidature.

**550** - The petitioner contended that the requirement of a list of 300 signatures was unconstitutional, and introduced a situation of co-optation in violation of the principle of equality of all citizens before the law.

**551** – In ruling No. 17/CE/04/05 of 1 October 2004, the Supreme Court rejected his candidature and dismissed the petition for non-fulfilment of the conditions laid down by section 53 mentioned above.

**552** – The issue of presentation of a candidate by a political party to which he does not belong, when he had been presented by his original party was equally raised.

**553** – In Judgment No. 1/CE/04-05 of 1 October 2004, the Supreme Court declined jurisdiction in the matter of Dr Joachim Tabi Owono vs The State of Cameroon.

- 554 - Section 54 of the above-mentioned law enumerates the documents that should be attached to a declaration of candidature.
- 555 – The Supreme Court has systematically dismissed petitions to complete the candidate's file after it had been deposited. In Judgment No.2/CE/04-05 of 1 October 2004, El Hadj Baba Yousoufa, a candidate of the African National Congress (ANC), sought the validation of his candidature for the 11 October 2004 presidential election, on the ground that the missing document in his file was not very important and could be produced upon request. The Supreme Court ruled that the document ought to have been produced with the declaration and not separately pending the request as contended by the petitioner.
- 556 – The court applied section 58 to dismiss other candidates. In judgment No.08/CE of 1 October 2004, the candidature of Isaac Michael Enow Oben, candidate of the Cameroon Ideological Party (CIP) because his file had not been deposited at least twenty days before the election date.

## § 2) Disputes arising during voting

- 557 – During voting there are several disputes arising on allegations of fraud.
- 558 - During the council elections of 30 June 2002, the Supreme Court annulled the election in the Dschang Rural Council Constituency for fraud. The petitioner alleged that the number of voters had increased from 51,749 on 27 June 2002 to 52,043, implying that about 1000 more voters were registered in three days, whereas the voting registers were already closed. (Judgment No. 111/2001-2002 of 05 September 2002). Still in judgment No. 36/Ce/2001-2002 of 03 September 2002, the Supreme Court annulled council elections of 30 June 2002 in the Matomb constituency for fraud.
- 559 – In judgment No.128/CE/2001-2002 (case M.D SDF candidate vs State of Cameroon and CPDM) the Administrative Bench of the Supreme Court annulled council elections in the Bayangam constituency for irregularities in the report by the Divisional Supervisory Commission and massive frauds. 552 - On the contrary, many petitions for cancellation were dismissed as unfounded.

- 560** – Many petitions for cancellation were dismissed as they lacked merits.
- 561** – In judgment No. 60/CE/01-02 of 17 July 2002, the Supreme Court dismissed the petition to cancel parliamentary elections of 30 June 2002 in the Mayo-Tsanaga constituency on the merits. The NUDP had invoked the expulsion of its representative from the polling station, stuffing of ballot-boxes, multiple voting, inadequate NUDP ballot papers etc. (National Union for Democracy and Progress (NUDP) vs. the State of Cameroon (MINATD)).
- 562** – In the matter of NUDP and SDF vs. the State of Cameroon (MINAT), the Supreme Court also dismissed the petition to cancel the results of the 30 June elections of the “*Hauts-Plateaux*” constituency for want of evidence of fraud and irregularities at the preliminary stages of the electoral operations.

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- 563** – The right to participate in the management of public affairs in one’s country, either directly or through freely chosen representatives is enshrined in Article 2 of the Constitution. The effective exercise of this right is carried out through pluralist and periodic elections, the most recent being council and parliamentary elections of 30 June 2002 and the presidential election of 11 October 2004.
- 564**- The results of the last presidential elections were generally approved by the national and international community. However, some international and national organizations, including NEO, found that there were some organizational flaws. Government with the support of some foreign partners envisages the setting up of an independent body in charge of elections<sup>90</sup>.

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<sup>90</sup> In this regard, on the instructions of the Head of State, the Secretariat General of the Presidency of the Republic organized working sessions with Commonwealth experts in February and June 2006 relating to the setting up of an independent electoral commission. Officials charged with its setting up visited Benin, Canada, Germany and Morocco to learn from their experience.

## CONCLUSION OF THE FIRST PART

565 – The civil and political rights of people living in Cameroon were effectively guaranteed in the year 2005. Some weaknesses may still subsist, particularly, delays in the administration of justice. However, the coming into force of the Criminal Procedure Code will go a long way to correct these flaws.





**PART  
TWO**

**PROMOTION AND  
PROTECTION OF ECONOMIC,  
SOCIAL AND CULTURAL RIGHTS**

- 566** – The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees rights indispensable for the material, social and cultural development of individuals.
- 567** – It also compels State parties jointly or severally to take appropriate legislative, administrative, judicial, political, economic, social, educational and other measures to ensure the full enjoyment of such rights by making maximum indiscriminate use of national and international available resources.
- 568** – In Cameroon, as in most countries, economic, social and cultural rights (ESCRs) raise the problem of justiciability<sup>91</sup>. Cameroon is striving, in conformity with the principle of the indivisibility of Human Rights and the principles derived from doctrine, (Principle No. 19 of Limburg<sup>92</sup>), to render all rights, as much as possible, justiciable<sup>93</sup>.
- 569** – One of the conclusions of the seminar on ESCRs<sup>94</sup> held in Nantes from 5 to 7 September 2005, is that if justiciability of ESCRs is effective everywhere, the notion of “reasonable effort” by States would be given more consideration and the Committee on ESCRs would base its appreciation on concrete cases. The ensuing rules shall constitute a framework for trade negotiations in the context of globalization<sup>95</sup>. It would therefore be necessary to draw up an additional protocol to the ICESCR, which would define the appropriate form of justiciability for ESCRs<sup>96</sup>.

<sup>91</sup> Contrary to civil and political rights, despite the fact that both conventions were adopted on the same day (see *supra* for the International Convention on Civil and Political Rights).

<sup>92</sup> The Limburg Principles compel the State to take measures necessary for achieving economic, social and cultural rights, and to provide effective remedies, including judicial remedies, for claiming and protecting such rights.

<sup>93</sup> These rights are more justiciable in countries with Anglo Saxon tradition through the remedies procedure rights (South Africa, Canada) than in countries with Germano-roman tradition. The African Commission on Human and Peoples' Rights in Banjul, on its part, attempts to be specific in the application and implementation of all rights contained in the ACHRP (case Social and Economic Rights Action Centre for Economic and Social Rights Vs Nigeria No.155/96 October 2001).

<sup>94</sup> The Nantes symposium took place from 05 to 07 September 2005. The purpose of this high level legal meeting was to move forward with the reflection on the setting up of a procedure of individual remedies against states for non-respect of the ICESCR.

<sup>95</sup> Mr BISRAT GASHAWTENA, the Vice- Minister of Labour and Social Affairs, member of Ethiopia's Mediation Commission, presided over the roundtable of 05 September 2005 during the above- mentioned symposium.

<sup>96</sup> During the Nantes Symposium, Mr NIAVU RAJOANA read a message by Mrs Christine DESOUCHES, Delegate for Human Rights and Democracy of the International Organization for the “Francophonie”, indicating that the theme on ESCR was, since the Bamako Declaration of the year 2000, one of the topics which galvanized French speaking countries. Thus, the IOF showed special interest in and supported the deliberations of the seminar. The mediator of the French Republic, Jean Paul DELEVOYE, in his final statement made on the behalf of the authorities of the French State, underscored the urgency of adjudicating ESCRs in court, within the context of economic, cultural and social globalization which should be regulated in order to eliminate the principle of survival of the fittest.

**570** – Cameroon attaches a lot of importance to the rights spelt out in ICESCR. Though the Supreme Court has not directly ruled on any case on the violation of the Covenant, the several judgments passed by its benches tend to protect these rights.

**571** – For effective promotion and protection of ESCRs, the State is increasingly seeking international technical, material and financial co-operation. The last letter of intent signed, on 13 October 2005, by the Prime Minister and approved by the International Monetary Fund (IMF), has prospects for an unprecedented boosting of ESCRs.

**572** - This part of the report is subdivided into seven (7) chapters on the following rights:

- the right to development and its corollaries of good governance and the fight against corruption (Chap. I);
- the right to work and its corollaries, the right to set up trade unions, to strike and to social security (Chap II);
- the right to education (Chap. III);
- the right to health (Chap. IV);
- the right to property ( Chap. V);
- the protection of special social groups (family, women, children, handicapped persons, and the old) (chap. VI);
- the right to benefit from the progress of science and culture (Chap. VII).

## CHAPTER 1 : RIGHT TO DEVELOPMENT

- 573 – The ICESCR entered into force, before its “siamese twin brother”, the ICCPR<sup>97</sup> because many countries understood that if the ESCRs were a sham, CPRs would remain an illusion and constitute rights just for the privileged few.
- 574 – The Declaration on the Right to Development defines the latter as an *“inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development in which all Human Rights and fundamental freedoms can be fully realized”*<sup>98</sup>.
- 575 – Developing countries have understood ICESCR in terms of the struggle for economic independence and the fight against poverty.
- 576 – Cameroon has recorded mixed successes in this regard. After a period of sustained growth up to 1985, the global economic crisis hit Cameroon’s economy and 1985 marked the beginning of an economic recession with its consequent stringent measures, social tensions and impediments to the enjoyment of ESCRs.
- 577 - During the World Conference on Human Rights and the Millennium Assembly which reaffirmed the indivisibility of human rights and the responsibility of governments to promote and protect the said rights the decisions arrived at laid emphasis on development and the eradication of poverty.
- 578 – Indeed, after the fundamental values and the topic *“peace, security and disarmament”*, the third millennium goal is development and the fight against poverty, with special consideration to the needs of less developed countries, and to provide them assistance that has a human face as well as respects cultural diversity<sup>99</sup>.
- 579 – Though the support measures, taken after the inevitable devaluation of April 1994, were not felt in the country, economic recovery through mastery of internal and external debt servicing, enabled Cameroon to include in her development programme key commitments required by the international community for sustainable development and poverty

<sup>97</sup> The ICESCR and ICCPR came into force on 3 January 1976 and 23 March 1976 respectively.

<sup>98</sup> Article I of the Declaration of the United Nations General Assembly proclaimed on 4 December 1986 in its Resolution No.4/128.

<sup>99</sup> Read the analysis by Mrs Florizelle O’CONNOR, member of the Sub-Committee for the Promotion and Protection of Human Rights, in June 2005 at the 57th Session of this institution, which states “Each community is unique. Development programmes which succeed in one community are not necessarily successful in another”, Doc.E/CN/sub.2/2005/23 of 24 June 2005 § 30.

alleviation, notably:

- reducing at least by half the number of Cameroonians living in misery by the year 2015, (Copenhagen, 1995);
- providing primary education to all by 2015 (Jomtien, Copenhagen, Peking);
- promoting gender equality and women empowerment by suppressing the disparity among boys and girls in primary and secondary education (Cairo, Copenhagen, Peking);
- reducing by two-thirds, the mortality rate at birth and that of children under five years by the year 2015(Cairo);
- reducing by three quarters the maternal mortality rate by the year 2014 (Cairo, Peking).

**580** - To attain the major goal of poverty reduction, some pertinent strategies elaborated by the international community and approved by Cameroon were defined. These include good governance of the economy and the fight against corruption.

## *SUB-CHAPTER 1 : COMBATING POVERTY: A DEVELOPMENT STRATEGY*

### **Section 1: DIFFICULTIES IN THE IMPLEMENTATION OF ESCRs**

**581** – The full enjoyment of ESCRs is often hindered by poverty. Hence, the need to study their characteristics as well as the legislative and statutory measures governing these rights.

**582**– Cameroon made an uncomplacent diagnosis of poverty, so as to assess its scope and identify its characteristics and determining factors. This diagnosis based on two major complementary studies served as a basis for the production of a Poverty Reduction Strategy Document adopted in April 2003 and revised in June 2005.

**583** – Detailed quantitative analyses were made from the findings of two major Cameroon Household Surveys (ECAM I, 1996 and ECAM II, 2001) and data collected from the third survey whose findings will be

published in 2006. This quantitative approach was later supplemented by a qualitative evaluation of poverty. Its determining factors are based on participative consultations with populations surveyed throughout the national territory.

**584** - These analyses made it possible to better appreciate the adverse effects of the economic crisis, structural adjustments and devaluation on ESCRs.

## **Section 2 : LEGAL FRAMEWORK FOR ECONOMIC RECOVERY**

**585** – To boost the economy, a legal framework for economic liberalization was put in place in 1990, which comprised of laws and regulations. But the Constitution already laid special emphasis on the necessity to rethink the right to development.

### **§ 1- Constitutional specifications**

**586** – The right to development draws inspiration from section 2 of ICESCR as specified by the ACHRP, which was the first instrument to recognize “*peoples’ right to development*”.

**587** - ESCRs are enshrined in the Constitution, which provides that the people of Cameroon are “*resolved to harness our natural resources in order to ensure the well-being of every citizen without discrimination, by raising living standards...*” The Constitution equally asserts Government’s determination to devote all possible efforts to implement these rights, by providing that in order to achieve better results, the people of Cameroon are ready “*to co-operate with all States desirous of participating in this national endeavour with due respect for our sovereignty and the independence of the Cameroonian State*”.

### **§ 2 – Legislative and statutory framework of economic recovery**

**588** – In the face of an economic slump and its disastrous consequences on ESCRs, and in a bid to implement various Structural Adjustment Programmes (SAP)<sup>100</sup>, a series of legislative instruments were adopted followed by enabling statutory instruments. These instruments enacted to liberalize and boost the economy include:

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<sup>100</sup> It should be stated that structural adjustments followed four main guidelines: stabilization of public finances, reform of the banking sector, revival of public and semi-public enterprises, reprogramming of investments.

- Law No. 90/031 of 10 August 1990 relating to Commercial Activity in Cameroon;
- Ordinance No. 90/007 of 8 November 1990 relating to the New Investment Code in Cameroon, as ratified by Law No.90/071 of 19 December 1990;
- Law No. 90/070 of 19 December 1990 to ratify Ordinance No. 90/004 of 22 June 1990 relating to Privatization of public and semi-public Corporations;
- Law No. 90/069 of 19 December 1990 to ratify Ordinance No. 90/006 of 26 October 1990 to amend and supplement certain provisions of Ordinance No. 85/002 of 31 August 1985 relating to the Operation of Credit Establishments;
- Law No. 90/068 of 19 December 1990 to ratify Ordinance No. 90/005 of 19 September 1990 to amend and supplement the provisions of Ordinance No. 003 of 27 April 1990 to lay down Conditions for Liquidation of Banks;
- Law No. 90/063 of 19 December 1990 to amend and supplement certain provisions of Laws No.69/LF-18 of 10 November 1969 and 84/001 of 4 July 1984: Insurance Scheme for the provisions of Old-Age, Disablement and Survivors' pensions;
- Law No. 90/062 of 19 December 1990 to grant special Waiver to public Health Units in financial Matters;
- Law No. 90/019 of 10 August 1990 to amend and supplement certain provisions of Ordinance No. 85/002 of 31 August 1985 relating to the Operation of Credit Establishments;
- Law No. 90/030 of 10 August 1990 to lay down the Conditions governing the Carrying on of the Business of Road Carrier;
- Law No. 90/033 of 19 December 1990 relating to the practice and Organization of the Profession of Veterinarian;
- Law No. 90/034 of 10 August 1990 relating to the Practice and the Organization of the profession of dental Surgeons;

- Laws Nos. 90/035, 90/036, 90/037, 90/038, 90/040, and 90/041 of 10 August 1990 relating to the Practice and the Organization of the Professions of Pharmacist, Medical practitioner, technical Assessors, chartered Accountant, Town Planner, Architect respectively;
- Law No.90/059 of 19 December 1990 to organise Practice at the Bar.

**589** – Statutory instruments include:

- Decree No. 90/1357 of 19 September 1990 to set up the National Facilitation Committee in Cameroon;
- Decree No. 90/1461 of 9 November 1990 to lay down the conditions for the setting up, Opening Operating and financing of private educational and training Establishments in Cameroon;
- Decree No. 90/1462 of 9 November 1990 to lay down the conditions for obtaining authorisation to carry out the cinematographic activity;
- Decree No. 90/1463 of 9 November 1990 to regulate the profession of Counselling-engineer;
- Decree No. 90/1465 of 9 November 1990 to fix the organisation and functioning of private medical research laboratories;
- Decree No. 90/1467 of 9 November 1990 to fix the modalities for building and operating tourism establishments.

**590** – The implementation of the above legislative and statutory instruments led to the moderately successful execution of various Structural Adjustment Programmes since 1988. Though moderate, these successes will enable international<sup>101</sup> and bilateral<sup>102</sup> donors to grant Cameroon substantial loans to cushion the effects of the crisis on the daily life of Cameroonians whose enjoyment of ESCRs have been adversely affected by the sacrifices made to overcome the crisis.

### **§ 3 – Development strategies and related results**

**591** – The implementation of relevant defined strategies (strategies for the development of rural activities, industrial and commercial develop-

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<sup>101</sup> The World Bank, the African Development Bank, the Economic Cooperation Central Fund and the International Monetary Fund.

<sup>102</sup> Federal Republic of Germany, Italy, Canada, France, Japan etc.



ment, free enterprise and emergence of a responsible civil society that partakes in decision-making, as well as strategies for consultation, social cohesion, and the classification of priorities) lead to a positive balance sheet, particularly in the year 2005. This is indicative of better days ahead. The positive results were evident in the following areas:

- Economic and Financial governance;
- agricultural for rural development and forestry;
- industry and mining;
- small and medium-size enterprises;
- tourism;
- health and education;
- road infrastructure and telecommunications;
- water and energy;
- town-planning, housing and environmental development, especially in the cities of Douala and Yaounde;
- the improvement of the social sector with the holding of the National Solidarity Forum from 21 to 25 August 2005;
- better care for stake-holders in the field of culture.

### **Section 3: 2004/2005: DIFFICULTIES AND PROSPECTS**

#### **§ 1 –Difficulties**

592 – The Poverty Reduction Strategy Document rests on a certain number of key hypotheses relating to the international environment, economic and social policies and the effective execution of programmes. In this regard, a study of risks that may hinder its implementation has highlighted the following features:

- an impact of negative shocks on terms of exchange;
- the effects of contraction of expected foreign resources;
- unpredictable public aid to development.

## § 2 – Prospects

- 593 – The positive balance sheet of all reforms carried out enabled the Government to better structure the letter of intent the Prime Minister signed and submitted to the General Manager of IMF on 13 October 2005. This letter of intent defines a stringent programme with special emphasis to social sectors, regional integration and follow-up according to statistics recorded by the National Statistics Council (NSC), approved on 27 October 2005.
- 594 - However, these endeavours would be in vain if Cameroon respected the provisions of ICESCR, but did not take into account the right of non-nationals.

## Section 4: Respect for the economic, social and cultural rights (escrs) of non-nationals

- 595 – The Constitution states that the people of Cameroon, *“convinced that the salvation of Africa lies in forging ever-growing bonds of solidarity among African Peoples, affirm our desire to contribute to the advent of a united and free Africa, while maintaining peaceful and brotherly relations with the other nations of the world, in accordance with the principles enshrined in the Charter of the United Nations”*. It is in compliance with these principles that Cameroon is a member of the African Union, the Commonwealth, the Francophonie, the Islamic Conference, the CEMAC and the CEEAC.
- 596 - Cameroon, because of its hospitality, shelters many immigrants who take advantage of the non-discriminatory provisions of the Constitution in the area of ESCRs.
- 597 - Cameroon spares no effort to ensure that populations within its jurisdiction effectively enjoy ESCRs through access to sustainable development. The difficulties mentioned above shall progressively be solved through the

systematic implementation of the principles of good governance and fight against corruption.

## *SUB-CHAPTER 2 : GOOD GOVERNANCE AND THE RIGHT TO DEVELOPMENT*

**598** – Conscious of the importance of good governance and its impact on economic development, Cameroon has adopted guiding principles aimed at improving the management of public affairs.

**599** - In this context, appropriate measures were taken, through a participatory approach involving the analyses and proposals of the civil society, the private sector and development partners. Priority actions include good governance and improving the standard of living of Cameroonians through an effective and rigorous management of available resources.

### **Section 1 : Priority actions for efficient governance**

**600** – The National Good Governance Programme aims essentially at:

- promoting partnership between the public sector, the private sector and the civil society;
- reforming the legal and judicial systems;
- strengthening the rule of law;
- promoting a true culture of accountability in the management of public affairs;
- consolidating transparency and combating corruption.

