



Cameroon's Compliance with International Convention on the Elimination of All forms of Racial Discrimination (against Anglophone Cameroonians): Death Penalty

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

The World Coalition Against the Death Penalty

L'ACAT Cameroun

RACOPEM

FIACAT

and

ECPM

**for the 106th Session of the Committee on the Elimination of Racial Discrimination
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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (World Coalition), an alliance of more than 160 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

ACAT Cameroon is an organization active in the field of the defense of human rights and the promotion of social justice in Cameroon since 1993. ACAT Cameroon has an authorization from the Cameroonian public administration n°RD/00063 /RDA/JO6/BAPP of February 23, 1993. A local non-governmental organization, ACAT Cameroon fights for the eradication of torture and cruel, inhuman or degrading treatment and punishment in all their forms and for the abolition of the death penalty. It works daily on public policies and social justice through the humanization of the prison environment, education in human rights and citizenship, legal and judicial support for

victims of human rights violations, and human rights monitoring. ACAT Cameroon is an affiliated member of FIACAT, the Cameroon Human Rights Commission (CDHC) and the National Anti-Corruption Coalition (CONAC). ACAT is also the leader of the platform of human rights defense associations called Maison des Droits de l'Homme du Cameroun (MDHC); it houses the Observatory on Arbitrary Arrests and Illegal Detentions; and it is a member and vice coordinator of the Observatory on Public Freedoms, for the Littoral Region of the CDHC.

Le Réseaux des avocats camerounais contre la peine de mort (RACOPEM) is a Cameroonian organization that advocates for the respect of human rights and primarily the right to life in Cameroon. Founded in July 2015, the organization set its goal to bring national and international efforts in harmony in pursuit of the universal abolition of the death penalty or at least the establishment of a de jure moratorium on executions in the Cameroonian judicial system, the promotion of respect for human rights in the administration of justice, legal aid for vulnerable persons, mobilization of lawyers and other legal professionals engaged in the abolition of the death penalty in order to exchange and reinforce their skills on strategies of abolition, and the creation of a network of international solidarity between lawyers providing defense to persons subject to the death penalty. Established in 8 regions of Cameroon, RACOPEM has mobilized national actors with a view to abolishing the death penalty since its creation.

FIACAT, The International Federation of Action by Christians for the Abolition of Torture, is an international non-governmental human rights organisation, set up in 1987, which works towards the abolition of torture and the death penalty. The Federation brings together some thirty national associations, the ACATs, present in four continents; 15 of them are active in sub-Saharan Africa. FIACAT represents its members before international and regional organisations; by referring the concerns of its members working on the ground to international bodies, FIACAT's aim is to encourage the adoption of relevant recommendations and their implementation by governments. FIACAT works towards the application of international human rights conventions, the prevention of torture in places of detention, and an end to enforced disappearances and impunity. It also takes part in the campaign against the death penalty by calling on states to abolish capital punishment in their legal systems. FIACAT also assists its member associations in organising themselves, supporting them so that they can become important players in civil society, capable of raising public awareness and having an impact on the authorities in their country.

ECPM (Together Against the Death Penalty) is a French non-governmental organisation that fights against the death penalty worldwide and in all circumstances by uniting and rallying abolitionist forces across the world. The organisation advocates with international bodies and encourages universal abolition through education, information, local partnerships and public awareness campaigns. ECPM is the organiser of the World Congresses Against the Death Penalty and a founding member of the World Coalition Against the Death Penalty. In 2016, ECPM was granted consultative status with ECOSOC.

