

THE LAWS OF FREEDOM

A GUIDE TO SAFEGUARD
FUNDAMENTAL FREEDOMS

BOMB PENALTY PENALTY ELECTIONS
GOUVERNANCE
GUIDE CHARTER NCHRF TEARGAS
GENDER BATON CENTRAL AFRICA ATTACK
TEAR ARTICLES ACHPR CONVENTIONS
POLITIC OPINION TREATIES
STATE DEFENDERS MAROUA
BLOOD INFORMATION DEMONSTRATION
FUNDAMENTAL FREEDOMS
NETWORK EXTREME NORTH TERRORISM MANDE
ASSOCIATION UN ASSEMBLY JUSTICE
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COMMISSION SAFEGUARD EQUALITY RECOMMENDATIONS VIOLENCE
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COUNCIL HISTORIOGRAPHY DISPROPORTIONATE INNOCENCE CIVIC
MONORITY TRIAL SPACE COURT
SCHOOL COMMISSION TORTURE BERTOUA
POWER VIOLATIONS

Written by a group of citizens, human rights defenders, activists, academics, journalists, and political scientists, directed by REDHAC, with the technical support of the Ministry of Foreign Affairs of the FEDERAL REPUBLIC OF GERMANY





This guide has been written in honor of human rights defenders and activists of Central Africa murdered, forced into exile, threatened... It is dedicated to their fierce fight for the respect of fundamental freedoms in Cameroon and in Central Africa.



A GUIDE TO SAFEGUARD FUNDAMENTAL FREEDOMS

A guide to safeguard fundamental freedoms and demand their full application in Cameroon is intended to be a working tool at the service of civil society, state and non-state actors.

At the time this guide is being drawn up, the questioning of fundamental freedoms and the right to associate arises sharply: how to deal with the anti-terrorism law and its impact on these two fundamental rights? How to manage NICTs and who exercises the monopoly of regulation, that of violence?

In view of this delicate context, it is urgent and necessary to strengthen and support Cameroonian civil society and provide it with the tools to protect and enjoy its fundamental freedoms more effectively and to engage strategically in the process of consolidating democratic institutions, the overall objective of this project

Human rights defenders face Republican dilemmas on all these issues. Never mind. The course must be maintained to defend fundamental freedoms, no matter what the cost. It is at this price that human societies advance.

By involving academics, journalists and human rights activists in this inclusive construction, the Network of Human Rights Defenders in Central Africa (REDHAC) is making a useful contribution and hopes that this platform will be the beginning of a series of citizen consultations.

Hon. Reine Alapini-GANSOU

Former Special Rapporteur of the African Commission on Human and Peoples' Rights on Human Rights Defender; Former Commissioner of the African Commission on Human and Peoples' Rights responsible for the promotion of human rights in Cameroon; Lawyer at the Bar of Benin.



3 February 2017: First hearing of the trial of English-speaking leaders: Yaoundé Military Tribunal. From left to right: The President of the bar Muna, head of the defense group, Barrister Kharim, from London, Maximilienne Ngo Mbe Moutoudou, REDHAC Executive Director and Barrister Saskia from Geneva.



19 January 2017: Arrest and arbitrary detention (Yaoundé Main Prison) of Barrister Felix Agbor Balla Nkongho, President of CACSC, Dr. Fontem Neba, Secretary General of CACSC and Mr. Mancho Bibixi in connection with the so-called Anglophone crisis. They have been charged with « Terrorism, hostility against the fatherland, secession, revolution, spreading false news» and default of National Identity Card for Bibixi. Barrister Agbor Balla and Dr. Fontem Neba were released on August 31, 2017; Mancho Bibixi is still in detention.

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BACKGROUND AND JUSTIFICATION OF THE PROJECT

For 10 years now, REDHAC has been actively engaged in the fight to make democratic institutions in Central Africa more operational, as well as to consolidate the civic space and fundamental freedoms. This through advocacy with the authorities, capacity building of civil society actors and the vulgarization of regional and international instruments related to elections, promotion and protection of human rights defenders.

Indeed, the growing restrictions on fundamental freedoms in Cameroon, including freedom of expression, access to information including the Internet connection, freedom of association and peaceful assembly are risks that undermine democratic construction. They are a concern for REDHAC, emphasizing the urgency of the action.

These restrictions, which have been in place for a decade, have been exacerbated by a few highlights.