### **§ 1-The importance of economic good governance**

**601** – The aim of economic Good governance is to:

- liberalize economic activities;

- continue with privatization;
- systematise the periodic audits of the accounts of the National Hydrocarbon Corporation;
- ensure economic and fiscal audit of the forestry sector;
- institute an independent observatory within the committee in charge of awarding forestry concessions.

## § 2- Transparency and accountability

**602** – The Government is gradually putting in place a system which gives every citizen access to information on public affairs, by publishing the results of studies, surveys and audits carried out in key sectors.

**603** - Government has instituted periodic auditing of social sectors by independent audit firms as well as systematic annual auditing and overseeing of public contracts. The consolidation of the independence of the judiciary, effective judicial inspections and the gradual putting into place of institutions (the Audit Bench of the Supreme Court especially) will enable stringent control of the Government's actions. It should be noted that the Audit Bench of the Supreme Court started examining public accounts on 03 January 2006.

**604** - Government is determined to apply the EITI<sup>103</sup> Principles in Cameroon. The technical secretariat of the EITI Committee was put in place after all necessary consultations in September 2005. It will in conjunction with a consultant and the World Bank, draft a plan of action that will be submitted to the Committee. This plan will then be published through all information channels for feedback.

**605** – A Secretariat of State for Youths was set up in the Ministry of Youth and Sports to cater for youths needs such as:

- out of school training and support of youths;
- social animation and promotion of educative leisure activities;
- adult literacy and education;

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<sup>103</sup> Initiative for transparency in mining industries.

- socio-professional integration of youths.

**606-** The Government of Cameroon, conscious of the fact that women and young girls in particular are still victims of discrimination resulting from sociological and traditional pressures, has taken measures to promote greater participation of women in the management of public affairs<sup>104</sup>.

**607** - Other underprivileged groups like handicapped persons and pigmies enjoy legislative protection and benefit from various programmes and activities initiated by the ministries concerned<sup>105</sup>.

### *SUB-CHAPTER 3 : THE FIGHT AGAINST CORRUPTION AND THE RIGHT TO DEVELOPMENT*

**608** – Cameroon has, by Decree No. 2004/010 of 18 May 2004 signed by the President of the Republic, ratified the United Nations Convention on corruption adopted on 31 October 2003 in Merida (Mexico). Government did not wait for the adoption of the above convention to wage a fierce war against this scourge.

**609** – The President of the Republic of Cameroon had, in an address to the Nation on 31 December 1995, announced the setting up of a National Governance Programme. In his address to the Nation on 31 December 2005, he reiterated his determination to wage a merciless war against corruption in the following words: *“But there is something worse. I want to talk of corruption, an evil that I have often denounced but which is still rampant. There is obviously total inconsistency between the efforts we have been making to eradicate poverty and the scandalous enrichment of a few.... This must stop”*.

**610** - Some structures have been set up and measures taken to supplement the existing repressive machinery. Draft laws are being drawn up in the Ministry of Justice, which will enforce the repressive provisions of the Convention against corruption and section 66 of the Constitution. These drafts will certainly give a decisive orientation to the fight against corruption.

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<sup>104</sup> See infra, chapter on the special protection of women

<sup>105</sup> See infra.

## **PART I : INSTITUTIONAL AND LEGAL FRAMEWORK FOR THE FIGHT AGAINST CORRUPTION**

**611** – A national programme for the fight against corruption has been drawn up. To implement this programme an ad hoc committee and decentralised structures have been set up.

### **§ 1 – Institutional framework for the fight against corruption**

**612** – Government's plan of action has recommended short and medium term measures in the following areas:

- management of human resources;
- improvement of administrative procedures;
- decentralisation of decision making.

### **THE AD HOC COMMITTEE AND THE NATIONAL OBSERVATORY FOR THE FIGHT AGAINST CORRUPTION**

#### **1) The Ad Hoc Committee**

**613** – The following missions assigned to the ad-hoc committee for the fight against corruption were clearly defined<sup>106</sup>:

- to oversee the implementation of Government's plan of action for the fight against corruption by Ministries;
- to assign general objectives and prescribe special measures to Ministries and oversee their implementation;
- to fix the general guidelines and define special strategies for the fight against corruption.

#### **2) The National Observatory for the Fight against Corruption<sup>107</sup>**

**614** – This institution was set up by Order No. 001/PM of 04 January 2000 by the Prime Minister, Head of Government and amended by Order No. 032/PM of 24 May 2000. Its chairperson and members were appointed

<sup>106</sup> The Committee is chaired by the Prime Minister, Head of Government and comprises 08 members of Government, the President of the Bar Council, the President of the Cameroon Inter-patronal Group (GICAM), the chairman of the NCHRF and the National Coordinator of the NGGP.

<sup>107</sup> This institution has been replaced by the National Anti-Corruption Commission (CONAC) instituted by Presidential decree No. 2006/088 of 11 March 2006.

by Order No. 033/PM of 25 May 2000 and Order No. 034/PM of 25 May 2000 respectively. The missions of this institution are as follows:

- to follow-up and evaluate the effective implementation of measures taken by the ad hoc committee in the implementation of Government's plan of action for the fight against corruption;
- to follow-up, supervise and co-ordinate the activities of units for the fight against corruption in Ministries;
- to collect and study all information relating to corrupt practices;
- to carry out or propose all studies or actions likely to curb corruption, particularly those which may set in motion disciplinary or judicial proceedings against persons involved in corrupt practices;
- to stimulate the participation of the public in the fight against corruption;
- to carry out any other mission assigned it by the ad-hoc committee.

#### UNITS FOR THE FIGHT AGAINST CORRUPTION

**615** – These units set up in Ministries comprise eight members, four from the Administration and four from the civil society or NGOs<sup>108</sup>, and chaired by an Inspector General.

**616** - Their missions include:

- ensuring the effective implementation of Government's plan of action for the fight against corruption in Ministries;
- carrying out any mission relating to the prevention and punishment of corruption in Ministries;
- promoting ethics and the respect for good governance in Ministries;
- proposing any measures to eradicate corruption.

**617** - The legislative framework for the fight against corruption already existed. It is improving with the internalisation of international conventions

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<sup>108</sup> The Unit of the Ministry of Justice operates and undertakes regular missions, the reports of which resulted in a certain number of actions and measures including Circular-Letter No.2953/CD/327.II/IGSJ/MJ of 22 Nov.2003 to instruct Heads of Courts to install suggestion boxes.

and other relevant regional and sub regional instruments. The draft bills that are being drawn up predict major innovations.

**618** – The Anti-corruption Unit of the Ministry of Justice, was set up by Order No.051/MJ of 17 July 2001, and its members were designated by Order No.03/MJ of 30 October 2001.

**619** – After drawing up a sample investigation scheme, the unit has carried out various investigations which have identified certain malfunctioning to which corresponding solutions have been proposed. It is within this framework that the following circulars were signed by the Keeper of the Seals:

- Circular No.0032/CD-50.180/SG/MJ of 25 April 2000 to forward to Heads of Courts the press release published after the Ministerial Council of 24 March 2000;
- Circular No. 2953/CD/327.II/IGSJ/MJ of 22 December 2003 to prescribe to Heads of Courts the publication on notice boards within their jurisdictions of rates for deeds issued by the Registry, the list of Auxiliaries of Justice and the setting up of suggestion boxes.
- Circular No.0053/327.II/IGSJ of 13 June 2005 to prescribe to Heads of Courts to sign notices to be published on notice boards; to put the inscription, fight against corruption on suggestion boxes and to forward a duplicate of the keys of the suggestion boxes to the Chairperson of the Unit.

## § 2- Legislative framework for the fight against corruption

**620** – Corruption is an evil whose effects are perceptible. That is why public authorities have waged a fierce war to eradicate this scourge. The Constitution provides, *“The President of the Republic, the Prime Minister, Members of Government and persons ranking as such, the Presidents and Members of the Bureau of the National Assembly and the Senate, Members of Parliament, Senators, all holders of an elective office, Secretaries-General of Ministries and persons ranking as such, Directors of the Central Administration, General Managers of Public and semi-public enterprises, Judicial and Legal Officers, Administrative personnel in charge of the tax base, collection and handling of public funds, all managers of public votes and property, shall declare their assets and property at the beginning and at the end of their tenure of office”* (article 66 of the Constitution).



**621** – Another law defines other categories of persons subject to the provisions of this article and states the conditions for its enforcement. The Ministry of Justice is drafting the bill.

**622** – The Penal Code and the law to lay down the organisation and functioning of the Audit Bench of the Supreme Court equally fight against corruption.

#### THE PENAL CODE

**623** – The following provisions of the Penal Code punish all forms of corruption:

- section 131 on the definition of public servant;
- section 133 on forfeitures, confiscation and publicity;
- section 134 and 134 (a) on corruption;
- section 135 on interests in a grant;
- section 136 on interest in concern;
- section 137 on indulgence;
- section 138 on failure to report deficiency;
- section 140 on oppression;
- section 142 on undue demand;
- section 143 on favour;
- section 161 on procuring influence;
- section 184 on Misappropriation.

#### THE AUDIT BENCH

**624** – The Constitution provides for an Audit Bench of the Supreme Court, whose duties, organisation and functioning were fixed by Law

No.2003/005 of 21 April 2003. The Audit Bench aims at ensuring transparency and enforcing the obligation to render public accountants transparent. Such accounts include those of the State with its public institutions, decentralised local communities and their public institutions, and public and semi-public enterprises. Judicial and Legal Officers of the Audit Bench have been trained, absorbed and appointed. That Bench is already operational, and its first judgments are expected in June 2006.

## TRANSPARENCY IN PUBLIC CONTRACTS

**625** – Cameroon has a modern public contracts code<sup>109</sup>, drafted by the Public Contracts Regulatory Agency (ARMP) and promulgated by Decree No. 2004/275 of 24 September 2004. This Code was popularised in provincial seminars from 18 November to 23 December 2004.

**626** – The private sector, under the banner of GICAM, drafted a Code of Ethics for businessmen<sup>110</sup>.

**627** – Law No.2003/004 of 21 April 2003 on banking secrets has authorised the waiving of such secrets in certain cases<sup>111</sup>.

**628** – CEMAC Regulation No. 01/03/CEMAC/UMAC/CM on the prevention and punishment of money laundering and the funding of terrorism in Central Africa, as well as the National Financial Investigation Agency (ANIF) set up subsequently, make it possible to check capital entering and leaving the Central Africa sub region and Cameroon (Decree No. 2005/187 of 31 May 2005). ANIF's officials were appointed by Order No. 154/MINEFI of 03 August 2005.

**629** – The fight against corruption will certainly take a decisive turn with the internalisation of the Merida Convention. A draft bill is being drawn up by a committee set up in the Ministry of Justice. Unlawful enrichment shall be punished. The setting up of an independent prevention body is envisaged.

**630** – Beyond the legal and judicial mechanism, judicial, disciplinary and administrative sanctions render the fight against corruption more concrete.

## Section 2 : Judicial, disciplinary and administrative sanctions to fight against corruption

**631** – Several proceedings have been instituted to fight against corruption.

<sup>109</sup> This document may be consulted on the website of ARMP: [www.armp.com](http://www.armp.com)

<sup>110</sup> Adopted by the General Assembly of GICAM of 14 May 2004.

<sup>111</sup> This law provides that bank secrets cannot be hidden from judicial authorities seized of a matter.

## § 1 – Judicial proceedings

**632** – The following court cases can be mentioned<sup>112</sup>:

- Edzoa Titus and Atangana Thierry<sup>113</sup>;
- Engo Pierre Desiré<sup>114</sup>, Mounchipou Seidou and others<sup>115</sup>.

In the punishment of corruption, mention could be made of a trap that was set up by the National Commission for the Fight Against Corruption against a civil servant notorious for claiming sums of money to issue administrative documents. In judgment No. 71/Cor of 27 October 2003, the Court of Appeal of the Centre province sentenced him to 18 months imprisonment.

## §2– Disciplinary and administrative sanctions

**633** – The Higher Judicial Council has examined various cases of disciplinary actions for corrupt practices or related acts. Upon consultation with this Council, the Head of State, Chairman of the Higher Judicial Council meted out sanctions on some Judicial and Legal Officers, notably by:

- Decree No. 96/271 of 11 November 1996 to demote a magistrate for attempted corruption, oppression, etc;
- Decree No. 2002/078 of 27 March 2002 to dismiss a magistrate for serious professional misconduct characterised by corrupt practices and oppression;
- Decree No. 2005/222 of 21 June 2005 to suspend a magistrate for a period of six months for corrupt practices;
- Decree No. 2006/001 of 03 January 2006 to dismiss a magistrate for usury and oppression;
- Decree No. 2006/002 of 03 January 2006 to dismiss a magistrate for oppression, false pretence, indulgence and corruption.

<sup>112</sup> A former Minister, 3 Directors of State corporations and 96 persons including their collaborators were remanded in custody and are tried for forgery and misappropriation of public funds.

<sup>113</sup> In this matter, EDZOA Titus (former Secretary General of the Presidency of the Republic and former Minister of Public Health) was sentenced to 15 years imprisonment for misappropriation of public funds. His appeal was rejected by the Supreme Court. This judgment is final.

<sup>114</sup> ENGO Désiré (former General Manager of the NSIF) was charged and convicted for misappropriation of public funds and sentenced to ten years imprisonment on 22 November 2002. This judgment was confirmed by the Court of Appeal for the Centre (Judgement No. 73/CRIM of 27 April 2004). An appeal, lodged on 20/04/04, is pending before the Supreme Court.

<sup>115</sup> MOUNCHIPOU Seidou (former Minister of Posts and Telecommunications) was sentenced to 20 years imprisonment for misappropriation of public funds). He lodged an appeal on 28/06/06.

The Permanent Budgetary Disciplinary Committee (PBDC) orders unscrupulous vote controllers to reimburse misappropriated funds.

**634** – Other administrative measures are taken to fight corruption. From 12 March 2003 to 28 April 2004, a list of 94 employees, relieved of their duties in five Ministries, (Public Works, Transport, MINEPAT, Town-Planning and Housing, National Education) was published<sup>116</sup>.

NUMBER	NAME	OCCUPATION	MINISTRY
01	TCHAWOU NGASSAM Samuel	Sub-Divisional Head of Public Works for Nde, Bangangte	Ministry of Public Works
02	NNA Emmanuel	Service Head for Construction, South Province	...
03	NKANA PONDY Gilbert	SDRC	Ministry of Transport
04	EKODO Grégoire	Service Head for Certificates and Road Traffic	...
05	AWONO NKIE	Service Head for Land Transport for the Littoral, Douala	...
06	AZAMAH Aaron TENENG	Provincial Delegate for Transport, North-West province	...
07	NWENGUELA Jean Baptiste	Service Head for Land Transport, North-West province	...
08	MOUANGUE Franck Emmanuel	Temporal worker (holder of a Bachelors Degree (licence))	MINEPAT
09	NWUANET KENFACK Michel	Service Head for Survey, Menoua Division	Ministry of Town Planning and Housing
10	BOYOMO BOLO Georges	Service Head for Lands, Menoua Division	...
11	METO'O Toussaint Léonard	Service Head for Lands, Nyong and So'o Division	...
12	ONANA André	Service Head for Lands, Sanaga Maritime Division	...
13	NTEKI Valentin	Service Head for Survey, Sanaga Maritime Division	...
14	AMBE YUINWE Samuel	Service Head for Lands, Mezam Division	...
15	DJIAKOU Gilbert	Service Head for Architecture and Housing, Far-North Province, Maroua	...
16	SOMA René	Divisional Delegate for Town Planning and Housing, Ocean Division, Kribi	...
17	TEMPI Pierre	Service Head for Survey, Ocean Division, Kribi	...
18	LIBOBI André Théophile	Service Head for Lands, Ocean Division	...

<sup>116</sup> Source :Prime Minister's Office.

NUMBER	NAME	OCCUPATION	MINISTRY
19	NGUEMA NGOUMEN Charles	Service Head for Town Planning and Housing, Ocean Division, Kribi	...
20	NODJALE Alexandre	Principal, Government High School, Yoko	Ministry of National Education
21	EVOUA Léonard	Principal, Government High School, Mong	...
22	BEKALE AZOMBO Israël	Principal, Government High School, Sangmelima	...
23	AFA'A PENO Valère	Principal, Government Secondary School Nkol-Otoulou	...
24	AGBOR SAGAYA Manaseh ABOT	Principal, Government High School, Molyko, Buea	...
25	EYE'E Posper	Bursar, Bilingual Grammar School, Sangmelima	...
26	EKEMZEM Fidèle	Provincial Service Head for Examinations and Competitive Examinations at the DPEN, South province	...
27	MVENG MBARGA Constantin	IAEPM of Dzeng (Nyong and Nso'o)	...
28	ELOUMA Marcellin	IAEPM of Mbalmayo (Nyong and Nso'o)	...
29	EBE'ETE BILLE Emmanuel	IAEPM of Akeoman (Nyong and Nso'o)	...
30	MANGA FOU DA Marc	IAEPM of Nkolmelet (Nyong and Nso'o)	...
31	DOUBIA Jean Baptiste	IAEPM of Medingri (Mayo Rey)	...
32	Bernard Oscar SELLE	Vice-Principal, Government High School, Tignere	...
33	DJAME Raymond	Vice-Principal, Government High School, Monatele	...
34	LEFFE GABARY Jean Claude	Vice-Principal, Government High School, Nguelemedouga	...
35	DJEDJAM Joseph	Vice-Principal, Government High School, Nkongsamba	...
36	KOUGOU Adolphe	Vice-Principal, Government High School, Mouanko	...
37	TSAYEM Joseph Raymond	Vice-Principal, Government High School, Balengou	...
38	NSO EYONG Divine	Vice-Principal, Government High School, Mamfe	...
39	OWOUNDI BIDIMA Parfait	Discipline Master No. 2, Government High School, Akonolinga	...
40	EMINI Jean-Marc	Discipline Master, Bilingual Grammar School, Abong Mbang	...
41	LUMA Elive	Discipline Master, (English Section, Bilingual Grammar School, Bertoua)	...
42	MATOUKE André	Discipline Master, Government High School, Mbanga	...
43	BIKOKOTA Félix	Discipline Master, Government Bilingual High School, Edea	...
44	TJAMAK NLEND Théodore	Discipline Master, Government Grammar School, Edea	...
45	NGUIDJOL SOHO Etienne	Discipline Master No 2, Government Grammar School, Edea	.....

NUM-BER	NAME	OCCUPATION	MINISTRY
46	MBELEG Samuel	Discipline Master, Government High School, Bepanda	...
47	NTAMACK MAYI Zachée	Discipline Master, Government High School, Joss	...
48	BIPANDA EKAME Guy Serge	Discipline Master, Government High School, Oyack	...
49	KAZIE Maurice	Discipline Master, Government High School, Oyack	...
50	CHIFU Emmanuel BAWÉ	Discipline Master, Government High School, Mbiame	...
51	MBANTENKAU George	Discipline Master, Government High School, Bambalang	...
52	MBANG A NYAM	Principal, Government Secondary School, Bafia	...
53	MEFOUGUE Rudolphe	Principal, Government Secondary School, Mboma	...
54	BANGANGOMO Dieudonné	Principal, Government Secondary School, Mindourou	...
55	BIME Omer BURINYUY	Principal, Government Secondary School, Sob	...
56	ACHUO John AFUHNKUO	Principal, Government Secondary School, Furu Awa	...
57	NSAMBA Edward NGENGE	Principal, Government Secondary School, Mbuwaar	...
58	AKIEME BIKORO	Principal, Government Secondary School, Essangong	...
59	ABDOU Georges	Bursar, Government High School, Mbe	...
60	ESSAMA Cosmas	Bursar, Government High School, Ngoumou	...
61	MBIDA AMBA Roger	Bursar, Government High School, Akonolinga	...
62	LOPPE DOUM Roger	Bursar, Government High School, Betare Oya	...
63	MEKEMEKE Alphonse	Bursar, Government Bilingual High School, Ndiang	...
64	CHISIMON NKWENTI	Bursar, Government High School, Atiela, Nkwen	...
65	NKEUEM Maurice	Bursar, Government Bilingual High School, Magba	...
66	NGOME Peter EKITI	Bursar, Government Secondary School, Nyassosso	...
67	ONOMO Guy René	Bursar, Government Bilingual Secondary School, Obala	...
68	NDONGO Innocent	Bursar, Government Secondary School, Angongo	...
69	AMEDA Célestin	Bursar, Government Secondary School, Yangben	...
70	KOLYANG Martin	Bursar, Government Secondary School, Touloum	...
71	SAPOCK Dieudonné	Bursar, Government Secondary School, Baleveng	...
72	NZEADOUO TCHANA Benjamin	Bursar, Government Secondary School, Tougang II	...
73	KOUDOU Mathias	Principal, Government Secondary School, Oveng	...