EXECUTIVE SUMMARY

1. This report addresses Cameroon's compliance with human rights obligations under the Convention on the Elimination of All Forms of Racial Discrimination, particularly with respect to the imposition of the death penalty against Anglophone Cameroonians.
2. By way of background, the Anglophone crisis in Cameroon began in 2016 as peaceful protests by lawyers and teachers demanding linguistic reforms but rapidly escalated into a war of secession that has killed thousands of people and displaced over one million.¹
3. The Cameroonian Criminal Code adopted in 2016 allows for the death penalty, including for vaguely defined terrorism-related offences. In this regard, the Anti-Terrorism Law of 2014 has been used to prosecute Anglophone human rights activists before military courts for acts of terrorism, secession, rebellion, and spreading false news, with the death penalty as a potential sentence in such cases.²
4. While Cameroon ratified the International Covenant on Civil and Political Rights (ICCPR) in 1984, it has yet to ratify its Second Optional Protocol aiming at the abolition of the death penalty (ICCPR-OP2).³ Although no execution has taken place in Cameroon since 1997, civil society organizations estimate that 220 people currently are under sentence of death in Cameroon.⁴
5. As discussed below, Cameroon fails to uphold its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination because its domestic law and institutional and political framework do not sufficiently protect Anglophones facing the death penalty.

Cameroon's domestic law and institutional and political framework do not sufficiently protect Anglophones at risk of being sentenced to death

6. The people of the Northwest and Southwest Regions of Cameroon remain a separate and distinct people with English as their official working language, whereas the people of the other regions of the country are Francophones. The non-recognition of the status of Anglophones as a distinct group with rights in line with unification agreements has led to gross violations of the individual rights of Anglophones in Cameroon.⁵
7. According to Amnesty International, "[m]ore than 1,000 Anglophone people arrested between 2016 and 2021 in relation to the Anglophone crisis are behind bars in at least 10 prisons across

¹ Foreign Policy, *Cameroon's Forgotten Civil War Is Getting Worse*, (December 2021) 1, available online at <https://foreignpolicy.com/2021/12/02/cameroon-civil-war-worse-nigeria-ambazonia-anglophone-crisis/>.

²Carole Berrih and Nestor Toko, *Sentenced to Oblivion - Fact Finding Mission on Death Row in Cameroon*, ECPM, 2019, ¶ 51-53, available at <https://www.ecpm.org/wp-content/uploads/mission-enquete-cameroun-2019-GB.pdf>.

³ Parliamentarians for Global Action, *Cameroon and the Death Penalty*, available online at <https://www.pgaction.org/ilhr/adp/cmr.html>; World Coalition Against the Death Penalty, *Cameroon Abolitionist in practice: Legal Status of the Death Penalty*, available online at <https://worldcoalition.org/pays/cameroon/>.

⁴ Prison Insider, *Cameroon: detention conditions of people sentenced to death*, (January 18, 2022), available at <https://www.prison-insider.com/en/articles/cameroun-conditions-de-detention-des-condamnes-a-mort>.

⁵ Chiatoh, Valerie Muguoh, *Recognition of minority groups as a prerequisite for the protection of human rights: The case of Anglophone Cameroon*, Afr. hum. rights law j. vol.19 n.2 Pretoria 2019.

the country, including 650 in Buea, 280 in Yaoundé, 181 in Douala and 101 in Bafoussam. Dozens have been arbitrarily detained.”⁶

8. The Anti-Terrorism Law’s vague and broad language is sometimes used as grounds for arresting human rights defenders focusing on issues of relevance to the Anglophone community.⁷ Anglophones in conflict with the law encounter ineffective legal representation with court-appointed lawyers who are automatically appointed in death penalty cases but inadequately compensated; no legal assistance for people sentenced to death who lodge an appeal; and the burden faced by people sentenced to death who must draft their own appeal statements in French, even though many of them do not speak French.⁸
9. Although there have been no executions recorded in the State since 1997, courts continue to hand down death sentences. The definition of terrorism in the 2014 Anti-Terrorism Law is very broad and could include acts which do not require any violence. Moreover, civilians tried under this law are subject to the jurisdiction of Cameroonian military courts.⁹ In 2015, the Maroua military courts in the extreme north handed down 133 death sentences. In 2016, military courts handed down over 160 death sentences. After some commutations of death sentences in 2020, the Réseau des Avocats Camerounais contre la Peine de Mort (RACOPEM) estimates that 220 people are on death row in Cameroon, including more than one hundred people charged with terrorist offences.¹⁰