Since 18 May 2014: Declaration of war by the President of the Republic, Paul Biya, to the terrorist group Boko Haram in the Far North of Cameroon followed by the adoption and promulgation of Law No. 2014/028 of 23 December 2014 on “The suppression of acts of terrorism”. Section 2, paragraph ¹ was denounced by civil society organizations, opposition political parties and the international community because of its freedom-control potential.

The fight against terrorism becoming the ideal framework for justifying the most serious violations of fundamental freedoms:

- **Attacks on freedom of association, assembly and demonstration:** Law N° 90/55 of 19 December 1990: Law No. 90/55 of 19 December 1990 to lay down regulations governing public meetings and processions, which is variously interpreted by the sub-divisional officers in charge of its implementation, is being applied in an increasingly arbitrary manner. The administrative authorities have transformed the declaration receipt into

1 Section 2 para. 1 .Whoever, acting alone as an accomplice or accessory, commits or threatens to commit an act likely to cause death, endanger physical integrity, cause bodily injury or material damage, destroy natural resources, the environment or cultural heritage with intent to:

a) Intimidate the public, provoke a situation of terror or face the victim, the government and/or a national or international organisation to carry out or refrain From carrying out an act, adopt or renounce a particular position;

b) Disrupt the national functioning of public services, the delivery of essential services to the public to create a crisis situation among the public;

c) Create widespread insurrection in the country;

d) Shall be punished with the death penalty.

an authorization system, which allows them to deny the organizations the right of assembly and association for “danger of disturbance to public order”. Opposition political parties have suffered numerous suspensions and bans on their meetings and demonstrations. This is the case of the UPC² -MANIDEM (Union des Populations du Cameroun), the CPP (Cameroon People’s Party)³, the MRC (Mouvement pour la Renaissance du Cameroun)⁴ and the SDF (Social Democratic Front)⁵. In this context, the opposition political parties’ leaders⁶ and activists⁷ become more and more the target of arbitrary arrests and detentions.

- **Attacks on freedom of expression and information:** Press muzzling is now on the agenda in Cameroon, with numerous intimidations of journalists, and arbitrary arrests and detentions on the basis of alleged implications in terrorist acts⁸.

2 Case of the UPC: by unilateral decision, on 12 August 2014, the Sub-Divisional Officer of Douala banned the Congress of the UPC-Manidem planned from 14 to 16 August 2014, because for him, the UPC-Manidem was causing confusion. Despite the decision of the African Commission on Human and Political Rights, of 18 February 2016 at its 19th Extraordinary Session, concerning the case of the political party UPC vs the State of Cameroon, signatory state of the Charter, the members of this party continue to be formally banned by the Cameroonian administration from holding their meetings.

3 Case of the CPP: At the end of a meeting held on Wednesday 13 May 2015 at the Mfoundi Division premises in Yaounde, the representatives of the CPP led by NDJAYIG NACK André Daniel were surprised to be orally informed by the Divisional Officer of the

4 Case of the MRC: in 2015, 2016 and early 2017, the MRC saw several of its political events banned by the administrative authorities. Sosthène Médard LIPOT, advisor to the MRC National President, was molested by the security forces on 29 March 2016 intervening to prohibit a press conference at the MRC headquarters. The MRC planned to hold a peaceful demonstration in the city of Eseka on 23 March 2017. It was cancelled on the grounds that the Sub-divisional officer was not present, and his deputy refused to hand over the declaration receipt for a public demonstration to the Advisor of the MRC National President.

5 Case of the SDF: The Social Democratic Front could not organize a peaceful march, planned for March 4, 2017, to sensitize the population on federalism and national unity in Douala. The administration, in particular the sub-prefect of Douala 5th, mentioned the reason of “disturbance of public order”, a recurrent decision of the administrative authorities, which the opposition political parties in Cameroon now consider as a restriction of their activity.

6 Case Aboubakary Siddiki and Barrister Harissou: The cases of Aboubakary Siddiki, National President of the Patriotic Movement of the Cameroonian Salvation (MPSC), party of the opposition, and Barrister Harissou, Notary to the first lord of Maroua for more than 30 years, Honorary President of the Chamber of Notaries of Cameroon, Chairman of the Working Group Committee at the International Union of the notariat and secretary general of the Association of Francophone Notariat (ANF) arrested since 09 and 27/08/2014 August 2014 for: «Outrage to the President of the Republic; Hostility against the fatherland and revolution; Complicity of assassination; And carrying and illegal possession of weapons of war, « have been incarcerated for three years at Kondengui Main Prison, Yaoundé. On the 30 October 2017 Aboubakary Siddiki has been sentenced to 25 years of detention; while barrister Harissou has been acquitted.