NUMBER	NAME	OCCUPATION	MINISTRY
74	EDONG NANGA	Discipline Master, GTTC, Bertoua	...
75	MZEKA Edward NSOBE	Vice-Principal, GTTC, Kumbo	...
76	DOHKUNA Fidelis MULLAH	Vice-Principal, GTTC, Wum	...
78	ABDOU André	S/D for Studies and Statistics	...
79	SANDING SANGAMBI Sylvestre	DDNE/Upper Sanaga	...
80	Sylvestre ANGONG	DDNE/Nyong and Mfoumou	...
81	KUM Daniel ACHO	DDNE/Bui	...
82	NDONGO ESSAM Samuel	Principal, Government High School, Akono	...
83	AVA NDZIE	Principal, Government High School, Akonolinga	...
84	BOBIL EKOUAL	Principal, Government High School, Belabo	...
85	DJAFUAM ONANA	Principal, Government High School, Diang	...
86	SARRE Joseph	Principal, Government High School, Lomie	...
87	MAHI Paul	Principal, Government High School, Edea	...
88	BIKAY Louis	Principal, Government High School, Ndom	...
89	GAINSOM Emile	Principal, Government Bilingual High School, Bonaberi	...
90	BETJA EYENGA	Pedagogic Inspector/Sciences	...
91	OLAMA OLAMA Dieudonné	Bursar, Lycée General Leclerc, Yaoundé	...
92	ATEBA EYAMO Timothée	Bureau Head for Pedagogic Affairs and Examinations at the Inspectorate for Primary and Nursery Education, Yde II	...
93	ATEBA MENGUE Dieudonné	Headmaster, Government School, Boyalong	...
94	EWODO Louis	Principal, Government High School, Nlong	...
95	OTABELA NKOA Daniel	Bursar, Government High School, Nlong	...
96	ANDINORN Antoine	Bureau Head for General Affairs DNE/Benoue	...

## CHAPTER 2 : LABOUR RIGHTS

**635** –Labour rights are enshrined in the Universal Declaration of Human Rights (Articles 23 and 24), the ICESCR (Articles 6, 7, 8) and the ACHPR (Articles 15 and 16). They include:

- the right to work;
- the right to equitable and satisfactory working conditions;
- the protection of certain labour rights, particularly the right to go on leave, the right to set up professional trade unions and to militate therein, and the right to strike;
- the right to social security.

### *SUB-CHAPTER 1 : THE RIGHT TO WORK*

**636** – Cameroon has a legal and institutional framework to protect the right to work. In addition to relevant and binding international instruments to which Cameroon is party, this framework involves the implementation of recommendations contained in the Vienna Declaration, the Millenium Declaration and the provisions of national instruments.

#### **Section 1: Legal framework for the promotion And protection of the right to work**

**637** – By adhering to the principles enshrined in the Millennium Declaration, Cameroon undertook to eradicate extreme poverty and to ensure the full promotion of every person’s social rights, particularly, the right to work. To achieve this goal, Cameroon relies on international instruments to which she is a party and the relevant national legislation.

#### **§ 1: International legal framework applicable in Cameroon**

**638** – Cameroon is party to eight international labour conventions, notably:

- Convention No.87 on the Freedom of Association and Protection of the Right to Organise;



- Conventions No. 98 on the right to organize and negotiate as a collective body;
- Convention No.29 on Forced or Compulsory Labour;
- the ILO Convention No.100 on Equal Remuneration for men and women workers for work of equal value;
- Convention No.111 on Discrimination;
- Convention No. 138 of 1973 on the minimum age;
- Convention No. 138 of 1973 on the minimum age;

**639** – Regular reports on the implementation of the above Conventions are submitted to the ILO control organs.

**640** – Cameroon has already ratified 49 international labour conventions and was elected member of the Board of Governors of the International Labour Organization (ILO) for a term of three years, during the 93rd session of the International Conference of June 2005<sup>117</sup>.

C.3 - Convention (No.3) on the Protection of Maternity 1919, 25/05/1970

C.9 - Convention on the placement of marines, 1920, 25/05/1970

C.10 - Minimum Age convention (Agriculture) 1921, 25/05/1970

C.11 - Convention on the Freedom of Association (Agriculture) 1921, 07/06/1960

C.13 – Convention on ceruse (painting), 1921, 07/06/1960

C.14 - Convention on Weekly Rest (Industry), 1921, 07/06/1960

C.15 - Minimum Age Convention (stokers), 1921, 03/09/1960

C.16 - Convention on Youths Medical Examination (Maritime work), 1921, 03/09/1962

C.19 - Equal Treatment Convention (accidents at work) 1925, 03/09/1962

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<sup>117</sup> Source : MINREX, UNICEF

- C.26 - Convention on the Methods of Determining Minimum Wages, 1928, 07/06/1960
- C.29 - Forced or Compulsory Labour Convention, 1930, 07/06/1960
- C.33 - Minimum Age Convention (Non-industry work) 1932, 07/06/1960
- C.45 Convention on underground work (women), 1932, 03/09/62
- C.50 - Convention on the Recruitment of Indigenous Workers, 1936, 03/09/1962
- C.64 - Labour contracts Convention (Indigenous workers) 1939, 03/09/1962
- C.65- Convention on Criminal sanctions (Indigenous workers) 1939, 03/09/1962
- C.77 - Convention on Adolescents Medical Examination (Industry work), 1946, 25/05/70
- C.78 - Convention on Adolescents Medical Examination (Non-Industry work), 1946, 25/05/70
- C.81- Convention on the Inspection of Work, excluding Part II, 1947, 03/09/1962
- C.87- Freedom of Trade Union and the Protection of the Right to Set up a Trade Union, 1948, 07/06/1960
- C.89 - Night Work Convention (Women), 1948, 25/05/1970
- C.90 - Children Night Work Convention (Industry), 1948, 25/05/1970
- C.94 - Labour Clauses Convention (Public contracts), 1949, 03/09/1962
- C. 95 - Convention on the Protection of wages, 1949, 07/06/1960
- C.97- Convention on Migrant workers, 1949, excluding the provisions of annexes I and II 03/09/1962
- C.98 - Convention on the Right to Organisation and Collective negotiation, 1949, 03/09/62
- C.99 - Convention on the Methods of Determining minimum wages (agriculture) 1951, 25/05/1970

- C. 100 - Equal Remuneration Convention, 1951, 25/05/1970
- C.105 - Abolition of Forced Labour Convention 03/09/1962
- C.106 - Convention on Weekly Rest (Trade and Office), 1957 13/05/88
- C.108 - Convention on Seamen Identification Papers, 1958, 29/11/1982
- C.111 - Discrimination (Employment and Occupation Convention, 1958, 13/05/1988
- C.122 - Employment Policy Convention, 1964, 25/05/1970
- C.123 - Minimum Age Convention underground work and mining 1965, 06/11/1970
- C.123 - Convention on the Determination of Minimum Wages, 1970, 06/07/73
- C.132 - Convention on the Paid Leaves, 1970, 07/08/1973
- C.135 - Workers' Representatives Convention, 1971, 05/04/1976
- C.138 - Minimum Age Convention, 1973, 13/08/01
- C.143 - Convention on Migrant Workers (complementary provisions), 1975, 04/07/1978
- C.146 - Convention on Paid Annual Leaves (Seamen), 1976 13/05/1978
- C.158 - Retrenchment Convention, 1982, 13/05/1988
- C.162 - Convention on asbestos, 1986, 20/02/1989
- C.182 - Worst Forms of Child Labour Convention, 1999, 05/06/2002

## **§ 2: Domestic laws to promote and protect the right to work**

**641** – National laws have been influenced by the crises hitting the country. The Labour Code adopted in 1992 offered employers attractive conditions, although this law was sometimes considered biased by employees. The Code however reaffirms the right to work as fundamental, and rigorously defines all the stages of the labour contract to facilitate its control by the Supreme Court.

- 642** – The Constitution provides, *“every person shall have the right and the obligation to work”*. It also provides that the right to work falls under the ambit of the law.
- 643** – The Labour Code defines the worker and provides, *“the right to work shall be recognized as a basic right of each citizen. The State shall therefore make every effort to help citizens to find and secure their employment”* (Section 2(1)). Forced or compulsory labour is forbidden. National laws strive to better protect the right to work through rigorous regulation of employment contracts, probationary hiring, suspension or termination of employment contracts.

#### DEFINITION OF WORKER AND EMPLOYMENT CONTRACT

- 644** – The worker is defined as *“any person... who has undertaken to place his services in return for remuneration under the direction and control of another person, whether an individual or a public or private corporation, considered as the employer”*.
- 645** – Public servants are not governed by the Labour Code, but by the General Rules and Regulations of the Public Service and some special instruments such as Decree No. 94/199 of 07 October 1994: General Rules and Regulations of the Public Service as amended by Decree No. 2000/287 of 12 October 2000, as well as some special Rules and Regulations such as Decree No 95/048 of 08 March 1995 governing the Rules and Regulations of Judicial and Legal Services, Decree No. 94/184 of 29 September 1994 to fix the Special Rules and Regulations of the Corps of Active Officers of the Armed Forces, Decree No. 94/185 of 29 September 1994 to fix the Special Rules and Regulations of Non-Commissioned Military Personnel, Decree No. 94/200 of 07 October 1994 to fix the Special Rules and Regulations governing the Corps of National Security, Decree No. 92/054 of 27 March 1992 to fix the Special Rules and Regulations governing the corps of Penitentiary Administration.
- 646** – In accordance with the law, *“a contract of employment shall be an agreement by which a worker undertakes to put his services under the authority and management of an employer, against remuneration”*.

The Supreme Court exercises rigorous control in labour disputes on the existence or not of a labour contract.

## LEGAL PROTECTION OF PROBATIONARY HIRING

- 647** – To prevent abuses, probationary hiring is equally regulated. Section 28 of the Labour Code provides, *“there shall be probationary hiring where, prior to signing a final contract, the employer and the worker agree to appraise in particular, the worker’s quality of services and his output, as concerns the employer and as concerns the worker, the working, living, wage, safety and hygiene conditions as well as the climate under the employer”*.
- 648** – Probationary hiring must be in writing. It cannot exceed the time limit required for probation. In any case, probationary hiring may not exceed six months including the renewal period, except for executives whose probation may be extended to eight months.
- 649** – Where services are extended beyond the time limit for probationary hiring without a new contract, such extension is tantamount to final employment, with effect from the beginning of the probation. The work done during the probation period must be paid at the salary rate corresponding to the category on which the worker was employed<sup>118</sup>.
- 650 - 1** – Similarly, apprenticeship and subcontracting are protected under the law as they are rigorously defined by the Labour Code.
- 650 -2** – To meet the human resource needs for administrative services, Cameroon has resorted to the recruitment of a new category of workers, known as temporary and part-time workers.

## SUSPENSION OF EMPLOYMENT CONTRACTS

- 651**– An employment contract may be suspended for various reasons including difficulties faced by the enterprise<sup>119</sup>. The employer is then bound to compensate the worker depending on the circumstances<sup>120</sup>.

## BREACH OF EMPLOYMENT CONTRACTS

- 652** – An employment contract with specified duration may only be terminated before term in case of gross misconduct, force majeure or by written consent of both parties.
- 653** – The competent court appreciates the gross misconduct. The burden of

<sup>118</sup> Order No.017/MTPS/SG/CJ of 26 May 1993, of the Minister of Labour issued after consultation with the National Labour Advisory Board, lays down the maximum duration and the conditions for probationary hiring.

<sup>119</sup> Illness for example.

<sup>120</sup> If the contract is for an unspecified duration, the compensation that is equal either to the pre-dismissal allowance where the duration of the absence is equal or higher than that of the pre-dismissal duration, or to the remuneration to which the worker would have claimed during his absence where the duration of the latter is lower than the pre-dismissal duration provided for under Section 34 of the Labour Code.

proof lies with the employer. The Supreme Court applied this principle in the matter EST EBANGA vs. ZEH Raymond in judgment No. 78/S of 20 December 2001. ZEH Raymond was dismissed by his employer for desertion of post. The trial judge held that such dismissal was illegal on the ground that the employer did not give sufficient evidence to support his case. This judgment was confirmed by the Court of Appeal and the employer appealed before the Supreme Court.

- 654** – The Supreme Court dismissed the appeal on the ground that pursuant to Section 39(3) of the Labour Code, it is up to the employer to prove that the grounds for dismissal are well founded and the employer cannot discharge himself of the burden of proof.
- 655** – Where the employer terminates a contract of specified duration, except in case of gross misconduct, the worker who served uninterruptedly for at least two years, is entitled to a severance pay in addition to pay in lieu of notice, which takes longevity of service into consideration.
- 656** – The Supreme Court strictly controls the calculation of these rights, given that, the worker who is pushed to the wall after dismissal, often tends to accept whatever he is offered. This is illustrated in the case of MBWEKEU Jeremie vs. Renault-Cameroon in judgment No. 214/S/92/93 of 08 July 1991. Mr MBWEKEU Jeremie had accepted the clause *“in full settlement”* to be inserted in his letter of termination of duty, whereas he had not been paid the totality of his claims.
- 657** – The Supreme Court ruled that in application of Section 69(3) of the Labour Code *“the entry of the words in full settlement or any similar expression... whereby”* the worker *“purports to waive all or part of his rights under the contract of employment shall not be admitted as evidence of satisfaction”*. The appeal was quashed and annulled and the matter referred to another court for rehearing.
- 658** – On the expiry of the contract of employment, the worker is issued a labour certificate stating *“exclusively”* the dates of his arrival and departure, the positions occupied and the periods.
- 659** – The Supreme Court equally insists on the dismissal procedure for civil servants. Therefore, even where a dismissal is founded, the Supreme Court may annul it in case of procedural flaw. This position was reaffirmed in the following cases:

- *Wambe Hallam vs. the State of Cameroon (GDNS)*, judgment No. 59-96/97 of 27 March 1997. By Order No. 259/CAB/PR of 06 June 1987, Wambe Hallam was dismissed from the police corps for facilitating the entry of five lorries full of goods into a neighbouring country in return for a huge sum of money. The Supreme Court annulled the order on the ground that the plaintiff was not summoned before the Disciplinary Board to be heard as prescribed by the law;
  - *ADAMOU Paul vs. The State (MINDEF)*, judgment No.85/02-03 of 24 April 2003. Adamu Paul, a gendarme officer in Bafoussam was dismissed from the Public Service for gross misconduct without investigation. The Supreme Court annulled the dismissal order on grounds of procedural flaw and ordered the re-absorption of the appellant in his corps of origin and the granting of all his legal rights.
- 660** – The employer is equally protected against all baseless petitions by workers whose dismissal is founded. In the matter *Fonkam Mathias Fomat vs. GPO* (judgment No. 199/S of 13 June 2002), the Supreme Court quashed the appeal for want of evidence in support of the purported breach of the contract.
- 661**– Special legal provisions protect women, children and handicapped persons<sup>121</sup>.

## **SECTION – II: A NEW INSTITUTIONAL FRAMEWORK TO PROMOTE AND PROTECT THE RIGHT TO WORK**

- 662** – The protection of employment by several ministries is proof of Government's determination to fight relentlessly against unemployment. Government is resolved to curb unemployment, by encouraging self-employment, setting up enterprises and by providing the youth with training that corresponds to their professional background.

### **§ 1: Ministries involved with protecting the right to work**

- 663** – Decree No. 2004/320 of 08 December 2004 to organize the Government empowers three ministries to promote and protect the right to work.

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<sup>121</sup> See chapter 6 on the protection of special groups.

## THE MINISTRY OF EMPLOYMENT AND VOCATIONAL TRAINING

**664** – This Ministry is in charge of drawing up and implementing the national policy on employment, professional training and placement.

## THE MINISTRY OF SMALL AND MEDIUM SIZE ENTERPRISES

**665** – This Ministry is in charge of defining and implementing Government's policy on the development of small and medium sized enterprises, social economy and handicraft.

## THE MINISTRY OF LABOUR AND SOCIAL INSURANCE

**666** – This Ministry is charged with elaborating, implementing and assessing State policy and programmes on professional relations, status of workers and social insurance.

**667** – The above-mentioned ministries rely on the National Social Insurance Fund (NSIF) and other institutions such as:

- the National Employment Fund (NEF);
- the National Employment and Vocational Training Observatory (NEVTO);
- the National Labour Advisory Board.

**668** – A National Employment Policy (NEP), drawn up in 2002, is being reviewed in the Ministry of Labour and Vocational Training. On the basis of strategic guidelines contained therein and of the relevant instruments mentioned above, concrete promotion and protection measures are planned and implemented in Cameroon.

### **Section 3 : General promotion and protection measures**

**669** – Government is very concerned with the employment situation in Cameroon. A general review was carried out, difficulties identified and concrete proposals made to improve on the situation.



## § 1: General employment situation

**670** – Job seeking is a major concern for unskilled young persons and parents.

**671** – Unemployment affects nearly 17% of the active population 32% of whom live in urban areas and 9% in rural areas. The two biggest cities of the country have the highest unemployment rates; 25.6% and 21.5% for Douala and Yaounde respectively (Source ECAM II).

**672** – Employment issues and low incomes have other sociological consequences, which must be taken into consideration to appraise unemployment.

These include:

- the problem of non professional young graduates;
- the difficult situation of retrenched staff;
- the very low employment rate of women;
- population growth;
- the precarious nature of jobs in the informal sector.

**673** – Problems stemming from the scarcity of paid jobs and high unemployment rate have led Government to implement a series of sectoral projects.

**674** – Priority actions carried out between 2000 and 2005 focused on the setting up of the new structures mentioned above(see §655 supra).

**675** – Government proceeded with the:

- revision of the Labour Code;
- promulgation of the Investments Charter;
- setting up of industrial free zones;
- adoption of the law on orientation in school<sup>122</sup>;

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<sup>122</sup> Which provides large possibilities of consultation between the private sector and the vocational education system.

- liberalization of private recruitment and training firms<sup>123</sup>.

**676** – The National Employment Fund (NEF) maintains its support programmes and obtained the following results for the period 2004/2005:

- 214,848 persons were received, counselled and evaluated;
- 112,485 youths were integrated in the production cycle;
- 46,651 youths were trained in various trades;
- 25,009 youths were granted funds to set up micro-enterprises;
- 37,922 jobs were generated by various projects.

**677** – There are other major labour intensive projects, such as the Priority Programme for the Promotion of Small and Medium Size Enterprises (PPP), which have special programmes for youths, women and handicapped persons.

## **§ 2: The National Employment and Vocational Training Observatory (NEVTO)**

**678** – NEVTO was set up in 2004 to reinforce NEF's actions and subsequently, those of the supervisory Ministry.

**679** – Considering scientific progress in the world in general and in Cameroon in particular, it was necessary to set up a structure capable of providing current employment trends.

**680** – The National Employment and Vocational Training Observatory (NEVTO) is a structure which operates at a macro level and collects information from other structures such as the NSIF and the NEF which operate at the micro level and carry out field surveys. The findings of such surveys are used by NEVTO to make concrete proposals to Government.

**681** – NEVTO has proposed the elimination of some obsolete training programmes that contribute to unemployment. It will take corrective measures to cancel such fields, to match training with the job market. It studies mechanisms likely to intervene before, during and after employment.

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<sup>123</sup> Thus, henceforth, tens of authorized training centres, IQ testing and job placement firms have been approved in the employment field.

**682** – This important body took part in the general employment forum in October 2005 bringing together stakeholders of the job market. The three main objectives of this general forum were to:

- put employment at the centre of economic policies and progress;
- incorporate employment in the sectoral strategies as one of the key factors of economic growth;
- draw up the new national employment policy which is highly awaited by the national and international communities<sup>124</sup>.

### **§ 3: Employment prospects**

**683** – Government is contemplating to intensify the implementation by all the stakeholders of options taken by the NEP,

in particular:

- drawing-up an employment programme;
- drawing-up a strategy for professional training;
- improving the economy and the financial system to stimulate employment generating activities by the private sector;
- drawing-up and implementing a declaration on the strategy for the promotion of labour intensive jobs;
- supporting self-employment and the setting up of SME/SMI;
- protecting existing jobs.