I. Cameroon fails to remedy racial discrimination in the justice sector, particularly for Anglophones at risk of being sentenced to death (List of issues, paragraphs 3, 9)

10. The Constitution of Cameroon grants all persons equal rights, without distinction as to race, religion, sex or belief.¹¹ To reduce the risk of discrimination in the judicial process between Anglophones (who represent around twenty percent of the population) and Francophones (who represent the vast majority), the government of Cameroon carried out a reform to harmonize both judicial systems.
11. The Constitution of Cameroon provides for equal promotion of English and French.¹² However, the Committee has noted its concern about the massive centralization that is resulting in the predominance of French and thus inequality for the English-speaking population and reports of inequality between the English- and French-speaking populations in the enjoyment of their rights (arts. 5 and 7).¹³ The Committee recommended that the State party redouble its efforts in favour of the full and effective implementation of the official policy of bilingualism

⁶ Amnesty International, *Cameroon: More than a hundred detainees from Anglophone regions and opposition party languishing in jail for speaking out*, January 24, 2022, 2, available online at: <https://www.amnesty.org/en/latest/news/2022/01/cameroon-more-than-a-hundred-detainees-from-anglophone/>.

⁷ Ibid.

⁸ Carole Berrih and Nestor Toko, *Sentenced to Oblivion - Fact Finding Mission on Death Row in Cameroon*, ECPM, 2019, ¶¶ 66-70. Available at <https://www.ecpm.org/wp-content/uploads/mission-enquete-cameroun-2019-GB.pdf>.

⁹ Ibid.

¹⁰ Email correspondence with RACOPEM, Mar. 20, 2022 (on file with The Advocates for Human Rights).

¹¹ Paragraph 1 of the Preamble to the Constitution of Cameroon (as amended).

¹² Article 1, paragraph 3 of the Constitution of Cameroon (as amended).

¹³ Committee on the Elimination of Racial Discrimination, *Concluding observations on the nineteenth to twenty-first periodic reports of Cameroon*, CERD/C/CMR/CO/19-21, 26 September 2014, ¶ 13.

and ensure that the English-speaking population not be subject to inequality, particularly in the areas of, *inter alia*, judicial procedures.¹⁴

12. The Committee remains concerned by the enduring obstacles to the enjoyment, by some minorities and indigenous populations, of their right to access to justice and particularly the availability of appropriate interpreting services at every stage of the proceedings (arts. 5 and 6).¹⁵
13. In practice, Anglophones face due process violations in the justice system. Anglophones do not appear to be sentenced to death more than Francophones, but judicial proceedings seem to violate their due process rights more often, making the judicial process riskier for Anglophones.¹⁶
14. For example, their right to a translator can be overridden by French-speaking magistrates who issue sentences in French. This practice is particularly concerning in capital cases, where the accused has trial is conducted in a language other than their mother tongue, without a translator, and cannot mount a full and thorough defense.¹⁷
15. The Committee against Torture has stressed that Cameroon should ensure that all allegations of excessive use of force, extrajudicial executions, ill-treatment, and arbitrary arrest by State officials during or after demonstrations in the Anglophone region are subject to an impartial investigation, that those responsible be prosecuted and, if found guilty, punished, and that victims obtain redress.¹⁸ One lawyer observed that “torture is systematic and generalised within the framework of suppression of terrorism.”¹⁹
16. It is not clear whether the State party has taken steps toward carrying out the recommendations of the Committee against Torture.

III. The Cameroon Human Rights Commission does not yet have the capacity to monitor conditions for Anglophones in detention (List of issues, paragraph 4)

17. The Committee takes note of the efforts made by the government of Cameroon, which in June 2019 adopted a law establishing the Cameroon Human Rights Commission (CHRC) to replace the National Commission of Human Rights and Freedoms (NCHRF), especially as this law extended the Commission’s mandate to protect human rights.²⁰
18. As the CHRC only became operational on 21 February 2021, it is not yet possible to measure the impact of the CHRC’s actions, in particular with respect to Anglophones at risk of being

¹⁴ Ibid.