7 Case Dynamique Citoyenne: On September 15, 2015, in Yaoundé, several members of the Dynamique Citoyenne civil society platform and a journalist were arrested by the police during a conference bringing together Cameroonian civil society organizations to discuss the celebration of the International Day of Democracy and as part of the launch of Tournons la Page Cameroon. Among them, Jean-Marc Bikoko, president of the Centrale Syndicale of tc Sector, and four other members. Incarcerated for 9 days in police station cells in Yaoundé without any warrant or charges against them. The public prosecutor has started an endless trial against them before the Court of First Instance of Yaounde Administrative Center. The sub-prefect of Yaoundé II and the police officers who arrested the defendants are the witnesses in this case.

Since 08, 10 and 21 November 2016, the whole world has been witnessing the so-called Anglophone socio-political crisis in the South-West and North-West regions of Cameroon. At first, it consisted of claims made by the Anglophone lawyers and barristers demanding that the new penal code - recently adopted by the National Assembly and promulgated by the President of the Republic - should be translated into English. This was followed by teachers and students demonstrating for better working and study conditions. In order to deal with these various demands, the leaders put in place a network called CACSC (Consortium of the Anglophone Civil Society in Cameroon). In this particular context, serious violations of fundamental freedoms have occurred:

- **Violations of freedom of demonstration:** in response to peaceful demonstrations by lawyers, teachers and students in the South-West and North-West regions, security forces resorted to the disproportionate use of force (matracs, tear gas) resulting in deaths and injuries. According to our sources, more than 120 demonstrators were arrested in connection with the Anglophone crisis and detained in Yaoundé-Kondengui Main and Central Prisons, Buea Central Prison, Bamenda Central Prison and other detention centers: the Secretariat of State for the Defense (SED), General Directorate for External Research (DGRE), and others. Among them, the leaders of the Cameroon Anglophone Civil Society Consortium (CACSC), President Felix Arbor Kongho and Secretary General, Dr. Fontem Neba, were arrested on 19 January 2017, and charged with “Act of terrorism, hostility against the Fatherland, secession, revolution, spreading false news”. They were detained at the Kondengui Main Prison, Yaounde, awaiting trial before the Military Court of Yaounde, but they benefited from the decision of the Head of State ordering the stay of proceedings pending against the Anglophone leaders and other people arrested in connection with this crisis, for a total of 54 people, on 30 August 2017. REDHAC salutes the Head of State’s decision, but considers that the fundamental problem has not yet been solved, as more than 300 people arrested in connection with the Anglophone crisis are still detained.
- **Violations on freedom of association and assembly:** on 17 January 2017, prior to the arrest of the leaders and by Order No. 00000009/A/MINATD/CAV of the Minister of Territorial Administration and Decentralization (MINATD), René Emmanuel SADI, the Cameroon Anglophone Civil Society Consortium (CACSC) was dissolved and all its activities prohibited.

8 Case of Ahmed Abba: in July 2015, the journalist and Haoussa language correspondent of RFI was arrested in Maroua (Far North of Cameroon) and charged with acts of terrorism.. After a two-year trial before the military court, and after the indictment by the Government commissioner who demanded the death penalty in accordance with article 2 of law n°2014/028, he was convicted on 24 April 2017 of «Not denouncing and laundering terrorist products», sentenced to 10 years in prison and FCFA 55 million in fines to be paid to the State.