### **Section 4 : Protection of employment from abuses**

**684** – The daily task of the Ministry of Labour and Social Security is to ensure equal opportunities to workers. It ensures the application of rules and regulations enshrined in Conventions, especially those that protect women, children, and the handicapped.

**685** – This Ministry, in partnership with the International Labour Bureau, within the framework of “WACAP and LUTRENA” projects which fight against

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<sup>124</sup> Source: Interview of 20 September 2005 with the Coordinator of the National Employment Observatory and Report of General Employment Forum.

the exploitation of children in the cultivation of cocoa and against child trafficking, took measures to rehabilitate exploited children.

**686**– During the period under review, the violation of certain rights that were reported to the Ministry of Labour and Social Security, directly or through the ILO control organs, were treated as analysed in the following table<sup>125</sup>.

CONVENTIONS	ALLEGED VIOLATIONS	REMEDIES
Convention Nos. 87 and 98 on freedom to set up Trade Unions and the protection of trade union rights and the right to enter into a collective organization and negotiation	1) Refusal by some employers to recognise trade union representatives in their enterprises	Actions to reinforce social dialogue were carried out in the said enterprises
	2) Arrest of the Trade unionist Mr ESSIGA of the CAMRAIL company. Case submitted to the ILO committee on freedom of setting up a Trade Union by the international confederation of free Trade Unions (CISL)	In its reply, Government indicated that the proceedings against Mr. ESSIGA were a criminal action instituted upon a complaint by his employer for embezzlement. Therefore it could not be referred to as State interference in matters concerning trade unions.
Conventions Nos. 138 and 182 on minimum age for acceding to employment and on the worst forms of children's employment	Cases of worst forms of children's employment identified in commercial agriculture and in domestic employment	Withdrawal and rehabilitation of the children concerned through their socio-economic reinstatement

## SUB CHAPTER II : OTHER LABOUR RELATED RIGHTS

**687** – Other labour related rights include the right to conducive working conditions, the right to leave, the right to set up professional trade unions, the right to strike and the right to social security.

### Section 1 : The right to conducive working conditions

**688** – This right is enshrined in the UDHR, the ICESCR and the ACHPR. Remuneration is determined by the Labour Code and the General Rules and Regulations of the Public Service and other special instruments.

<sup>125</sup> Source : Ministry of Labour and Social Security.

## § 1: Equitable salary and fair promotion

**689** – The principle of equitable salary provides, *“for the same type of work and level of proficiency, workers shall be entitled to the same remuneration, irrespective of their origin, sex, age, status and religion”*.

Remuneration is therefore equitably guaranteed without any discrimination depending on the means of the enterprises and the state of the national economy.

**690**– Decree No. 95/099/PM of 17 February 1995 fixes the guaranteed minimum wage (SMIG) at 23,514CFAF (article 1 of Decree). Circular letter No. 02/MTPS/DJ/SRP of 14 March 1995 of the Ministry of Labour defines this as a minimum basic salary to which may be added bonuses and allowances provided for in the employment contract of unskilled workers. This minimum wage will certainly be reviewed after the employment forum.

**691** – In accordance with the Labour Code and collective conventions, workers may be granted, assiduity, output, lodging, transportation bonuses and allowances as well as other grants, in addition to their salaries.

**692** – The Labour Code, the General Rules and Regulations of the Public Service and collective conventions lay down conditions for promotions, which are essentially based on qualification, professional competence and seniority in the enterprise. The Supreme Court annuls unjustified decisions to refuse promotion. In the matter TONGSI Boniface vs. The State (Ministry of Public Service), judgment No. 44/02/03 of 27 March 2003, where after undergoing a two-year training course as hospital administrator, Dr. TONGSI Boniface applied to the Ministry of Public Service for a bonus in incremental position, in accordance with Decree No. 76/362 of 21 August 1976 on the Special Rules and Regulations governing the corps of Public Health Administrators. This judgment is final.

**693** –In decision No. 550/27/MEP of 11 May 1985, the Minister of Public Service rejected the said application. The petitioner referred the matter to the Supreme Court which annulled the decision and ordered the granting of bonus and related claims to TONGSI Boniface.

**694** – The Labour Code fixes the maximum period of work at 40 hours a week, with a compulsory period of rest of at least 24 hours. Extra time must be authorised by the Labour Inspector and paid for.

## § 2: Hygiene and safety

- 695** – Hygiene and safety at the work place are a permanent concern of Government which has set up the National Commission on Industrial Hygiene and Safety to study and make suggestions in the field of labour medicine, hygiene and safety. Each enterprise must have a medical unit for its workers. Order No. 79/015 of 15 October 1979 of the Ministry in charge of Labour fixes the organisation and functioning of this unit.
- 696** – Promotion and overseeing the implementation of labour laws is ensured by labour inspectors under the authority of the Minister in charge of Labour. Safety and hygiene measures apply to all workers. There is a considerable shortage of personnel, hence the need to encourage training in this field.

## Section 2 : Right to leave

- 697** – Section 89 of the Labour Code provides, *“in the absence of more favourable provisions in collective agreement or individual employment contract, paid leave at the employer’s expense shall accrue to the worker at the rate of one and a half working days for each month of actual service”*. It is strictly prohibited to pay compensation in lieu of a leave. Section 90 of the same Code provides for more favourable leave conditions for young persons less than eighteen years of age and for mothers.
- 698** – Leave and leave of absence do not suspend or terminate the contract of employment (Section 32 of the Labour Code). A worker who benefits from any of the above measures is paid and covered against all risks as if he were in actual service.

The Supreme Court confirmed this position in judgment No. 148/S of 28 March 2002 in the matter, NSIF vs. Njila Moïse. The latter was the victim of a road accident during a leave of absence. The NSIF refused to award him any allowance on the ground that the contract of employment was suspended at ,granted his claim for compensation. The judgment was confirmed at the Court of Appeal. The NSIF appealed before the Supreme Court, which ruled that a short leave of absence does not fall under Section 32 of the Labour Code. Consequently, an accident that occurs while the worker is on a short leave of absence is tantamount to an industrial accident.

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<sup>121</sup> See chapter 6 on the protection of special groups

- 699** – Law No. 73/5 of 7 December 1973 to regulate public holidays provides additional compensation for work done on civil or religious holidays.
- 700** – The labour Inspector oversees the implementation of measures relating to the period of work and rest.
- 701** – Pregnant or nursing mothers shall benefit from measures relevant to their condition (articles 16 to 19 of the Order of 27 May 1969).

### **Section 3 : Right to trade unionism**

- 702** – The right to trade unionism is guaranteed by the Constitution, the Labour Code and Law No. 68/LF/19 of 18 November 1968. Workers and employers, without any restriction and prior authorisation, may freely set up trade unions and militate therein. The 1968 Law grants this same right on State employees governed by the General Rules and Regulations of the Public Service<sup>126</sup>.
- 703** – The State ensures that managers of enterprises do not flout trade union rights or interfere in trade union matters. In case of conflict of opinion in a trade union, the State remains neutral. Promotion measures are expressed through social dialogue by the labour minister and by advice given to social partners by labour inspectors in the field. During the period under review, measures to protect the right to collective organisation and negotiation were implemented by amending certain collective agreements under the supervision of the Ministry of Labour and Social Security.
- 704** – The condition for the formation of trade unions governed by the Labour Code is registration by the registrar of trade unions and approval by the Minister in charge of Territorial Administration for public servants trade unions, with the exception of the police, armed forces and judicial and legal officers.
- 705** – Trade unions may form federations or confederations and affiliate to international trade union organisations. They may draw up their rules, freely elect their representatives and conduct their business without interference from the State.
- 706** – Trade union rights are fully protected and the employer is strictly forbidden to dismiss a worker for his trade union activities. Any such dismissal

<sup>126</sup> Source: Cameroon's Social Development Report– United Nations General Assembly, 2005.

sal is considered illegal as illustrated in the case : Mboa Isaac vs. The State (Ministry of Labour and Social Insurance), judgment No.64/04/05 of 23 March 2005 of the Supreme Court. MBOA Isaac worked at the SOFITEL Mont Febe Hotel for twelve years before being elected staff representative. In this capacity, he requested the auditing of the workers' mutual fund. Vexed by this request, his employer petitioned the Labour Inspector for authorisation to dismiss him. This petition was dismissed. Curiously, the Minister of Labour, in Decision No. 6675/MTPS/SG/SIOP of 22 December 1989 granted the authorisation on grounds of insubordination. Mboa Isaac then petitioned the Supreme Court, which annulled the Minister's decision.

#### **Section 4 : The right to strike**

- 707** – The right to strike is guaranteed by the Constitution. Section 157(4) of the Labour Code defines a strike as *“a collective or concerted refusal by all or part of the workers of an establishment to comply with the normal labour rules, in order to bring the employer to meet their demands or claims”*. The settlement of any collective dispute provided for under Sections 157 to 165 of the Labour Code is subject to arbitration and conciliation procedures. Accordingly, a decision for a strike or a lock-out after exhausting these procedures or where arbitration and conciliation have failed is lawful.
- 708** – Staff representatives are charged with presenting all individual or collective claims to the employer and are usually his first victims whenever he wants to disrupt a strike. That is why the law in Cameroon gives special protection to staff representatives. They may only be transferred or dismissed with the authorization of the Labour Inspector. Where this procedure is violated, the dismissal is annulled and the staff representative reinstated. This is illustrated by the case : Haman Marcel vs. SONEL, judgment No. 68/S of 20 December 2001 of the Supreme Court. HAMAN Marcel, a staff representative, was dismissed by SONEL without the authorisation of the Labour Inspector. He challenged this decision before the court, which ruled that the dismissal was null and void, but rejected his application for reinstatement on the ground that the application did not respect the procedure for conciliation. The Court of Appeal upheld the judgment. The Supreme Court quashed the judgment of the Court of Appeal and ruled that where a dismissal is null, as in this case, it is considered inexistent and the worker is reinstated forthwith.



**709** – The right to strike is moderated by the institution of minimum service in some vital sectors as public health, public transport etc.

## **Section 5 : The right to social security**

**710** – The right to social security is granted all workers governed by the Labour Code. The system in force is that of payment from employers and workers contributions.

### **§ 1: Social security scheme**

**711** – The scheme is governed by laws and regulations. The following schemes have been instituted:

- Family allowances, as provided for under Law No. 67/LF/7 of 12 June 1967;
- Old age, invalidity and death benefits as provided for under Law No. 69/LF/18 of 10 November 1969;
- Compensation for industrial accidents and occupational diseases, as provided for under Law No. 77/11 of 13 July 1977.

**712** – A social security is under review to extend coverage to other groups of people and to ensure other risks such as illness and unemployment.

### **§ 2: Social security prospects**

**713** – The Government of Cameroon has fixed the following social security objectives:

- extending social security to the entire population and protecting at least 50% of the uncovered population;
- improving and consolidating the achievements of NSIF.

**714** – Government aim is to achieve five strategic goals covered by the nine branches of the minimum ILO 102 norm (1952).

1st goal – Family and maternity allowances (6th and 7th norms);

2nd goal – Industrial accidents and occupational diseases (5th norm);

3rd goal – Health Insurance: Medical care and health allowance (1st and 2nd norms);

4th goal – Old age, reversion and disablement allowance (4th, 8th and 9th norms);

5th goal – Unemployment benefits – (3rd norm) 127.

**715 -1** – Although the Labour Code was adopted during economic hardship, the right to work, and especially the right to employment, remain a major concern of the State and the Courts, which strive to protect and preserve the rights of workers.

**715 - 2** – Finally, it should be noted that the Labour Code does not take into consideration either the religious obligations of muslims or their freedom to worship on Fridays.



## CHAPTER 3 : THE RIGHT TO EDUCATION

**716** – Government is committed to promoting education, especially primary education for all. The Constitution stipulates, *“the State shall guarantee the child’s right to education. Primary education shall be compulsory...”* The State shall guarantee all citizens the enjoyment of the right to education. Hence, the current legal and institutional framework and the globally encouraging results recorded.

### Section 1: Legal and institutional framework

#### § 1: Legal framework

**717** – Law No. 98/004 of 14 April 1998 to lay down the guidelines for education in Cameroon provides : *“the State shall guarantee the right of every child to education”* (Section 6). Section 7 provides, *“the State shall guarantee equal opportunities for education to all without discrimination as to gender, political, philosophical, or religious opinion, social, cultural, linguistic or geographical origin”*. Section 9 provides that primary education shall be compulsory..

**718** – Free education in public primary schools took effect with the promulgation of Finance Law No. 2000/08 of 30 June 2000.

**719** – The 1998 Law provides for two sub-systems in the educational system of Cameroon: the French-speaking and the English-speaking sub-systems.

**720** – Other basic documents specify guidelines for the development of basic education, notably:

- the Education Sectoral Strategy (ESS) (2002);
- the national Action Plan of Education for All (PANE) (2002);
- the PRSD which embodies extended development.

The above three documents explain the major aspects of Government education policy in general and primary education in particular.

**721** – Statutory instruments concretise Government policy on primary education for all. These instruments are:

- Decree No. 2004/018 of 22 July 2004 to fix the rules and regulations applicable to local councils;
- Decree No.2004/019 of 22 July 2004 to fix the rules and regulations applicable to regions;
- Decree No. 2005/140 of 25 April 2005 to organize the Ministry of Basic Education;
- Order No. 62/C/13/MINEDUC/CAB of 16 February 2001 to reform the “*Certificat d’Etudes Primaires Elémentaires*” (CEPE) and the First School Leaving Certificate (FSLC);
- Order No. 806/B1/1595/MINEDUB of 20 September 2005 to organize Primary Education;
- Circular No. 22/A/220/MINEDUC/CAB of 20 September 2001 to lay down conditions for the functioning of school councils, the Permanent Commission and the Council of students’ representatives in Government Schools.

**722** - The setting up of the Observatory for Governance of Education Examinations and the Committee to Fight against Corruption in schools are welcome initiatives in the education sector.

## **§ 2: Institutional framework**

**723** – Decree No. 2004/320 to organize the Government is testimony of Government resolve to promote and develop education in Cameroon. The decree sets up three Ministries with defined education duties.

**724** – The Ministry of Basic Education, the Ministry of Secondary Education and the Ministry of Higher Education contribute in giving education a dynamic drive as the State addresses all problems facing public and private education.

725 – These Ministries are assisted by the Ministry of Youth Affairs, the Ministry of Sports and Physical Education, the Ministry of Women Empowerment and the Family and the Ministry of Social Affairs.

#### THE MINISTRY OF BASIC EDUCATION

726 – This Ministry is headed by a Minister charged with the implementation and evaluation of the State primary education policy.

#### THE MINISTRY OF SECONDARY EDUCATION

727 – This Ministry is charged with implementing and evaluating Government policy on general, technical, teacher training and secondary education policy.

#### THE MINISTRY OF HIGHER EDUCATION

728 – This Ministry is charged with implementing Government policy on higher education, and ensuring the organization, functioning and pedagogic control of higher education.

### § 3: Religious denominations

729 – The diversity of Cameroon education system makes religious denominations resourceful education structures. These denominations, Catholic, Protestant or Islamic, participate in training the youth (pupils and students).

730 – The catholic, through the National Secretariat for Catholic Education are implementing a special programme called *“Education for integrity”* which deals with combating corruption through schools.

731 - 1 – The *“Eglise Presbyterienne Camerounaise”* (EPC) and the Presbyterian Church in Cameroon (PCC) ensure quality education with respect for morals and the promotion of solidarity in their schools and through their secretariats for education.

731 - 2 – The Seventh Day Adventist Church equally has an education system comprising:

- primary education;
- general and technical education;
- a university with international repute.

**732** – Coranic schools provide Islamic education, which contributes to the development of children. Such education may offer them scholarship opportunities, which could enable them to become religious dignitaries.

**733** – Cameroon is striving to fulfil the Copenhagen commitments and MDG which in the field of education, focus on five points:

- Education infrastructure and accessories;
- Pedagogy;
- Good governance;
- Gender issues;
- Finances<sup>128</sup>.

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<sup>128</sup> Source: MINEDUB and MINESEC. See the following tables on educational policies relating to MDG achievements.

EDUCATION POLICIES IN TERMS OF MILLENNIUM DEVELOPMENT GOALS

Scope of intervention	Strategy developed and implemented	Follow-up indicator	Results				Scores for the 2000-2004 period	Comments
			2000	2002	2003	2004		
Educational offer in infrastructure and accessories	Broadening educational offer through 1) building and equipping classrooms; 2) recruiting teachers; 3) suppression of school fees; 4) distribution of essential school books	Access rate (primary school education)	90%	94,8%	95,9%	96,4%	6.4pt	Remarkable progress in as much as social policy effects are more often perceived on a long and medium terms basis
		Gross literacy rate					-Primary school 105.4% - General secondary school 25.5% -Technical secondary school 4.9%	
Pedagogy	1) review of syllabuses of primary education 2) continuous training of the teaching staff on the new pedagogic approach	Completion rate (Primary School level)	43%	55,6%	56%	57,4%	14.4pts	
Pedagogy	1) review of syllabuses of primary education 2) continuous training of the teaching staff on the new pedagogic approach	Completion rate (Primary School level)	43%	55,6%	56%	57,4%	14.4pts	Significant reduction of losses, but this performance could be improved with sustained competition among teachers



## Section 2 : Education and funding

- 734** – School enrolment significantly increased from the academic year 2000/2001 following the suppression of fees in Government primary schools. Several disparities were however noted in the Northern and Eastern parts of Cameroon. Specific programmes with bilateral partners witnessed very positive results.
- 735** – Population growth remains high in Cameroon with much pressure on primary education: 2.6 million children were sent to school in 2000 and 3.4 million in 2015 (34% increase). In 2005, secondary schools lacked 1.6 million seats. In higher education there are less than a third of the required seats for freshmen<sup>129</sup>.
- 736** – Educational problems include considerable lack of teachers, seats, funds and a high number of dropouts.
- 737** – Funds for education are wasted on repeaters and dropouts<sup>130</sup>.
- 738** – To meet the millennium goals, the following conditions must be fulfilled: teaching, internal efficiency (completion rate), external efficiency (matching training with employment), funding (contributions from the State and parents).

### § 1: The effect of funding on education

- 739** – State funding is relatively low at about CFA 182 billion (15.7% of public expenditure as against 20% within the framework of the accelerated initiative for universal primary education). That of parents is quite substantial (CFA 239 billion that is, 57.3% as against 182 billion, 43.3% for the State).
- 740** – Government revenue represents 20% of GDP. It should be noted that the greatest share is allotted to secondary education, whereas the target within the framework of the accelerated initiative for universal primary education is 50%. This trend is confirmed by the 2006 budget.
- 741** – The analysis of growth and inequality using the “*Growth Incidence Curve*” shows that at the national level, growth has been beneficial to the poor in primary education and to a small extent to the first cycle in secondary education.

<sup>129</sup> Source: Cameroon Report on social development, United Nations General Assembly, 2005.

<sup>130</sup> See table below § 756 and following.

- 742** – In the urban area, growth has been distinctly pro-poor contrary to rural areas where inequality is rife and in favour of the rich. Inequality between boys and girls is still overwhelming.
- 743** – To ensure financial coherence between sectorial strategies and the State budget, Government has drawn up a Mid-Term Expenditure Framework (MTEF). The objective of this framework is to assess the budgetary implications of sectorial strategies and to reconcile the financial needs of the various strategies and the funds generated by growth (personal funds) or funding from abroad.
- 744** – Determined to improve on the quality of education services, Government completed the State Report on the National Educative System, (RESEN) during the 2004 fiscal year. This document highlights relevant demand and supply issues which could guide education policies, with the support of international cooperation.

## **§ 2 – Strategic measures to meet demand**

**745** – The following strategic actions have been included in the report :

- the revision of school syllabuses;
- the use of catch-up classes as a strategy to reduce repeating in primary schools;
- the revision of marking schemes for the “CEP” (Certificat d’Etudes Primaires) and the FSLC (First School Leaving Certificate);
- the training of teachers on the New Pedagogic Approach (NPA) based on the Inferential Philosophy and on Competence Based Approach (CBA).

**746 - 1** – With regard to the demand for education, targeted groups have been sensitised with support from UNICEF through the programme “*Basic Education*”. These actions relate to requests for assistance, community participation, social mobilisation, which led to a strategy for the acceleration of the education of girls, launched at the national level following the Ouagadougou commitment undertaken by Cameroon, within the 25/25 for 2005 Initiative.

**746 - 2** – Many actions have been taken and public aid for development provided to improve on the quality of teaching. Many more schools are being opened and community participation in their management is greatly felt, especially in the opening of private schools.