¹⁵ *Id.*, ¶ 17.

¹⁶ Interview with Cameroonian attorney, March 4, 2022, on file with The Advocates for Human Rights.

¹⁷ Ibid.

¹⁸ Committee Against Torture, *Concluding Observations on the 5th Periodic Report on Cameroon*, CAT/C/CMR/CO/5, (December 18, 2017), 2, available online at

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsvo7kjjQy53IGYOi8v5hl4gIpg%2Bj3mTf%2BmFhpzMF7yqFQ5aFII6sXg4fs7Oaa4VUuieXJ%2BbRu9n4Ht07eIVFzD8iLzgDqIecFbgl3xsGfZg>.

¹⁹ Carole Berrih and Nestor Toko, *Sentenced to Oblivion - Fact Finding Mission on Death Row in Cameroon*, ECPM, 2019, ¶ 59, available at <https://www.ecpm.org/wp-content/uploads/mission-enquete-cameroun-2019-GB.pdf>.

²⁰ Country Reports on Human Rights Practices for 2020, United States Department of State, Bureau of Democracy, Human Rights and Labor. Cameroon 2020 Human Rights Report, 2020, 37, available online at <https://www.state.gov/wp-content/uploads/2020/03/CAMEROON-2019-HUMAN-RIGHTS-REPORT.pdf>.

sentenced to death and Anglophones on death row. According to the CHRC, 78% of the death row inmates interviewed claimed to have been threatened or tortured. Forbidden to receive visits and lacking the means to benefit from legal advice, most of the people under sentence of death had been forced to confess to participation in crimes to save their lives.²¹

IV. Imperfect implementation of the Civil Status Rehabilitation Program places young people at risk of being sentenced to death for offenses committed when under the age of 18 (List of issues, paragraph 5)

19. The Civil Status Rehabilitation Program (PRE2C) is one of the programs developed to help modernize the civil status system in Cameroon and ensure a more secure and complete registry throughout the country.²²
20. Cameroon has partnered with Germany to launch a similar registration program, known as the Support Programme for the Modernisation of the Civil Registration System (PAMEC), to meet the standards recommended by the United Nations on civil registration systems, which include continuous, mandatory, permanent and universal registration of civil registration data. Such standards have not historically been met in Cameroon. PAMEC was designed to ensure that the concerns of various civil society groups are addressed in restructuring the civil registration process in Cameroon.²³
21. Based on a report prepared by Canada in partnership with the United Nations Economic Commission for Africa, the government of Cameroon has demonstrated the political will to improve the registration of vital events but there have been major challenges, including inadequate financing. In addition, the current registration system does not allow the sharing of information for the compilation of data.²⁴
22. Implementation of the civil registration programs in Cameroon may impact who is sentenced to death penalty. Certain categories of individuals are excluded from capital punishment under the Criminal Code, including juveniles,²⁵ pregnant women,²⁶ and individuals with a mental disability or “insanity.”²⁷ Cameroonian law defines a juvenile as a “human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier” (Article 1 Convention on the Rights of the Child).²⁸ In practice, however, when a court is trying

²¹ Carole Berrih and Nestor Toko, *Sentenced to Oblivion - Fact Finding Mission on Death Row in Cameroon*, ECPM, 2019, ¶ 59-62, available at <https://www.ecpm.org/wp-content/uploads/mission-enquete-cameroun-2019-GB.pdf>

²² All Africa, *Cameroon: Civil Status Registration System - Modernised Strategy in Place*, October 20, 2021, 1, available online at <https://allafrica.com/stories/202110210211.html>.

²³ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, *Support Programme for the Modernisation of the Civil Registration System (PAMEC)*, 1, available online at https://www.giz.de/de/downloads/00112-2019_%20Factsheet%20_%20anglais_GIZ%20PAMEC.pdf.