### § 3 – Informal education

**747 - 1** - Informal education targets young dropouts and workers who wish to further their education.

**747 - 2** - Evening schools, encouraged and authorized by MINESEC, meet the needs of dropouts and workers in quest of continuing education.

**748** – The Ministry of Youth has structures for moral, civic, intellectual and professional training of youths who did not receive formal basic education. These are youth and sports centres, henceforth called “*Multifunctional Centres for the Promotion of Youths*”<sup>131</sup>. Three hundred and seventeen centres have been set up nation wide, 100 of which are operational. Each year, they train rural and urban youths for insertion into the economy.

**749** – Adult literacy is equally an important aspect of informal education with pride of place in social development. It enables individuals to acquire basic education to better integrate in society. The National Literacy Programme (NLP), which aims at eliminating illiteracy through the redynamisation of functional literacy, targets people of all ages, especially illiterates. The major difficulties encountered are building and equipping of adequate structures to meet training needs<sup>132</sup>.

### Section 3 : Results, objectives and prospects

**750** – Government intends to increase schooling rate at the primary level to 95% by 2010, and to improve on the quality of the teaching, as well as the pupil-teacher ratio from 70 to 60, and to 45 in the next decade. Results obtained are encouraging despite the difficulties.

### § 1- Results

**751** – Between 2000 and 2005<sup>133</sup> major indicators improved considerably following various interventions.

<sup>131</sup> Decree No. 2005/151 of 4 May 2005 relating to the organisation of the Ministry of Youth.

<sup>132</sup> See table below

<sup>133</sup> See table below

**752** – Major inputs include:

- the setting up and opening of 1,447 primary schools;
- the suppression of school fees in Government primary schools;
- the distribution of school books worth CFA 2 billion per year, that is, 8 billion in 4 years (2000-2004) to pupils and teachers in priority education zones;
- the recruitment of 10,857 temporary teachers up to 2004;
- the absorption of 1,700 temporary teachers in 2005;
- the distribution of the minimum package to Government primary schools amounting to CFA 3.5 billion per year, that is CFA 14 billion in 4 years (2000-2004);
- the allocation of a running budget to all Government primary schools in the country totalling CFA 3.5 billion per year, that is CFA 14 billion in 4 years (2000-2004);
- the construction and equipping of 3,918 classrooms (PIB + HIPC) Funds), 779 classrooms (Japanese project), 425 classrooms (education project II), funded by ADB with CFA 8 billion, 294 classrooms (project by the Islamic Development Bank at the cost of CFA 7.5 billion).

## **§ 2 – Prospects**

**753** – To solve the problem of education, the budget allocated to basic education must be increased, very urgent problems (investment and management) addressed and the status of the teacher improved upon<sup>134</sup>.

**754** – Subventions granted by the State each year, notwithstanding, promoters of private education are obliged to seek for other sources of funding. Their meagre means do not permit them to put up new structures. The State should thus review its subvention policy.

Human Rights should be taught in schools.

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<sup>134</sup> 2006 Budget

755 – Finally, as a major national challenge, the schooling rate should increase by about 25 points before the end of 2015. The literacy rate must also increase.

756 - 1 - Priority should be given to schools in rural areas. This requires, in particular, providing more attractive working conditions such as transport and housing allowances and granting of scholarships in priority education areas (PEA).

756 - 2 – The pre-school phase (nursery) should also be improved upon, particularly through the systematic training and regular assessment of female teachers in nursery schools.

757 – Adequate strategies adopted by Government will lead to good results depending on the various school levels by the year 2015 (primary, secondary and higher education)<sup>135</sup>.

### § 3 – Charts on the progress of education

**Table 1: Proportion of enrolment in private schools, classified according to levels of education, 1990-2003(%)**

	1990/ 1991	1994/ 1995	1995/ 1996	1996/ 1997	1997/ 1998	1998/ 1999	1999/ 2000	2000/ 2001	2001/ 2002	2002/ 2003
pre-school	37	38	44	48	52	54	57	58	62	62
primary	25	24	23	25	27	27	28	27	24	24
General Secondary Education 1st cycle	39	34	29	31	26	26	28	29	30	30
General Secondary Education 2nd cycle									29	29
Technical Secondary Education 1st cycle	59	39	38	38	38	37	37	42	36	36
Technical Secondary Education 2nd cycle								40	48	48
Higher education)	nd	nd	nd	nd	nd	nd	9,8	7,6	8,5	8,5

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<sup>135</sup> Source: MINEDUC/DPOS/SDP and MINESUP

**Table 2: Gross progress schooling rate (%) by level and type of education**

	1990/ 1991	1995/ 1996	1996/ 1997	1997/ 1998	1998/ 1999	1999/ 2000	2000/ 2001	2001/ 2002	2002/ 2003
pre-school	13.3	9.9	10.3	10.5	11.6	12.4	13.3	13.9	13.9
primary	96.3	81.2	81.6	83.4	85.7	87.7	102.8	104.7	105.8
General Secondary Education 1st cycle	25.3	25.3	24.8	24.8	24.2	25.8	28.8	28.8	32.1
General Secondary Education 2nd cycle	18.8	18.6	18.2	18.1	17.7	18.8	16.3	16.3	16.4
Total general secondary	22.6	22.6	22.0	22.0	21.5	22.9	23.6	23.6	25.5
Technical Secondary Education 1st cycle	6.1	6.3	6.1	6.1	6.5	7.5	7.3	7.1	6.7
Technical Secondary Education 2nd cycle	3.3	3.3	3.2	3.2	3.4	3.7	3.8	3.7	3.4
Total technicals	5.0	5.1	4.9	4.9	5.2	5.9	5.9	5.0	4.9
Higher education (stu- dents/100,000 inhabitants)	254.2	287.3	283.2	353.9	423.2	439.2	453.7	503.7	409.6

**Table 3: School attendance profiles in the two sub-systems for the 2002/2003 academic year**

Francophone sub-system					Anglophone sub-system				
Classes	Pupils	%/pop	% *survival	Profile ZZ*	Classes	Pupils	%/pop	% *survival	Profile ZZ*
SIL	365 186	94,6	100	94,6	CL 1	88 392	92,9	100	92,9
CP	293 130	79,6	80,5	76,2	CL 2	77 452	85,2	87,8	81,6
CE1	284 999	79,8	80,5	76,1	CL 3	77 452	84,4	86,9	80,7
CE2	236 643	68,7	70,2	66,4	CL 4	72 838	85,3	86,8	80,7
CM1	212 801	64,0	66,0	62,4	CL 5	70 460	85,5	85,7	79,6
CM2	182 968	57,3	59,3	56,1	CL 6	64 029	80,8	79,8	74,1
6ème	104 037	33,6	34,2	32,4	CL 7	52 666	69,0	69,2	64,3
5ème	82 791	27,7	30,6	28,9	Form 1	24 312	32,9	32,8	30,5
4ème	79 679	27,6	30,6	28,9	Form 2	19 916	27,7	29,0	27,0
3ème	75 312	27,1	31,0	29,3	Form 3	17 749	25,6	27,2	25,3
2nde	42 127	15,7	18,5	17,5	Form 4	14 829	22,1	25,0	23,2
1ère	42 866	16,5	20,3	19,2	Form 5	12 858	19,8	23,2	21,5
Terminale	23 965	9,5	12,7	12,0	Lower 6 <sup>th</sup>	7 176	11,4	11,9	11,1
* Méthode Pseudo-longitudinale					Upper 6 <sup>th</sup>	7 432	12,3	14,5	13,5

**Table 4: The number of pupils per class for the 1999-2000 and 2000-2001 school years.**

	Number of pupil in 1999-00			Number of pupil in 2000-01			Increase in the number of non-repeaters (%)
	Total	Repeaters	Non repeaters	Total	Repeaters	Non repeaters	
SIL/CL1	499 226	148 326	350 900	710 608	153 714	556 894	59
CP/CL2	374 852	97 086	277 766	465 334	118 660	346 674	25
CE1/CL3	395 516	104 416	291 100	458 186	114 186	344 000	18
CE2/CL4	329 833	81 975	247 858	379 376	92 510	286 866	16
CMI/CL5	273 071	79 479	193 592	291 958	87 821	204 137	5

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\*

**Table 5: Expected impact of many policies depending on their costs (given that pupils benefit from a high standard of living)**

Policy	Impact	Cost
Reduction of Pupils per classroom	*	***
Reduction of repeaters	***	+++
Generalisation of use of the teacher's guide	***	*
Generalisation of the honour roll	**	0
Recruitment of teachers for higher education	**	**
Construction and maintenance of permanent classes	0	***
Reducing number of part-time teachers	*	***
Providing enough manuals	*	*
Providing desks	**	*
Generalisation of continuous training	**	*
Intensification of visits from Inspectors	***	*

Impact 0: no impact, \*: notable impact, \*\*considerable impact, \*\*\*great impact; Cost: +++: considerable savings, 0: no cost, \*: quite high cost, \*\*high cost, \*\*\*extremely high cost.

\* \*  
\*

**Table 6: Simulation of the proportion (%) of adults (22-44 years) capable of reading well depending on the level of education, sex and geographical zone.**

Highest level of education	0	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>th</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
Total population	8,5	14,5	23,7	36,2	50,9	65,5	77,7	86,4	92,1	95,5	97,5
urban Men	20,2	31,7	45,9	60,9	74,0	83,9	90,5	94,6	97,0	98,3	99,1
urban women	10,0	16,8	27,0	40,4	55,4	69,4	80,6	88,4	93,3	96,2	97,9
Rural Men	9,4	16,0	25,8	38,9	53,9	68,1	79,6	87,7	92,9	96,0	97,8
Rural Women	4,3	7,7	13,2	21,8	33,7	48,2	63,0	75,7	85,1	91,3	95,0

Cycle	Primary							Secondary 1st cycle							
Level	SIL CL1	CP CL2	CE1 CL3	CE2 CL4	CM1 CL5	CM2 CL6	CL7	6 <sup>e</sup> JS1	5 <sup>e</sup> JS2	4 <sup>e</sup> JS3	3 <sup>e</sup> JS4	JS5	2nde SS1	1 <sup>ère</sup> SS2	Tle
Francophone system	36,0	23,9	32,5	23,7	26,9	22,7	-	11,8	11,2	16,5	27,3	-	14,1	33,6	39,9
Anglophone system	21,2	16,8	17,3	16,5	20,4	20,1	8,2	7,1	6,3	10,2	11,3	16,7	15,6	7,1	-
Total	33,6	22,5	29,8	22,1	25,3	22,0	(8,2)	10,9	10,3	15,4	25,0	(16,7)	14,3	30,3	(39,9)





## CHAPTER 4 : THE RIGHT TO HEALTH

**758** – The health sector is at the centre of Government social policy. This social policy translates the strong conviction that no society can develop economically and socially without an efficient health system.

**759** – The national health policy is based on important reforms officially adopted in 1992, through the Health Sectoral Declaration Policy and in 1993, the Declaration of the implementation of the Reorientation of Primary Health Care. These preparatory stages culminated in the enactment of Law No.96/03 of 4 January 1996 to lay down the general framework of the State's action in the domain of health.

**760** – Cameroon has adopted the provisions of Articles 25 of the UDHR, 12 of ICESCR, and 16 of ACHPR which define the right to health as the right of a person to enjoy the best physical and mental health.

**761** – Given the importance of health, Cameroon has participated in many national and international meetings, which have enabled it to better define strategies in this domain.

**762** – To attain its set objectives, Government is focusing on capacity building in the Ministry of Health and professional associations. Relevant texts are as follows:

- Law No. 90/36 of 10 August 1990 relating to the practice and the organisation of the medical profession and Decree No.83/166 of 12 April 1983 on the code of medical ethics;
- Law No. 90/35 of 10 August 1990 to regulate the practice and to organise the profession of pharmacists and Decree No. 83/168 of 12 April 1983 on the code of ethics for pharmacists;
- Law No. 90/34 of 10 August 1990 on the practice of the profession of dental surgeon and Decree No.83/167 of 12 April 1983 on the code of ethics for dental surgeons;
- Law No. 84/9 of 5 December 1984 to regulate the practice of the professions of nurse, midwife and health technician and Decree No. 89/354 of 3 March 1989 on their code of ethics.

## Section 1 : Promotion of the right to health

**763** – Efforts to promote the right to health are assessed in the setting up of Health Sectoral Strategies (HSS). Specific objectives and measures have been defined for adequate health protection against pandemics or endemic diseases,.

### § 1 –Health sectoral strategies

**764** – The HSS (2001-2010) was elaborated through a participative approach, in keeping with the orientations of the Poverty Reduction Strategy Paper (PRSD).

**765** – To render Cameroon health system more efficient and more effective, the HSS made a thorough diagnosis of the weaknesses of the sector, including those related to traditional medicine, which were presented in the form of the following plans of action to be implemented by 2010:

- reduce by at least 1/3 the morbidity and mortality rate of the most vulnerable groups of the population;
- put in place at a walking distance of one hour, a health institution capable of providing minimum health services for 90% of the population;
- efficiently and effectively manage resources in 90% of public and private hospitals at different levels of the pyramid.

**766** – The strategy is divided into eight programmes, subdivided into 29 sub-programmes, focused on the population, to significantly and rapidly improve the main public health indicators and ensure the health progress of the country.

**767** – However, in spite of great achievements, full accessibility to quality health services still remains a major challenge to the population.

**768** – There are many parasitic and infectious diseases in Cameroon as in many countries south of the Sahara. The tendency for high prevalence of certain pathologies such as arterial hypertension, sugary diabetes and cancers, should not be overlooked.

**769** – Certain diseases which had considerably regressed are now resurfacing, especially tuberculosis. Malaria remains the first cause of morbidity in all layers of the population. 45% of patients are diagnosed with malaria. The epidemiological situation is aggravated by the HIV/AIDS pandemic whose national prevalence is estimated at 5.5%.

**770** – 1- The mother and child health situation is still alarming as shown in the table below:

INDICATOR	1991	1998	2004
<b>Maternal mortality</b> <i>Probability of death for 100,000 live deliveries</i>	-	430* (1989-1998)	669* (1995 -2004)
<b>Pre-natal visits</b>	78,8%	78,8%	83,3%
<b>Delivery in a health centre</b>	62,4%	54,3%	59%
<b>Use of modern contraceptive</b>	4,2%	7,1%	12,5%
<b>Infant mortality</b> <i>Probability of death before 1 year for 1000 live deliveries</i>	65%	77%	74%
<b>Mortality rate for children below 5</b> <i>Probability of death before 5 years for 1000 live deliveries</i>	126,3%	150,7%	142%
<b>Chronic malnutrition</b>	24,4%	29,3%	31,7%
<b>Acute malnutrition</b>	3%	6%	5%

## EVOLUTION OF MOTHER/CHILD HEALTH INDICATORS

**770 - 2** - The method used facilitates the assessment of the situation that prevailed for children aged 0 to 9 years before the survey<sup>136</sup>.

### § 2 – Special objectives and measures to promote the right to health

**771** – The institution of the HSS facilitates the reinforcement of accessibility to health care and services, through programmes chosen in the said strategies. The new approach, which put the patient at the centre of the health system, enables the Minister of Public Health to assume his responsibility as facilitator so as to boost up the promotion of health. The private subsector is also involved in health issues.

<sup>136</sup> Source: Population and Health Surveys of 1995, 1998, and 2004.

**772** – This decisive action taken by Government in collaboration with partners and communities is producing convincing results in the following domains:

- health provision;
- child health care;
- mother health care;
- the fight against diseases in general;
- access to medication.

#### HEALTH CARE

**773** – The health sector can boast of 2,521 health institutions, 267 of which are hospitals, and 2,254, health centres. It is envisaged that 1,000 more health centres will be constructed in less than 5 years, 150 of which have already been programmed for 2005. Despite the acute shortage of staff in this sector, caused by the freezing of recruitment in the public service, there is one doctor for 1,000 people and one nurse for 2,000 people. A special recruitment of 1,800 staff, 148 of which are doctors and other persons of the same rank, and 1,652 medico-sanitary personnel took place between 2002 and 2004<sup>137</sup>.

#### CHILD HEALTH CARE

**774** – The vaccination and health of infants have improved through the implementation of an Integrated Health Care Strategy for Infant Illnesses (PCIME) and the reinforcement of the Extended Vaccination Campaign Programme (EVP). In fact there has been:

- an increase in the general vaccination coverage from 43% in 2001 to 72% in December 2004;
- a 90% reduction of morbidity and 98% reduction of mortality due to measles.

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<sup>137</sup> Source: Ministry of Public Health; September 2005.

- 775** – Furthermore, a national nutrition programme has just been adopted which will enhance the nutrition needs of children.
- 776** – There has been a slight decline in the mortality of children less than 5 years from 150.7% in 1998 to 142 % in 2004. The mortality rate of children of less than 1 year old decreased from 77 % to 74 % during the same period<sup>138</sup>.

#### MOTHER HEALTH CARE

- 777** – Mother health care is one of the priority areas in the health sector. The setting afoot of the national reproduction health programme and the implementation of urgent neonatal and obstetrics care in some hospitals are concrete examples on improvement on the health of this target group.
- 778** – Incidentally, the proportion of delivery carried out by a qualified medical staff has increased from 54.3% in 1998 to 59.0% in 2004. Likewise, the percentage of women who benefited from prenatal check ups rose from 78.8% in 1998 to 83.3% in 2004. Although maternal mortality rate is still appalling, it should be noted that great efforts have been made to follow up pregnant women as well as those facing delivery<sup>139</sup>.

#### FIGHT AGAINST ILLNESSES

- 779** – The fight against illnesses has been reorganised and intensified through communication strategies to change behaviour, prevent and cure diseases. This has been from the Highly Indebted Poor Countries Initiative (HIPC) and development partners. It is in this light that programmes for the fight against HIV/AIDS, malaria; tuberculosis, onchocerciasis as well as EVC have been restructured and made more effective. New programmes targeting blindness, schistosomiasis and intestinal worms, cancer, arterial hypertension and diabetes have been launched.

#### ACCESS TO DRUGS

- 780** – Given that access to medication constitutes a major preoccupation within the framework of the fight against poverty, the National Centre for the Supply of Drugs and Essential Medical Consumables (CENAME) was opened in 1998 and Provincial Centres for the Provisions of Pharmaceuticals were established. Since then, access to essential drugs

<sup>138</sup> Idem.

<sup>139</sup> Source : Ministry of Public Health, September 2005

as well as their availability even in rural areas has become a dream come true.

**781** – As a result, and following the adoption of pricing policy, a significant decrease in the prices of essential drugs was recorded, from an average of 42% in 2001 to 23% in 2005. It is thanks to Government subventions that these prices were reduced.

**782** – The quality of drugs is henceforth guaranteed as a result of the creation of the National Drug Quality Control and Evaluation Laboratory (LANACOME) set up in March 1996.

## **Section 2 : Difficulties and prospects**

**783** – There are still many difficulties in the domain of right to health. However, there are prospects for solutions to increase the level of promotion and ensure better legal protection.

### **§ 1 – Difficulties**

**784** – The following major weaknesses constitute challenges to be taken up with the putting in place of the HSS:

- insufficient man power and qualified staff;
- insufficient funds to ensure that various measures are taken which enable a great portion of the population to have access to first aid;
- insufficient appropriation of the health enhancement strategy and the control of most major public health problems by the community.

### **§ 2 – Prospects**

**785** – Government is aware of the fact that the improvement of the health condition of the population is a prerequisite for socio-economic development and poverty reduction.

**786** – HSS is a vision and above all Cameroon's global response to the challenges caused by epidemics, new types of illnesses and the urgent need to effectively protect the population's health.

**787** – Cameroon intends to lay emphasis on:

- the control of major health challenges such as HIV/AIDS, tuberculosis and malaria;
- the improvement of the population's access to quality health care through hospital reform;
- the improvement of mother – child health care;
- the increase in the access to medicine and essential medical objects, the intensification of the fight against the illegal sale of drugs and the completion of a study on the development of a national drug industry;
- the promotion of popularization activities on risk factors, early screening, reduction of treatment cost and capacity building to cater for non transmissible diseases;
- the putting in place of solidarity mechanisms and a mutual health fund;
- the intensification of the participation of non State actors and communities in providing health care through partnerships and contracts.

**788** – 1- In the letter of intent signed on 13 October 2005 by the Prime Minister, addressed to the IMF General Manager, the Government of Cameroon outlined major priorities to improve on efficient spending with the view to obtaining best results and increasing the level of public spending. Its objective is to accelerate progress in the health domain and to achieve the millennium goals. These priorities will include:

- direct priority investments towards the poorest and the most enclaved zones in order to better improve on the quality of medical care and to ameliorate accessibility to maternal, infant and nutritional health services;
- reinforcing the recruitment of contract officers in remote areas and conceiving a policy for the transparent management of contract officers;
- increasing the number of contracts signed with NGOs to provide services to vulnerable groups and/or remote areas;



- reducing the financial burden of poor families by introducing risk sharing mechanisms.

**788 - 2** – The use of traditional medicine by Cameroonians remains a topical issue. Although traditional medicine is known to be used in Cameroon, it has no legal basis. However, there is a draft bill to recognize and authorize the practice of traditional medicine.

**789** - In June 2005, the Ministry of Public Health drew up a Strategic National Plan for the Development and Integration of Traditional Medicine in Cameroon. The importance of this medical subsector within the framework of public health in Cameroon is manifested by the institution of a service in charge of socio-health traditional services in the Ministry of Health. This service is responsible for the follow-up of activities related to traditional socio-health services and for the development collaboration ties between traditional socio-cultural services and health services. The absence of a legal framework to regulate the practice of traditional medicine poses the problem of the protection of traditional know-how by researchers and other stakeholders in this sector, as well as the poor enhancement of this medicine, which could generate income for communities from where the raw materials used are obtained.

### **§ 3 – Reinforcing the justiciability of the right to health**

**790** – Professional associations and the supervisory Ministry regularly sanction medical staff and private institutions, who jeopardize individual's rights to health, with suspension and closure.

**791 – 1** - Although very few cases are brought before the courts, different general and special provisions of the Penal Code punish medical offences. These include physical harm, such as voluntary or involuntary homicide, injuries causing incapacity, negligence, refusal of service (Section 148 of the Penal Code), illegal practice (Section 17 of Law No. 90/036 of 10 August 1990 on the practice and the organisation of the medical profession) and dangerous activities (Section 228 of the Penal Code). The State is liable for offences committed by its employees. On the liability of doctors, Judgment No.14/cor of 6 November 2000 by the CFI Mbouda is illustrative. A medical doctor was sentenced to a suspended sentence of 5 years imprisonment with a fine of CFA 500,000 and damages of CFA 25,242,760.

- 791 - 2-** The doctor was accused of administering an overdose of chloroquine to an 8 months old baby. This overdose shocked the baby who eventually died. This has been considered an outstanding judgment as it provides important specifications on the compensation of a prejudice arising from a medical act. The child's parents were sufficiently alert to notice the medical practitioner's error.<sup>140</sup>
- 792** – The Court of Appeal Littoral province had passed a similar judgment in a case where a woman died after delivery and it was established that the public hospital had not exploited all available means to save her life<sup>141</sup>.
- 793** – These decisions prove that the right to health could be increasingly justiciable if patients mastered their rights.

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<sup>140</sup> *Jurisdis périodique* n° 56, octobre-novembre 2003

<sup>141</sup> Re: The People and NKOUMOU TSALA vs. DOCTOR EBEN and others.



## CHAPTER 5 : PROPERTY RIGHTS

**794** – Ownership of movables and immovables is a human right. Ownership can be defined as the right to use, own and dispose of property in the most absolute manner based on norms guaranteed by the law.

**795** - Movables are acquired as gifts or through purchase with a receipt. Given that, they are constantly displaced, the law does not insist that their owner move around with their receipts. Ownership is associated with good faith (Section 2279 (1) of the Civil Code<sup>142</sup>) and the burden of proof lies on the person who contests such ownership. However, obtaining goods in bad faith is severely punished by the Penal Code<sup>143</sup>.

**796** – The acquisition of landed property is subject to a rigorous formality and only the land certificate serves as “*real estate certificate*”. However, the law protects de facto possession.

**797**– It is easier to acquire movable than immovable property. Thus, the emphasis on immovables, given the complexity of the procedure and the law governing it.

**798** - It should thus be noted that by protecting the right to immovables, other rights are indirectly guaranteed such as the freedom to choose one’s place of abode or the right to inviolability of the home.

**799** – In Cameroon, the right to property is enshrined in many laws, which equally spell out restrictions. Offences on property rights are severely punished.

### Section 1 : Legal protection of property rights

**800** – Many international conventions signed by Cameroon as well as internal laws protect the right to landed property.

#### § 1 - International Instruments

**801** – Article 17 of UDHR states,

1: “*Everyone has the right to own property alone as well as in association with others*”.

<sup>142</sup> Section 2279(1) of the Civil Code provides that possession of movables shall be considered as ownership thereof.

<sup>143</sup> Sections 316 to 336 of the Penal Code. .

2: *"No one shall be arbitrarily deprived of his property"*.

**802-** Article 1(2) of the ICESCR states,

*"All peoples may, for their own ends, freely dispose of their natural wealth and resources...In no case may a people be deprived of its own means of subsistence"*.

**803 -** Article 14 of the ACHPR provides that property right may not be breached save for public purposes or in the general interest of the community.

## **§ 2 - National Instruments**

**804 –** The preamble of the Constitution states, *"ownership shall mean the right guaranteed to every person by law to use, enjoy and dispose of property. No person shall be deprived thereof, save for public purposes and subject to the payment of compensation under conditions determined by law"*.

**805 –** To enforce this provision of the Constitution, other instruments have been enacted, notably:

- Ordinance No. 74/1 of 6/July/1974 to establish rules governing land tenure as amended by Ordinance No.77/1 of 10 January 1977 and Laws No. 80/21 of 14/July/1980 and 83/19 of 26/November/1983;
- Ordinance No.74/2 of 6/July/1974 to establish rules governing State lands as amended by Ordinance No. 77/2 of 10 January 1977;
- Decrees No. 76/165, 76/166 and 76/167 of 27April 1976 to establish the conditions for obtaining land certificates, to establish the terms and conditions of management of national lands and to establish the terms and conditions of management of the private property of the State respectively;
- Decree No. 2005/481 of 16 December 2005 to amend and supplement some provisions of Decree No. 76/165 of 27 April 1976 to lay down the conditions for obtaining a land certificate.

## **§ 3 - Expropriation**

**806–** The following instruments can be mentioned:

- Ordinance No. 74/3 of 6/July/1974 concerning expropriation for public purposes and to the terms and conditions for compensation;
- Law No. 80/22 of 14/July/1980 to repress infringements on landed property and State lands as amended by Law No. 85/05 of 4/7/1985 Section 2 of which provides for fines and imprisonment sentences in case of exploitation or occupation of a piece of land without the prior authorization of the owner;
- Law No. 85/09 of 4/July/1985 relating to expropriation for public purposes and to the terms and conditions for compensation;
- the Penal Code (PC) punishes the following offences:
  - arson and destruction, Section 227;
  - depredation by band, Section 236;
  - destruction, Section 316;
  - destruction of boundary marks and fences, Section 317.

## **Section 2 : Practical and judicial protection of property rights**

- 807** – Cameroon law considers individual or collective land certificate as the only certificate that grants ownership to immovable property<sup>144</sup>. Offences on immovable property are severely punished by the law.
- 808** - It should be noted that the law and the institutions of Cameroon take into consideration customs and local tradition to protect de facto landowners.

### **§ 1: Protection of the Ownership of Real estate**

- 809** – Persons who continuously, peacefully, publicly and unequivocally exploit unregistered lands are protected against disturbance. They may object to any attempt to register a piece of land they occupy in the name of a third party. The following judgments by the Supreme Court are illustrative:
- ENOBO Benedicte vs. The State (MINUH), final judgment No. 96/02-03 of 31/July/2003. For several years, the plaintiff had been cultivating a piece of

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<sup>144</sup> It gives its owner the most absolute right over his /her property. Ownership right has three essential elements which are uses (the use one makes of his/her property) frutus (the right to enjoy the fruits of one's property) and abusus (the right to dispose of one's property).

unregistered land in Nkolfoulou II (SOA). Mr. Ebede and 11 others who occupied neighbouring pieces of land decided to register their land, including that of Mrs. Enobo. The latter petitioned the Vice-Prime Minister, Minister of Town Planning and Housing who rejected the petition for failure to develop the land. Consequently, on 19 June 1997, land certificate No. 1590/Mfou was issued to Mr. Ebede Obama and others. Mrs Enobo petitioned the Supreme Court for her rights as a bona fide owner and a victim of disturbance of quiet enjoyment. The court granted her petition and ordered the inclusion of her name on land certificate No.1590/Mfou;

- Mbida Barthelemy vs. The State (MINUH), judgment No. 95/2003-04 of 3 June 2004. In 1992, Eyenga Denis applied to the Divisional Officer for Ngoumou to register in his name, a piece of land cultivated by Mbida Barthelemy. During the visit to locus by the Land Consultative Board, the latter raised an objection to the procedure. In its report, the Board stated that no objection was raised and on 26 June 1997, land certificate No 1594/Mfou was issued to Eyenga Denis. Mbida Barthelemy petitioned the SC for violation of his rights as a bona fide occupant. The SC granted his petition and annulled the disputed land certificate.

**810** – The protection of ownership is thus irrefutable and the law gives occupants of State land the possibility to become owners by registering the said pieces of land in their names on condition that such ownership is peaceful and free of any claim.

**811** – The Land Consultative Board is charged of investigating ownership before any registration is made. It must mention in its report all objections raised during the visit to the locus in quo. It then gives its opinion for the Minister of Town Planning and Housing to take a decision. This decision may be challenged before the Administrative Bench (see case ENOBO Benedicte vs. The State (MINUH) (see § 809 supra).

## **§ 2 - Protection of Bare Ownership**

**812** – Anyone who illegally or fraudulently obtains a land certificate for a piece of land belonging to another person shall be sanctioned. Besides eviction, the land certificate in dispute shall be withdrawn. Such withdrawal confers the title to the rightful owner free of charge. The Administrative Bench of the Supreme Court has adopted this position on several occasions:

- Djinou Tchale André and others vs. The State (MINUH), final judgment No. 78/96/97 of 31/July/1997. The petitioner and his family occupied a piece of land in Nkongsamba. On 16 September 1980, the administration illegally issued land certificate No.6490/Nkongsamba to a third party for the same piece of land whereas the Land Consultative Board had not visited the site. The petitioner seised the Administrative Bench of the Supreme Court, which ordered the withdrawal of the land certificate for procedural flaw on the part of the Administration;
- Kuenda Jean vs. The State (MINUH), judgment No. 25/03/04 of 28/January/2004. On 27 July 1976, Kuenda Jean was issued land certificate No. 500/Menoua for a piece of land he was exploiting at Penka Michel. On his return from Gabon, he not only realized that Wamba Diffo was occupying the land, but had equally obtained land certificate No. 3042/Menoua for this piece of land. KUENDA Jean seised the Administrative Bench of the Supreme Court for the annulment of the second land certificate. The Court annulled the land certificate in question on the ground that it was issued after that of the petitioner.

**813** - In case of double sale, the law protects the bona fide buyer. Final judgment No.58/02/03 of 27 March 2003 in the case of Inack Njoki Martin vs. The State (MINUH), Inack Njoki purchased two pieces of land before a Notary Public. His applications for land certificates were published in the Official Gazette and no objections were raised within the time limit. The Administration then issued land certificates Nos.1514 and 1684/Nyong and Sanaga on 26/February/1965. Following a petition lodged in 1997, the Minister of Town Planning and Housing by Order No.732/Y6/MINUH/D000 of 4 December 1997 withdrew the certificates, whereas the legal time limit to challenge such decisions is 10 years for persons residing in Cameroon and 20 years for persons residing abroad, (Section 2265 of the Civil Code). Inack Njoki seised the Administrative Bench of the Supreme Court, which annulled the Ministerial Order for violation of the law.

### § 3: Joint Ownership

**814** – Joint ownership occurs when concurrent rights are exercised on the same property and the law requires the prior consent of all the parties before any transfer. The Administrative Bench of the Supreme Court reaffirms this provision in various cases including:



- Eyebe Moïse and Kinsmen vs. The State (MINUH), final judgment No.88/96/97 of 31/July/1997. Eyebe was co-owner of a piece of land in Yaounde, subject of land certificate No. 20604/Mfoundi of 29 May 1991. Noah Noah Joseph purchased a portion of this land without the consent of all co-owners and obtained land certificate No. 23649/Mfoundi of 10 July 1995. EYEBE Moïse and the other co-owners petitioned the Administrative Bench of the Supreme Court, which annulled land certificate No.23649/Mfoundi;
- Ndongo Seme Antoine and Others vs. The State (MINUH), final judgment No. 25/02/03 of 28 November 2002. Mambu Ndongo Vincent sold a piece of land to Obono Dominique, subject of land certificate No. 963/Nyong and Sanaga without the consent of the other co-owners. The land certificate was transferred to the purchaser. Ndongo Seme Antoine and the other co-owners seised the Administrative Bench of the Supreme Court, which annulled the sale.

#### § 4: Protection of Real Estates Proceeds

**815** – Property right shall be absolute subject to restrictions for general interest. No owner shall be deprived of the proceeds of his real estate. The Supreme Court adopted this position in the matter Ntangkeu Elias vs. The State (MINUH), final judgment No.22/03/04 of 28 January 2004. The petitioner leased his building in Kumbo to the State (MINUH) to lodge the Divisional Officer for Kumbo Sub-Division. A fire accident destroyed the building in 1997 when the State owed him CFA 63,000,000 of accrued rents. Having failed to collect the full rents amicably, Ntangkeu petitioned the Administrative Bench of the Supreme Court, which ordered the State to pay outstanding rents of CFA 3,085,000 and damages of CFA 30,000,000.

#### § 5: Protection in Case of Expropriation<sup>145</sup>

**816** – The courts protect and compensate owners of real estate who are victims of administration abuses as illustrated by the following cases:

- Medou Gaston vs. The State CFJ/CAY, judgment of 23 March 1971. The forces of law and order occupied the residence of the petitioner in the Dja and Lobo Division on simple verbal instructions from the Senior Divisional Officer of the said Division for eight (8) months. When the Administrative Bench of the Supreme Court was seised of the matter, it considered it as expropriation and awarded the victim compensation.

<sup>145</sup> Expropriation is the permanent or temporary withdrawal of private landed property. It can be legal or illegal.

- Testas vs. The State, SC judgment of 27 May 1982. The petitioner was the landlady of a building ravaged by fire and then demolished by the council. Part of this land was later used as pavement during the construction of the “*Boulevard de la Liberté*” in Douala. The Supreme Court considered this as expropriation and the victim was compensated.

## § 6: Compensation for Expropriation

- 817** – Expropriation for public purposes is subject to compensation in kind or in cash prior to the expropriation decree. It should be noted that the compensation decree follows investigations carried out by a Commission set up to that effect (Section 6-11 of law No. 85/09 of 4 July 1985 cited in 792 above). However, it should be noted that, when the State forcefully acquires private property, it must be used for the general interest of the public, failing which, this could be termed misuse of power. In this case, FOU DA MBALA Maurice vs. The State (CFI/CAY, judgment of 8 June 1971), the Supreme Court annulled the decision to expropriate the plaintiff’s land on the grounds that the Administration was constructing a sports complex to be used by some individuals (the staff of EDC) to the exclusion of the entire population of Yaounde, and so, the work was not in the general interest of the public to warrant expropriation for public purposes.

## § 7: Trespass on Landed Property

- 818** – Section 2 of Law No. 80/22 of 14 July 1980 related to land tenure and landed property as amended by Law No. 85/09 of 14 July 1985, punishes with a fine of from CFA 50,000 to CFA 200,000 and imprisonment of from 2 months to 3 years or one of the two penalties only, persons who occupy or use land without the authorisation of the owner. The Supreme Court quashed judgment No. 61/Cor of 14 October 1988 by the Court of Appeal Centre province which had discharged an occupant for lack of evidence, whereas the latter had continued to occupy and exploit the land in defiance of a formal notice to quit served on him by the land owner<sup>146</sup>.
- 819** - In Cameroon, neither birthright nor masculinity are considered in the acquisition of property. The SC adopted this position in the matter, Ebanda Njoh vs. Eyoun Bwa Isaac to uphold the right of a woman to inherit her parent’s property contrary to discriminatory customs on this issue<sup>147</sup>.

<sup>146</sup> See also Supreme Court Judgment No. 182/T of 21 July 1994, Dr Simon Pierre Tsoungui vs. Fr Manga Lucien.

<sup>147</sup> SC Judgment No. 45 of 2 February 1973 (Bulletin of Judgment by the SC No. 28, 1973).



## CHAPTER 6 : PROTECTION OF SPECIAL GROUPS

**820** – Cameroon ratified and incorporated many international legal instruments relating to Human Rights into its laws which highlight the necessity to promote and protect the family considered as the basic unit of society, as well as vulnerable classes especially women, children, the disabled and the elderly.

### *SUB-CHAPTER 1 : PROTECTION OF THE FAMILY*

**821** – The general policy for the protection of the family in Cameroon stems from the necessity to respect human beings and revolves around consolidating the family base, strengthening intra family solidarity, promoting the rights of its members and improving on the standard of living of families. Hence, Cameroon has passed several laws to protect and promote the family.

### **Section 1 : Legal and institutional framework**

#### **§ 1: Legal framework**

**822** – International and domestic norms contain provisions that protect the family.

#### INTERNATIONAL NORMS

**823** – Articles 16 of UDHR, 10 of ICESR and various articles of ACHPR<sup>148</sup> protect and assist the family extensively as a fundamental element of society.

#### NATIONAL NORMS

#### **1 – The Constitution**

**824** – The protection of the family is affirmed in the preamble of the Constitution which provides *“the nation protects and encourages the family, the natural base of human society”*.

**825** - Cameroon criminal, civil and social laws protect the family as defined by the substantive law.

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<sup>148</sup> Article 18

## **2 – The Penal Code**

**826** – Chapter V, Part III of Book I of the Penal Code is devoted to offences against the child and the family. Many offences against the family are punishable such as abortion (Section 337) assault on woman with child (Section 338), infanticide (Section 340) cloud on parentage (Section 341), prostitution (Section 343), homosexuality (Section 347 bis), assault on ascendant (Section 351), forced marriage (Section 356), abuse in respect of bride-price (Section 357), desertion (Section 358), bigamy (Section 359), incest (Section 360) and adultery (Section 361).

**827** – There are other provisions of the Penal Code which promote the well-being and preserve the intimacy or the cohesion of the family, notably Sections 299 which punishes invasion of residence and 323 which bars any actions that may arise from offences between relatives such as theft, misappropriation and false pretences.

## **3– The Napoleonic Civil Code , the Matrimonial Causes Act and Ordinance No. 81/02 of 29 June 1981 on the civil status and the status of individuals.**

**828** - These instruments govern engagement, marriage, divorce, filiation, parental authority, obligations to pay, antenuptial settlements, successions and gifts.

## **4 – The Labour Code of 14 August 1992.**

**829** – The Labour Code as well as other instruments on social security contain many provisions which protect the well-being of the family.

**830** - To enable women to carry out their household chores, Section 82 of this Code provides that rest period for women shall be not less than 12(twelve) consecutive hours and that they are forbidden from night work in industries; that is work done between 10 p.m. and 6 a.m.

## **§ 2: Special State Institutions in charge of the family: The Ministry of Women Empowerment and the Family.**

**831** – Decree No. 2004/320 of December 2004 to organize the Government of Cameroon which sets up the Ministry of Women Empowerment and

the Family (MINPROFF) affirms Government determination to contribute to the well-being of the family.

**832** - This Ministry is charged with implementing government policy relating to the family. It studies and proposes strategies and measures aimed at strengthening harmony in families.

**833** - All these legislative and institutional provisions would be useless if the State does not take into consideration the actual situation of the family in setting realistic development objectives.

## **Section 2: Measures to protect the family**

**834** – These measures are general or special and are accompanied by sanctions meted out against offences to family values.

### **§ 1: General Measures**

**835** – The Government of Cameroon, with the support of the international community, has launched an extensive social and practical plan of action for the well-being of the family.

Socially these include:

- the extended vaccination programme adopted to roll back epidemics and endemic diseases;
- the setting up of free screening and treatment centres for people living with HIV/AIDS;
- the donation of food to underprivileged families or victims of natural disasters;
- the drilling of wells and supply of pipe borne water;
- the provision of social benefits.

**836** - Practically, MINPROFF and the Ministry of Social Affairs (MINAS), which deal with the family, have settled family disputes.