²⁴ Centre of Excellence for Civil Registration and Vital Statistics (CRVS) Systems in partnership with the United Nations Economic Commission for Africa (UNECA), *Snapshot of Civil Registration and Vital Statistics Systems of Cameroon*, available online at https://crvssystems.ca/sites/default/files/assets/files/CRVS_Cameroon_e_WEB.pdf.

²⁵ Article 80 of the Criminal Code.

²⁶ Article 22(3) of the Criminal Code.

²⁷ Article 87 of the Criminal Code; *Together Against the Death Penalty (ECPM), The Death Penalty in Law and in Practice: Cameroon*, April 2021, available online at <https://www.ecpm.org/wp-content/uploads/flyer-cameroun-GB-080621-planche-b.pdf>.

²⁸ United Nations Human Rights Office of the High Commissioner, *Convention on the Rights of the Child*, available online at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx#:~:text=Article%207-.1.,by%20his%20or%20her%20parents.>

a young person without identity documents, “specialists” (doctors) are called to testify and establish an “apparent age” of the defendant.²⁹ While this rule applies for all types of procedures, the risk with respect to death penalty cases is that the specialist will find the person to be older than he or she is and the person will be sentenced to death as an adult for a crime they committed when under the age of 18.

23. Suggested recommendations for the government of Cameroon:³⁰

- Abolish the death penalty and replace it with a sentence that is fair, proportionate, and respects international human rights standards.
- In the interim, establish an official moratorium on executions, effective immediately, direct all judges to cease sentencing people to death, and commute all existing death sentences to sentences that are fair, proportionate, and respect international human rights standards.
- In the interim, revise domestic laws to ensure that the death penalty is not available as a potential punishment for any offense that does not include an intentional killing by the defendant.
- Collect and publish reliable and detailed statistical data on the ethnic and ethno-linguistic background of all defendants interacting with the judicial system, particularly indigenous peoples, members of linguistic and ethnic minority groups, and immigrants.
- Ensure that the CHRC has full independence from the government and can conduct public awareness-raising campaigns regarding human rights concerns surrounding the death penalty and its alternatives.
- Adequately finance the birth registration system and ensure that the system facilitates the sharing of information among all government agencies for the compilation and preservation of data.
- Direct all judicial officials to ensure that whenever a defendant in a criminal proceeding raises the defense that the defendant was under the age of 18 at the time of the offense, the prosecution shall have the burden of proving that the defendant was over the age of 18 at the relevant time, and prioritize implementation of this rule in proceedings in which the defendant is at risk of being sentenced to death.
- Consult with civil society organizations with a view to amending the Anti-Terrorism Law of 2014 to harmonize it with international human rights standards, including the right to a fair trial and the right to due process.
- Ensure that every person at risk of being sentenced to death is represented by well-qualified and properly compensated lawyers and allocate the necessary resources for a rigorous defense, including resources for a thorough pre-trial investigation, particularly with respect to mitigating factors that would be relevant at the time of sentencing.
- Ensure that every defendant in a criminal matter whose native language is a language other than French has access to a well-qualified interpreter at all stages of the proceedings,

²⁹ Interview with Cameroonian attorney, March 8, 2022, on file with The Advocates for Human Rights.

³⁰ Some of these recommendations are borrowed or adapted from, Carole Berrih and Nestor Toko, *Sentenced to Oblivion - Fact Finding Mission on Death Row in Cameroon*, ECPM, 2019, ¶¶ 111-113. Available at <https://www.ecpm.org/wp-content/uploads/mission-enquete-cameroun-2019-GB.pdf>.

including during interrogations and all courtroom proceedings, prioritizing interpretation resources for people at risk of being sentenced to death.

- Amend the relevant legislation to require authorities to provide free legal assistance for any person at risk of being sentenced to death as well as for any person who has been sentenced to death, so that the person may fully exercise any right to appeal the verdict issued by the court of first instance.