## § 2: Special Measures

**837** – Government has conceived many projects to promote the effective integration of all families including those of marginalized groups:

- the economic and social development support project of 7,000 pygmies in the Djoum-Oveng-Mintom region (Dja and Lobo Division) executed with the Belgian Government for the period 2004-2007;
- the project for the improvement of the living conditions of the pygmies of Lolodorf, Bipindi, Campo and Kribi. This project is being carried out with the support of the “*Cameroon Biodiversity and Conservation society*”. It targets 3,500 Pygmies;
- the support project for the issuing of birth certificates to 7,000 Mbororo and Pygmy children of the North West and East Provinces with the active participation of Plan Cameroon and The Mbororo Social and Cultural Development Association;
- the follow-up of activities in “*Groupe d’Initiative Commune Alliance Cyrie et Mayos*” (GICCYMA) set up in 2000 in the East Province with the support of the ILO to promote employment and pygmies’ rights, notably citizenship (the issuing of computerized national identity cards, birth certificates, access to property, management of co-operatives and collective farms among others). This project currently takes care of about 30 pygmy families composed of 438 people.

## § 3: Judicial protection of families

**838** – The courts efficiently contribute to the promotion of the family and punish offences against it as illustrated by the following recent cases:

- In Judgment No. 3200/COR of 9 March 2005 by the CFI Yaounde, Administrative Centre, Ambassa Mbassi Edward was convicted for invasion of residence and disturbance of quiet enjoyment and sentenced to 3 months imprisonment;
- In Judgment No. 44490/COR of 4 August 2004 by the same court, Edima Julienne was convicted for desertion of matrimonial home and sentenced to 6 months imprisonment with a fine of CFA 50,000 ;

- In Judgment No. 4504/COR of 4 August 2004, Jean Odjo vs Varaja Justine, Baile Jean Paul and Haidamai Elisabeth, the same court convicted the defendants for desertion of matrimonial home and accessory in desertion of matrimonial home and adultery and sentenced them to 7 months imprisonment with a fine of CFA 50,000 each. Varaja Justine refused to fulfil her matrimonial duties by committing adultery and deserting her matrimonial home and children.

**839** – Mention can also be made of the case Ombe Eloumdou Benjamin vs Koa Jean pending before the Centre Court of Appeal for incest and witchcraft.

**840** - The family is therefore effectively protected. The woman who is the driving force behind this entity receives special protection.

## *SUB-CHAPTER 2 : PROTECTION OF WOMEN*

**841** – Women have always contributed considerably to the development of their societies. But this contribution is sometimes unassessed and worse still, hampered by socio-cultural, economic and political realities.

**842** - The international community through the United Nations Organization has, for decades, sought to enable women to fully develop and participate in their societies. Cameroon has emulated this international trend. Its legal framework protects women.

### **Section 1 : Legal protection of women's rights**

**843** – Women's rights are protected by international instruments and national laws.

#### **§ 1: International Instruments**

**844** – Article I of UDHR affirms equality between men and women by declaring: *"All human beings are born free and equal in dignity and rights"*.

**845** - The Convention on the Elimination of All Forms of Discrimination Against Women ratified on 23 August 1994 provides special protection for women.



## § 2: National Laws

### THE CONSTITUTION

**846** – The Preamble of the Constitution of Cameroon affirms equality between men and women before the law by stipulating: *“the human person without distinction as to race, religion, sex, or belief possesses unalienable and sacred rights”*.

**847** – The preamble proclaims, *“all persons shall have equal rights and obligations”* and that the State guarantees all citizens of both sexes the rights and freedoms outlined in the preamble of the Constitution.

### THE CIVIL CODE

**848** – Men and women have legal capacity in Cameroon. Section 16 of the Civil Code provides that women have full legal capacity which may be restricted only by marriage and the law.

### THE PENAL CODE

**849** – Section 1 of the Penal Code provides for the equality of all before the law: *“All persons shall be subject to the criminal law”*.

**850** - There are no special sanctions against genital mutilation. But it is likened to offences against physical integrity punishable by Sections 275 to 281 of the Penal Code, relating to murder, assassination, assault occasioning death... A draft bill on gender violence is being drawn up with special provisions on female genital mutilation.

### THE LABOUR CODE

**851** – The Labour Code and other instruments on social security contain several provisions on the well-being and protection of women. These are positive discriminatory measures highly recommended by the United Nations.

**852** – Section 84(2) of the Labour Code authorizes a pregnant woman to terminate her contract of employment without prior notification or compensation whereas the employer may not terminate her contract because of the pregnancy.

**853** - Section 84(2) of the Labour Code grants a pregnant woman the right to a maternity leave of 14(fourteen) weeks which may be increased to 16 (sixteen) weeks in case of illness resulting from the pregnancy or delivery.

Section 61 of the same Code provides for equal pay for equal work regardless of sex, age and status<sup>149</sup>.

#### DECREE No.94/199 OF 7 OCTOBER 1994: GENERAL RULES AND REGULATIONS OF THE PUBLIC SERVICE, AS AMENDED

**854** – Articles 12 and 13 of this decree state that recruitment into the Public Service is indiscriminately open to Cameroonians of 17 to 30 years old. Cameroonians of 35 years old may be recruited as public servants of categories A and B on condition that they are healthy and morally upright.

#### ELECTORAL LAWS<sup>150</sup>

**855** – They treat electoral capacity and equality. They state that an elector shall be any person of Cameroonian nationality or any naturalized Cameroonian, without distinction as to sex, who has reached the age of 20 and who is not under any disqualification laid down by the law.

**856** - Any Cameroonian of either sex, with voting right and regularly registered on the electoral register, over the age of 23 from the date of elections and who is able to read and write English or French, may be registered on a list of candidates for legislative elections.

### Section 2 : Empowerment and protection measures

**857** – The improvement of the situation of the Cameroonian woman as a condition for sustainable development positively influences all measures taken in her favour. Unfortunately, residual practices thwart the effects of these efforts.

**858** – The Poverty Reduction Strategic Paper is a commitment to provide better living conditions for the woman, respect her rights, recognize her contribution to development and involve her in lucrative economic

<sup>149</sup> Women are given less demanding duties and tasks considered either too difficult or dangerous for their health are strictly regulated by Order No. 16/MTLS/DECREE of 27 May 1969.

<sup>150</sup> Law No. 91-020 of 16 December to lay down the conditions for the election of Parliamentarians into the National Assembly and Law No. 92-010 of 17 September 1992 to lay down conditions governing the vacancy of and election of the President of the Republic.

activities. Government policies are therefore gender sensitive as manifested by the ratification of the Convention for the Elimination of All Forms of Discrimination Against Women in April 1994 and progress made since the various summits on ESCR in general and for the promotion of the ESCR of the woman in particular.

### § 1: Copenhagen Summit<sup>151</sup>

**859** – Since the Copenhagen Summit, equity and equality between men and women at the national level has considerably improved in the political, economic, social and cultural spheres where gender disparity is rife. The Ministry of Women Empowerment and the Family, with the support of national and international partners, has elaborated and adopted the National Plan of Action for the Integration of Women in Development, with focus on seven out of the twelve priority areas retained by the Beijing Conference and which aim at:

- improving the living standards and legal status of women;
- including women in decision making;
- fighting against violence on women;
- educating young girls;
- improving the living conditions of women;
- improving the institutional framework.

### § 2: Progress indicators

**860** – Studies have shown that the main problems of women stem from lack of training and information. To inform and provide continuing education to women, 210 radio programmes have been conceived on their problems with about 50 centres for the empowerment of women and the family.

**861** – Pertaining to access to social services and basic resources, the school attendance rate of women in 1998 stood at 27.02% for the 16-20 age bracket and 11% for the 21-24 years old with 25.5% of women in pro-

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<sup>151</sup> The Heads of State Summit held in March 1995 on social development.

fessional schools and 43.7% in various faculties. These rates have greatly improved (see chapter on the right to education).

**862** - These trends are remarkable at the level of the access of women to health care. 60% of women received qualified assistance during delivery in 2004/2005; 25% used one contraceptive method and two out of three benefited from prenatal visits. Despite equal right to work and access to the Public Service, they represented only 28.7% in 1997, with most in the social sectors (education, health, social affairs and women empowerment).

**863** - These inexhaustive figures show that at the dawn of the new millennium, the integration of women in development is no longer a major problem in Cameroon. Their progress during the 2002/2007 legislature though insufficient, is illustrative (see tables below).

**- Growth of female MPs by Legislature**

Legislature	No. of Women	Percentage
1992-1997	23/180	12,8%
1997-2002	10/180	5,5%
2002-2007	20/180	10,6%

**864** – The following data from the December 2004 annual statistics on the situation of women in Cameroon largely attest to the significant improvement in public life and decision-making spheres.

**Mayoresses**

Mandate	No. of Women
1996-2001	02
2002/2007	10

### Number of female Municipal Councillors

Mandate	No. of Women
1996-2001	1 061
2002/2007	1 302

### Percentage of Women in the Public Service

Posts	1997	2002/2004
Inspector General	5,56	8,6
Inspector	12,50	18,8
Technical Adviser	7,85	15,6
Director	8,70	11,8
Sub-Director	13,19	14,9
Service Head	16,81	21,9

**865** – At the international level, three Cameroonian women have been promoted to the posts of Auditor of Commerce and Industry of the African Union, Ad litem Judge at the International Criminal Tribunal for Rwanda and Cameroon’s Ambassador to Belgium.

**866** - Cameroon has six (06) female Members of Government, one (01) female Vice-Chancellor of a University, five (05) female Secretaries General of Ministries and three (03) Assistant Senior Divisional Officers.

**867** - Many associations protect and promote the rights of women including ACAFEJ, ACAFEM, ACAFIA, FAWECAM, SWAA.

### Section 3 : Protection of women by the courts

**868** – The Supreme Court and other courts protect the rights of women in conformity with constitutional principles. This has been the case since Supreme Court Judgment No.45 of 22 February 1973, which held that a woman in an inter-tribal marriage is entitled to inherit the land of her father.

**869** – In the matter of Ebanda Njoh vs Eyoum Biwa Njoh Isaac, the Supreme Court affirmed the right of the woman to inherit her parents property, contrary to the discriminatory Douala custom which gave only male children the right to inherit thereby, violating the provisions of the Constitution on gender equality (official listing of Supreme Court Judgments No.28, 1973).

**870** – Judgment No.929 of 6 August 2004<sup>152</sup>, NOMO BELA vs BELA née MENYOMO. NOMO BELA lodged an appeal before the Court of Appeal Centre province against the judgment of a lower court that sentenced him to 6 months imprisonment suspended for three years after amending the charge from sodomy, sexual abuse and ill-treatment, to private indecency under Section 295 of the Penal Code.

#### **Section 4 : Difficulties and prospects**

**871** – Government orientations on gender equality and the independence of the woman are on the right path.

**872** - The draft Code of the Person and the Family, which contains favourable provisions on the rights and aspirations of women, provides a major opportunity for gender equality and equity.

**873** – The following provisions of this draft bill express this wish:

- section 215 stipulates that dowry and gifts cannot be returned, except otherwise provided for;
- section 234 (3) stipulates : *“spouses owe each other mutual love, respect, fidelity, help and assistance. In case of polygamy, each wife has the right to equal treatment in relation to the other wives”*;
- section 240 grants each of these spouses the freedom to work without the consent of the other;
- section 242(1) stipulates that in a polygamous marriage, the husband forms with each of his wives a distinct family and that each wife is not obliged to provide for the needs of the other wives or those of their children;

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<sup>152</sup> Source : MINPROFF. In this Judgment, the Court of Appeal Centre province dismissed the Appeal of the defendant for want of evidence.

- section 449 stipulates that the head of the family manages in agreement with his wife the common property of the family;
  - section 459 (2) states that in case of liquidation of the community, the wife shall receive her share before the husband.
- 874** - On succession, section 545 (2) stipulates that in case of polygamy, all the widows have the right to inheritance shared between them in proportion to the number of years in marriage with the deceased.
- 875** - Finally, the draft bill on "*The Prevention and Punishment of Violence on Women and Gender based Discriminations*" protect women and establish legal equality between men and women.

### SUB-CHAPTER 3 : SPECIAL PROTECTION OF THE CHILD

- 876** – Government has always shown concern for the protection of the rights and promotion of the well-being of the child. To attain this objective, Cameroon has ratified several conventions and drawn up texts to protect children. Concrete actions have been taken to protect this vulnerable class of people.

#### **Section 1 : Legal and institutional framework**

- 877** – The UDHR, CDE and ACHPR advocate and particularly protect the right of the child.
- Legislative, regulatory provisions and an appropriate institutional framework protect this vulnerable category of persons.

#### **§ 1: Legislative provisions**

- 878** – The following texts supplement the Constitution and effectively protect children:
- the Penal Code punishes "*offences against the child and the family*" such as infanticide (S.340), corruption of the youth (S.344), indecent behaviour in the presence of a minor of 16 years old (S.346), violence on the child (S.350), abduction of minors (S. 352)...;

- Law No.83/013 of 21 July 1983 relating to the protection of the disabled and its enforcement instrument of 1990 contains special provisions on disabled children particularly on their school and socio-medical needs;
- Sections 13, 16 and 17 of the Law of 22 July 1967 relating to imprisonment for non-payment of debts as amended by Law No. 58/0203 of 26 December 1958, protect the child from the bad effects of imprisonment or forceful separation from his parents;
- Section 13 of the Law of 31 December 1948 provides that courts can only rule on imprisonment for non-payment of debts against minors who were 18 years old when they committed the offence for which they are being prosecuted;
- Sections 43, 45 and 46 of the Ordinance of 29 June 1981 to organize the Civil Status Registry facilitates the recognition of children born out of wedlock;
- the Decree of 30 November 1935 relating to the protection of children underscores the supervision of children neglected or abandoned by their parents as well as orphans, by entrusting them to special rehabilitation centres or appealing for public assistance;
- Article 13 of the Decree of 30 November 1928 instituting special courts and probation systems for minors provides for the placing of delinquent minors between the ages of 10 and 14 in a host family, an appropriate boarding or charity institution as a corrective measure. Article 3 of the same instrument provides that a minor may be detained exceptionally. If the latter is arrested and cannot be taken to court immediately, he must be released with or without bail, after agreeing to appear before the court. Article 11 (1) prohibits the imprisonment of a child below 14 years of age and provides for the imprisonment of a minor of 17 years when there is no alternative;
- Section 6 of Law No. 98/004 of 14 April 1998 on educational orientation in Cameroon which provides that the State guarantees the right of the child to education. Section 7 adds that the State guarantees equal opportunities to education for all without discrimination as to sex, political, philosophical and religious opinion or social, cultural, linguistic and geographical origin;



- Section 11(3) (new) of Finance Law No. 2000/08 of 30 June 2000, provides free access to government primary schools;
- Section 16 of Law No.88/016 of December 1988 governing advertisement in Cameroon provides that any advertisement meant for children and teenagers, should neither be conceived in a way that will jeopardize their education nor contain visible, written or oral declarations that might cause them material, mental or moral harm. Furthermore, Section 35 of the same law punishes with the penalties in Section 344 of the Penal Code (imprisonment from 1 to 5 years and fine between 20,000 to CFA1,000,000), anyone who designs an advert in a way that might cause physical, material, mental or moral harm to children or teenagers or jeopardize their education;
- Part XV of Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code institutes a special procedure for prosecuting minors;
- Law No. 2005/015 of 29 December 2005 on combating Trafficking and Trade in Children fights against all forms of exploitation of children.

## **§ 2: Institutional framework**

**879** – Decree No. 2004/320 of 8 December 2004 to organize the Government stipulates that the Ministry of Social Affairs is charged with the following:

- protecting children;
- preventing and treating juvenile delinquency and social maladjustment;
- facilitating, social rehabilitation and fighting against exclusions.

**880**- It liaises the UNICEF and supervisory organizations which protect and care for children with the exception of schools under the Ministries of Education.

## **Section 2 : Promotion and protection of the rights of the child**

**881** – Children are among the most vulnerable classes of people. That is why the State is preoccupied with the promotion and protection of their rights. Several measures have been taken in this vein.

**882** - Besides legislative and regulatory instruments to concretize institutional prescriptions on this subject, many structures have been put in place to promote life and ensure the survival and development of the child.

Children are placed in the following centres:

- the Borstal Institute of Buea: 120 places;
- "*Institution Camerounaise de l'Enfance*" (ICE)" of Betamba: 120 places;
- "*Institution Camerounaise de l'Enfance*" (ICE) of Maroua: 60 places;
- "*Home-Atelier*" of Douala: 180 places;
- "*Le Centre d'accueil de mineurs* » of Bertoua : 60 places

**883**- The following measures have been taken to improve on special conditions to protect the child:

- redynamizing through the current rehabilitation of 9 institutions for delinquent minors;
- boosting the capacity of rehabilitation centres for street children or victims of trafficking or various forms of exploitation, through the putting in place, with the support of the Belgian Red Cross and the European Union, of a Centre for listening to, receiving and rehabilitating street children in Yaounde, in 2003;
- taking care of AIDS orphans within the framework of three projects namely: the Bi-Multi Project with the support of the French Cooperation and UNICEF, the Global Funds Project supported by the World Bank and the Hope for African Children Initiative project (HACI) supported by the NGOs African Synergies and Plan Cameroon.

These projects which have been executed since January 2005, intend to:

- facilitate access to health, education and protection of 21,000 OEVs by 2007;

- improve on services that cater for delinquent minors through the adoption of a Criminal Procedure Code in July 2005 which henceforth, includes assessors with deliberative powers in the composition of courts.
- participate in the ongoing drafting of a Code for the Protection of Children, the capacity building of about 150 people involved in taking care of delinquent children (social workers, judicial and legal officers, penitentiary staff and judicial police officers);
- promote special protection measures and prevent deviance, encourage open air re-adaptation through the setting up of educative forums throughout the national territory and the capacity building of social services in police stations, courts and prisons.

### **Section 3 : Judicial protection of the rights of the child**

- 884** – Cases concerning especially children whose paternity had been clouded were reported to The Ministry of Social Affairs and the Ministry of Women Empowerment and the Family during the period covered by the report which settled them appropriately.
- 885**- Section 338 of the Penal Code protects the child being born by stipulating : *“whoever by force used against a woman with child or against a child being born causes... unintentionally the death or permanent incapacity of the child shall be punished with imprisonment for from five to ten years and with fine of from one hundred thousand to two million francs”*.
- 886** - Offences on the rights of the child are punished and a child convicted of a criminal offence is legally protected.

#### **§ 1: Protection by the Courts**

- 887** – The courts sanction offences on the rights of the child:
- In Judgment No.453/COR of 4 August 2004 delivered by the Yaounde Court of First Instance, Onana Ewane Benoit was convicted for corruption of youth and sentenced to 1 year imprisonment and with fine of fifty thousand francs;

- In Judgment No. 95 of 26 April 2005 delivered by the Court of Appeal for the Centre, a defendant was convicted for abduction of minors and sentenced to 3 years imprisonment.

## § 2: Protection of “Dangerous Minors”

**888** – To protect a minor offender, he is prosecuted undetained and benefits from mitigating circumstances.

**889** - For example:

-In *The People and Onana Jean Gerald vs Mbang Patrice Serge*, the Court of First Instance, Yaounde Administrative Centre in a Judgment of 30 September 2005 granted the defendant Mbang Patrice Serge mitigating circumstances, convicted him for indecency to a minor of 14 years old and sentenced him to 12 months imprisonment suspended for five years;

- in *The People and Moumemi Ngakam vs Bayeme Steve Rolland* heard and determined by the same court on the same day, Moumemi Ngakam was convicted for abating aggravated theft and sentenced in absentia to 12 months imprisonment suspended for five years with fine of fifteen thousand francs <sup>153</sup>.

## SUB CHAPTER 4 : THE DISABLED AND THE ELDERLY

**890** – The term “disabled” refers to anybody who is unable to take care of all or part of his individual or normal social necessities of life because of congenital or non congenital deficiency, physical or mental inability <sup>154</sup>.

**891** - The protection of the disabled and the elderly remains a major preoccupation of Government. That is why legislative and statutory enactments have been promulgated to enhance existing international norms on the subject.

**892** –Various measures to care for them have been taken.

<sup>153</sup> The minimum legal sentence for aggravated theft is 10 years imprisonment.

<sup>154</sup> Source: Declaration of the Rights of Disabled Persons.

## Section 1 : Legal and institutional framework

**893** – The Universal Declaration of Human Rights states that all Human Beings are born free and equal in dignity and rights.

**894** - The Preamble of the Constitution proclaims : *“The nation, Protects (...) all elderly and disabled people”*. In conformity with these constitutional provisions, several legislative or statutory enactments protect these vulnerable categories of people.

### § 1: Legal instruments and welfare institutions

#### LEGAL INSTRUMENTS

**895** – Several legislative and regulatory provisions protect the disabled.

**896** – Legislative provisions include:

- Law No. 83/013 of 21 July 1983 relating to the protection of the disabled and enforcement Decree No. 90/1516 of 26 November 1990.
- Section 2 of this Law exempts the disabled from paying for medical certificates;
- Section 5(1) of the same law stipulates that these people must receive early socio-medical care to prevent their situation from aggravating. Subsection 2 waives their school age limit;
- Section 6 of the same law provides for social education aid while section 9 exempts the children of poor disabled parents from paying school fees;
- Law No. 96/09 of 9 July 1996 fixing the Charter on Sporting Activities.

The following regulatory provisions can be mentioned:

- Decree No. 71/DI/315 of 9 July 1971 to set up the National Federation of the Disabled of Cameroon (FENAHCAM);
- Section 25 of the enforcement instrument equally recognizes the right of the disabled to medical assistance. This covers treatment, consultations, examinations and medical care free of charge or at reduced costs;

- Article 11(2) of the 1990 Decree provides equal employment opportunities for the disabled.
- Decree No. 78/56 of 21 February 1978 to set up the National Rehabilitation Centre for the Handicapped, as amended by Decree No. 89/141 of 27 January 1989;
- Decree No. 82/412 of 29 September 1982 to lay down the conditions for assistance to the needy;
- Decree No. 96/379-PM of 14 June 1996 to set up the National Committee for the Socio-Economic Readaptation and Rehabilitation of the Handicapped;
- Order No. 39/45 of 4 August 1953 relating to aid to the blind of Cameroon.

#### INSTITUTIONAL FRAMEWORK

**897** – There are several organizations under the supervision of MINAS including:

- « *Centre de rééducation des Enfants Sourds* » (Centre for the Rehabilitation of Deaf Children);
- « *Centre National de Réhabilitation des Handicapés* » (CNRH) de Yaounde ; ( National Centre for the Rehabilitation of the Handicapped, Yaounde);
- Rehabilitation Institute for the Blind, Buea.

**898** – Apart from these government structures, there are several co-operatives for the blind as well as associations and private social services particularly:

- l'Externat medico-pédagogique “ *la Colombe de Yaoundé* ” (*Medico-pedagogic Out-Patient Centre “the Dove of Yaounde*) for persons of unsound mind;
- “*Ecole Spécialisée pour enfants déficients auditifs* » (The Specialized School for Deaf Children (ESEDA), (Yaounde);
- SETA Handicapped Training Centre, Mbengwi (Bamenda);
- Associated Rehabilitation Centre for the Handicapped (ARCH), Mutengene;
- PROMHANDICAM;

- *“Centre de Rééducation des enfants sourds et d’action sociale »* (Centre for the Re-education of Deaf Children and Social Actions) (CRESAS), Garoua.

**899** – MINAS tries as much as possible to carry out various types of activities in favour of the disabled.

## **§2 Protection and Care for the elderly**

**900** – The Civil Code provides for special types of obligations, such as maintenance, which descendants must provide for ascendants implying they are obliged to help them in case of need.

**901** – The Penal Code also protects the elderly:

- Section 180 on maintenance, punishes the non payment of maintenance due to ascendants;

- Section 282 punishes desertion of incapable;

- Section 283 sanctions failure to render assistance to a person in danger;

- Section 351 makes assault on ascendants, an aggravating circumstance of Sections 275 (murder), 277 (grievous harm) and 278 (assault occasioning death) and doubles the punishment provided for in Section 279(1) (assault occasioning serious harm), Section 280 (simple harm) and Section 281 (slight harm).

**902** – Legal instruments govern the social protection of retired elderly persons such as:

- Law No. 67/LF/18 of 12 June 1967 to organize social insurance in Cameroon;

- Law No. 69/LF/18 of 10 November 1967 to institute old age, invalidity and death insurance scheme as amended by Law No. 84/007 of 4 July 1984;

- Decree No. 94/199 of October 1994: General Rules and Regulations of the Public Service.

**903** - At the institutional level, Decree No. 98/069 of 4 May 1998 to organize MINAS sets up in this Ministry, a Department of National Solidarity with a sub-department in charge of the elderly.

## Section 2 : Measures to encourage the handicapped and the elderly

### § 1: Special measures to protect the rights of the handicapped

**904** – Strategies put in place for this group aim at making them autonomous through training and socio-professional reintegration, reinforcing their judicial and institutional framework, providing them various forms of support and developing partnerships on their behalf. Thus:

- the law on the protection of handicapped persons is being revised to better suit the present context;
- at the institutional level, a national committee for the readaptation and the socio-economic reintegration of handicapped persons (CONRHA) was set up in 1996.

**905** – The organizational and institutional audits of the National Centre for the Rehabilitation of the Handicapped (CNRH), Yaounde and the Rehabilitation Institute for the Blind (RIH), Buea, carried out in 2003/2004 by the NGO Handicap International with the support of the French Cooperation aim at improving the functioning of these institutions.

**906** – It should be noted that the following three partnership agreements were signed in 2004 with international bodies specialized in attending to and training of handicapped persons for:

- the construction of the subregional centre to cure and reintegrate persons of unsound mind;
- the construction and equipment of a rehabilitation centre in Maroua and the training of 16 young Cameroonians in Italy to work in this centre;
- facilitating access of these persons to information and communication technology.

**907** – It is equally important to underscore the impending signing of a partnership agreement with a Swiss body for lepers, aimed at the capacity building of the handicapped in general and of healthy lepers in particular.

**908** – The following tables portray the State's assistance to the handicapped or destitute<sup>155</sup>.

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<sup>155</sup> Source: 2004-2005 Report. First semester of MINAS



## § 2: Statistics of patients treated and assistance to social cases, period 2000 – 2005

### 1) Patients treated<sup>156</sup>

YEAR	2000	2001	2002	2003	2004	2005	TOTAL
Number of patients cured	2 304	1 784	1 036	2 375	2 932	1 403	11 834
General Medicine	973	376	203	517	360	390	2 819
Orthopaedic surgery	82	84	56	42	130	78	472
Dosage of vaccines administered (DT-COQ, Polio, BCG, ROUVAX, VAT)	7 767	3 411	1 266	2 201	2 681		17 326
Number of pregnant women received in PMI	118	89	42	19	22		290
Parasitology, haematology, bacteriology laboratory tests	180	202	96	69	216		763
Physiotherapy	602	814	908	794	556	402	4 076
Equipment	96	191	258	191	171	85	992
Occupational therapy	137	129	146	180	146	102	804

### 2) Nature and cost of assistance given by the National Centre for the Rehabilitation of the Handicapped (CNRH) from 2000 to 2005 (patients treated and out patients)<sup>157</sup>

YEAR	Number of patients	Feeding (CFA)	Hospitalisation (CFA)	Medication	Re-education session (External and Internal) (CFA)	Temporary assistance (External and Internal) (CFA)
2000	10	1 605 000	1 515 000	773 300	180 000	90 000
2001	8	1 590 000	1 440 000	639 000	120 000	75 000
2002	7	1 450 000	514 000	677 000	80 000	60 000
2003	14	1 590 000	1 440 000	514 000	130 000	162 000
2004	26	708 000	720 000	476 000	133 000	250 000
2005	8	414 000	480 000	380 000	110 000	145 000
Total	73	5 752 000	6 109 000	4 049 300	753 000	782 000

<sup>156</sup> Source: Ministry of Social Affairs

<sup>157</sup> Source: Ministry of Social Affairs.

**909** – The above-mentioned patients do not benefit from either re-education sessions or temporary assistance. This assistance is given only to out and internal patients who are not cared for.

**§ 3 – Assistance in kind to social cases<sup>158</sup>**

YEAR	2000	2001	2002	2003	2004	2005 (Jan- June)	Total	Price unit (CFA)	Total price (CFA)
Rolling chair	10	5	4	5	7	4	35	320 000	11 200 000
Tricycle	0	0		1	1	0	2	150 000	300 000
Crutches	4	10	5	12	16	3	50	25 000	1 250 000
Walker	0	0	5		6	4	15	15 000	225 000
Walkers	0	0	1	3	4	2	10	35 000	350 000
Urinary sack	35	25	20	33	25	15	150	1 200	180 000
Crutches	11	6	3	8	10	6	44	7 500	330 000
<b>Total</b>									<b>13 835 000</b>

**910** – A partnership agreement was signed between MINAS and the “*Institut Africain d’informatique*” (African Institute of Computer Sciences) (IAI-Cameroon) in May 2005 to train the handicapped, other targeted persons and MINA’S staff to use computers and master information and communication technology.

**§ 4: Promotion measures**

**911** – Government has recently been showing much concern for the elderly manifested through measures to protect and enhance them in accordance with United Nations principles. In Cameroon, emphasis is laid on family and community care for this group.

**912** – Institutionally, a Sub-Department in charge of the Protection and Reintegration of the elderly was set up in the Ministry of Social Affairs in 1995.

<sup>158</sup> Source: Ministry of Social Affairs.

- 913** – During the celebration of the International Day of the Elderly, information campaigns are organized over the media to sensitize people on greater solidarity and justice for the elderly.
- 914** – A geriatrics ward was opened in the Central Hospital, Yaounde in 2001 to improve on their medical follow-up.
- 915** – Apart from help, aid and assistance given to the elderly, Government set up between 2000 and 2003, 20 village sheep farms and 20 solidarity lofts in some rural areas. These are obvious support structures to make the elderly independent.
- 916** – Government action is compounded by other initiatives by the civil society and individuals which led to the setting up of two homes for the elderly and the abandoned.
- 917** – Mention can be made of a court decision to illustrate the protection of the elderly. In Judgement No. 3035/COR of 02 March 2005 by the Court of First Instance, Administrative Centre, Yaounde, Bela vs. Etoundi Etoundi Elias, the accused assaulted Bela, his mother, who suffered from temporary incapacity of forty-five (45) days. Etoundi Etoundi Elias was convicted for assault on an ascendant and sentenced to two (02) years imprisonment.

## CHAPTER 7 : RIGHT TO SCIENTIFIC PROGRESS AND CULTURAL RIGHTS

- 918** – Cultural rights known as collective rights strengthen the exercise of other individual rights laid down in the ACHPR. These rights include the right to education (Article 17(1)), the right to information (Section 9), freedom to express and publish one's opinions (Article 9), the right to work (Article 15), the right to respect dignity inherent in human beings (Section 4).
- 919** – The right to scientific progress does not constitute specific problems and can be analyzed with respect to progress, health. (see above). The following analysis will therefore be based more specifically on cultural rights.
- 920** – As a result of the economic crisis and liberalization in Cameroon, the State granted the private sector extensive powers to fund the cultural sector.
- 921** – Government set up the Ministry in charge of Culture in 1992 and granted it substantial financial means to fund cultural projects. Budgetary heads titled "*Assistance to Artists and Cultural Associations*" were earmarked for this purpose and a support fund for creativity was put in place to fund the writing of plays.

### Section 1 : Cameroon cultural policy

- 922** – Government policy on the promotion and protection of culture is demonstrated by the drawing-up of a judicial framework and the enhancement of the cultural initiatives of all components of the society.

#### § 1: Improvement of the judicial and institutional framework

- 923** – To boost cultural rights, Government has drafted legal instruments which constitute the legal basis of actions undertaken. These are:
- Law No. 2000/05 of 17 April 2000 on copyright to ensure and reinforce the protection of cultural and intellectual property rights against usurpation and forgery that could be facilitated by information and communication technologies (NICT).

- Law No. 2000/010 of 11 December 2000 governing archives which reinforces legal instruments for the protection and enhancement of cultural knowledge
- Decree No. 2001/950/PM of 1 November 2001 to lay down the terms and conditions for the implementation of Law No. 2000/11 of 19 December on copyrights and affiliates. This law puts an end to the former copyrights corporation which is replaced by four corporations each representing a special artistic field (music, literature and drama, audiovisual arts and photography, plastic arts).

It equally encourages the opening and setting up of new structures.

- Decree No. 2001/38/PM of 5 December 2001 on the setting up of a special account for the support of cultural policy. It is hoped that the recent institution of the Commission for the Selection of Cultural Projects in May 2003 would increase the supply and demand of cultural assets with a direct impact on the creation of jobs, wealth and on the fight against poverty. Concrete actions derive from this judicial framework.

**924** – To better ensure the cultural rights of Cameroonians, a Ministry of Culture was set up whose specific missions are to define, implement and disseminate cultural policy as well as to protect and enrich cultural heritage<sup>159</sup>.

**925** – Cameroon, a member of UNESCO, significantly contributes in developing a national culture whose manifestations have repercussions beyond our borders through football, music and traditional festivals.

## **§ 2: Promotion and protection of cultural rights**

**926** – These include actions taken by Government alone and those carried out in collaboration with the civil society.

### GOVERNMENT

**927** – The Ministry in charge of cultural promotion has carried out the following actions since 2001:

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<sup>159</sup> Decree mentioned above to organize the Government.

- 1) The organization of an exhibition of works of art at the national museum in 2001 on the theme "*Arts, Architecture and Traditional Housing*" and the exchange of views on tested techniques on construction, balance and harmony with the environment;
- 2) The launching of a general inventory for the identification of cultural, material and immaterial heritage in November 2001, to popularize any work of art which constitutes a national heritage that the State must bequeath to posterity because of its ethnological, archaeological, historical and artistic value.
- 3) The implementation of a programme for opening up rural radio stations throughout the country to underscore and provide comprehensive information on local realities in local languages. This action was achieved some years ago in collaboration with international institutions like the IOF.
- 4) Cameroon's participation in the Francophone Summit, in Beirut, in October 2002, devoted to cultural diversity. Cameroon supported UNESCO's action in favour of affirming multiculturalism as a guarantor of peace and international security as well as the justification for the necessity for an agreement, at the international level, on the reduction of the digital divide to enable everyone to enjoy freedom of expression, of creation and the dissemination of works of art in any chosen language;
- 5) The signing of different cultural cooperation agreements with bilateral partners such as:
  - the Cooperation agreement with Turkey in 2001;
  - the Executive programmes with Egypt in 2002-2003;
  - the Exchange programme with Tunisia in 2002.

#### GOVERNMENT/ CIVIL SOCIETY COLLABORATION

**928** – The protection and enhancement of heritage and traditional knowledge is not the preserve of government. The private sector plays a major role in funding cultural activities resulting in the proliferation of cultural associations and NGOs.

**929** – A card index of associations and NGOs has been set up in the Ministry of Culture pending the decision to institute an office.

**930** – In addition to the national festival of arts and culture, other festivals benefit from different forms of assistance from the government. These include:

- the Nyem Nyem Festival in the Adamawa Province;
- the Mbam Art Cultural Festival in the Centre province;
- the Ngondo Cultural Festival in the Littoral province (Douala);
- the Mpo’o Cultural Festival in the Littoral Province (Edea);
- the Ngouon Cultural Festival in the West Province;
- the Medumba Cultural Festival in the West Province;
- the Feokague Cultural Festival in the North Province;
- the Macabo Feast in the West Province;
- the Batanga Cultural Festival in the South Province;
- the Kanuri Cultural Festival in the Far-North Province;
- the Mbog Liaa Festival in the Centre and Littoral Provinces.
- the LIE LA TATOMDJAP in the West Province.

**931** – Government continued to foster cultural actions from different parts of the nation in varied domains such as:

- 1) the Yaounde Caricature and Humour Festival (FESCARHY) which took place in 2001 and 2002;
- 2) the Televisions Festival (FESTEL) 2002;
- 3) the “*théâtre du chocolat*” (Chocolate Theatre for children) 2002;

- 4) the *“les rencontres internationales du Cameroun* (The International Theatre Forum of Cameroon) (RETIC) in 2002;
- 5) the *“les Ecrans Noirs du cinema”* (Black Film Festival) of 2001, 2003 and 2005.

## Section 2 : Prospects

**932** – Decree No. 98/003 of 8 January 1998 to organize the Ministry of Culture, attaches eight cultural specialized institutions to this Ministry, notably:

- the National Library;
- the National Archives;
- the National Institute for Arts and Culture;
- the Congress Hall;
- the National Assembly;
- the Public Library;
- the National Museum;
- the *“la Cinématique Nationale* (The National Film Centre).

**933** – The procedure to institute of these structures has already begun with the drafting of their various organic laws.

**934** –To encourage cultural protection, the State has taken measures to protect the property rights and moral interests of artists, writers and performers, audio-visual communication enterprises and producers of phonograms or video recordings.

**935** – Law No. 2000/011 of 19 December 2000 on copyrights and affiliates institutes a support fund for cultural policy and reaffirms the pluralism of collective management corporations.



**936** – The following projects, which are also relevant initiatives, can equally be mentioned:

- the drawing up of a judicial framework governing sponsors, sponsoring or cultural sponsorship to better enhance the involvement of economic operators in funding cultural activities;
- preparatory activities for the launching of the construction or maintenance of roads for the setting up of “*village road committees*”, for preserving cultural sites and for taking local realities into account;
- the progressive putting in place of the national museum as a window of all cultural wealth and heritage as well as the national archives and the national library;
- the multiplicity of public libraries at the disposal of local communities;
- the completion and inauguration of the cultural house of the South Province of Cameroon, the laying of the foundation stone for those in the West and the South West Provinces within the framework of a vast programme for the building of a cultural house in each of the provincial headquarters, to act as a centre for artistic creation, the presentation of intellectual works of art and for the celebration of national culture.

**937** – The objective is to provide an adequate framework to boost men of culture, exhibit works of culture, share and produce special cultural identities.

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## CONCLUSION OF THE SECOND PART

938 – The real challenge facing Africa in general and Cameroon in particular, is the implementation of economic, social and cultural rights. Many efforts have been made and Government is aware of all the implications of the inadequate satisfaction of Cameroonians' basic needs. The letter of intent approved on 25 October by the IMF highlights the option of an economic and social policy geared towards Human Rights preservation. These new prospects help envisage a progressive improvement of the fundamental rights of the people and therefore better respect for the obligations contained in the international legal instruments to which Cameroon is party.

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## GENERAL CONCLUSION

- 939** – At the end of 2005, the promotion and protection of Human Rights based on the legislative, administrative, judicial and practical measures highlighted in this report, spurred on by the President of the Republic, were undeniably a major preoccupation of Government.
- 940** – There are still pockets of civil and political rights violation, but impunity has been resolutely stamped out as attested by the many administrative and legal sanctions mentioned in the report.
- 941** – The full enjoyment of economic, social and cultural rights is hampered by the State's insufficient financial resources.
- 942** – More than political will and concrete actions are required to enforce Human Rights in their entirety. Human Rights culture should be rooted in Cameroon.
- 943** - The fundamental challenge therefore remains the education of citizens and the intensification of international co-operation:
- at the domestic level, Cameroonians should be extensively sensitized on their Human Rights. Thus, a national appropriation and sensitization campaign of the Criminal Procedure Code<sup>160</sup> should be carried out for judicial actors (judicial and legal officers, lawyers, policemen and gendarmes) as well as the masses;
  - at the international level, partnership should be diversified to all countries and institutions of goodwill who wish to help Cameroon put in place and consolidate the fundamental conditions for the effective respect of Human Rights, that is, economic development and security.

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<sup>160</sup> This campaign started on 3 May 2006 and will be continued.

## ANNEXE

This report was validated during a workshop organized from 24 to 25 April 2005 by the Ministry of Justice with the help of UNDP and the Sub-Regional Centre for Democracy and Human Rights in Central Africa with the participation of the following representatives from ministries, the court and civil society organizations:

<b>Administrative Structures and the Supreme Court</b>
Ministry of Justice
Supreme Court
Ministry of Territorial Administration and Decentralization
Ministry of External Relations
Ministry of Basic Education
Ministry of Public Health
Ministry of Secondary Education
Ministry of Employment and Vocational Training
Ministry of Labour and Social Security
Ministry of Communication
Ministry of Women Empowerment and the Family
Ministry of Social Affairs
Secretary of State in charge of the Gendarmerie
General Directorate of External Research
National Commission of Human Rights and Freedoms
<b>Civil Society</b>
Cameroon Bar Association
Christian Action for the Abolition of Torture (ACAT-Littoral)
Union of Cameroon Journalists (UJC)
New Human Rights-Cameroon(NDH-Cameroun)
Islamic Cultural Association of Cameroon(ACIC)
Association of Female Jurist of Cameroon(ACAFEJ)
League for the Promotion of the Child and the Woman (LEFE)
National Episcopal Conference of Cameroon



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