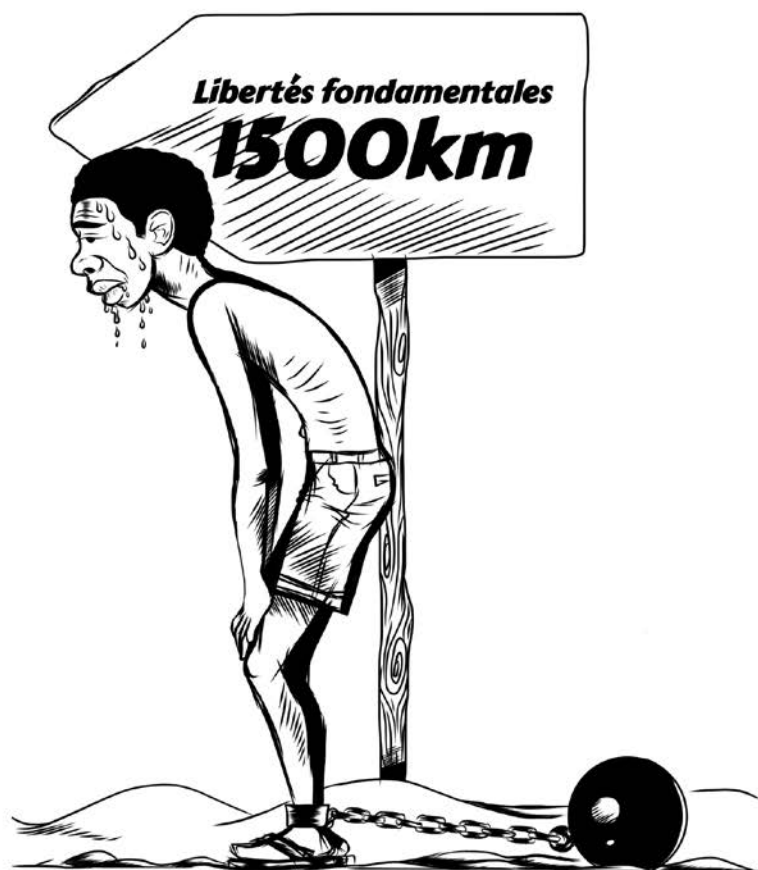
- **Violations on freedom of expression and information:** on 10 January 2017, the Governor of the North-West Region in Bamenda shut down Hot Cocoa 94 FM radio station for “inciting the population to civil disobedience”⁹. At least 8 journalists were arrested in the context of this crisis between January and February 2017: 3 were released following the above-mentioned decision by the Head of State, 5 are still detained.¹⁰ In order to intimidate activists, human rights defenders, journalists and all citizens who were trying to disseminate information aimed at criticizing government action, messages were sent by the Ministry of Postal Services and Telecommunications via mobile operators (MTN, Orange, Nexttel and Camtel): “you risk 6 months to 2 years imprisonment and a 5 to 10 million fine if you publish or spread news on a social network without proof of truth” and “you risk 20 years imprisonment if you are the author of false statements or slanderous denunciations via a social network”.
- **Violations of the right to access to the Internet connection:** on 17 January 2017, following a decision by the Cameroonian authorities, people, activists, human rights defenders, journalists, civil society organizations and political parties in the South West and North-West regions of Cameroon were cut off from the internet connection, the main means of dissemination and exchange of information. The government only re-established this connection on 20 April 2017 after repeated pressure from national and international civil society organizations, regional (ACHPR) and international (UN) human rights mechanisms.

In this context and following the discontent of civil society actors who wish to work in a secure, independent and free civic space, the observation was clear: it is important and urgent to support Cameroonian civil society in the effective enjoyment of fundamental freedoms, a guarantee of the consolidation of democratic institutions, and to equip it to carry out effective advocacy with the Cameroonian government by calling for the establishment of adequate systems to guarantee these rights.

⁹ *Case of Baba Wame, Rodrigue Tongué and Ebola Bola* : on 28 October 2014, the journalists Ndeutchoua Tongue Rodrigue, employed at the time by the daily LE MESSAGER, Baba Wame, lecturer at the Advanced School of Mass Communication (ASMAG) in Yaoundé, Felix-Cyriaque Ebolé Bola, Secretary General of the daily MUTATIONS, were summoned at the Secretariat of State for Defence (SED) to answer allegations of «detaining documents without cross-checking then with the police or military authorities». Since that day, they have been in the hands of Cameroonian military justice for «NON DENUNCIATION» according to the order of reference of Captain Magistrate TSUITE Bernard, until the 30 October 2017, when they have been acquitted.

REDHAC Press Release, « Muzzling the press in Cameroon », 16 January 2017; The Committee for the protection of journalists, Press Freedom Crisis in Cameroon: <https://www.cpj.org/africa/cameroon>. Reporters Sans Frontières, “Censorship of the Anglophone crisis in Cameroon”, <https://rsf.org/fr/actualites/censure-de-la-question-anglophone>.

¹⁰ See the cases of Atia Tilarious Azohnwi, Amos Fofung, Mfor Ndong, arrested in Buea; Thomas Awah Junior, Hans Achomba, Tim Finnian, Jean Claude Agbortem, Mancho Bibixy alias BBC arrested in Bamenda. All were arrested between January and February 2017. Of the 54 people who were granted presidential pardon, three journalists — Atia Tilarious Azohnwi, Hans Achomba and Tim Finnian — were released.



CHAPTER I:

FROM LEGAL CONCEPTS TO FUNDAMENTAL FREEDOMS

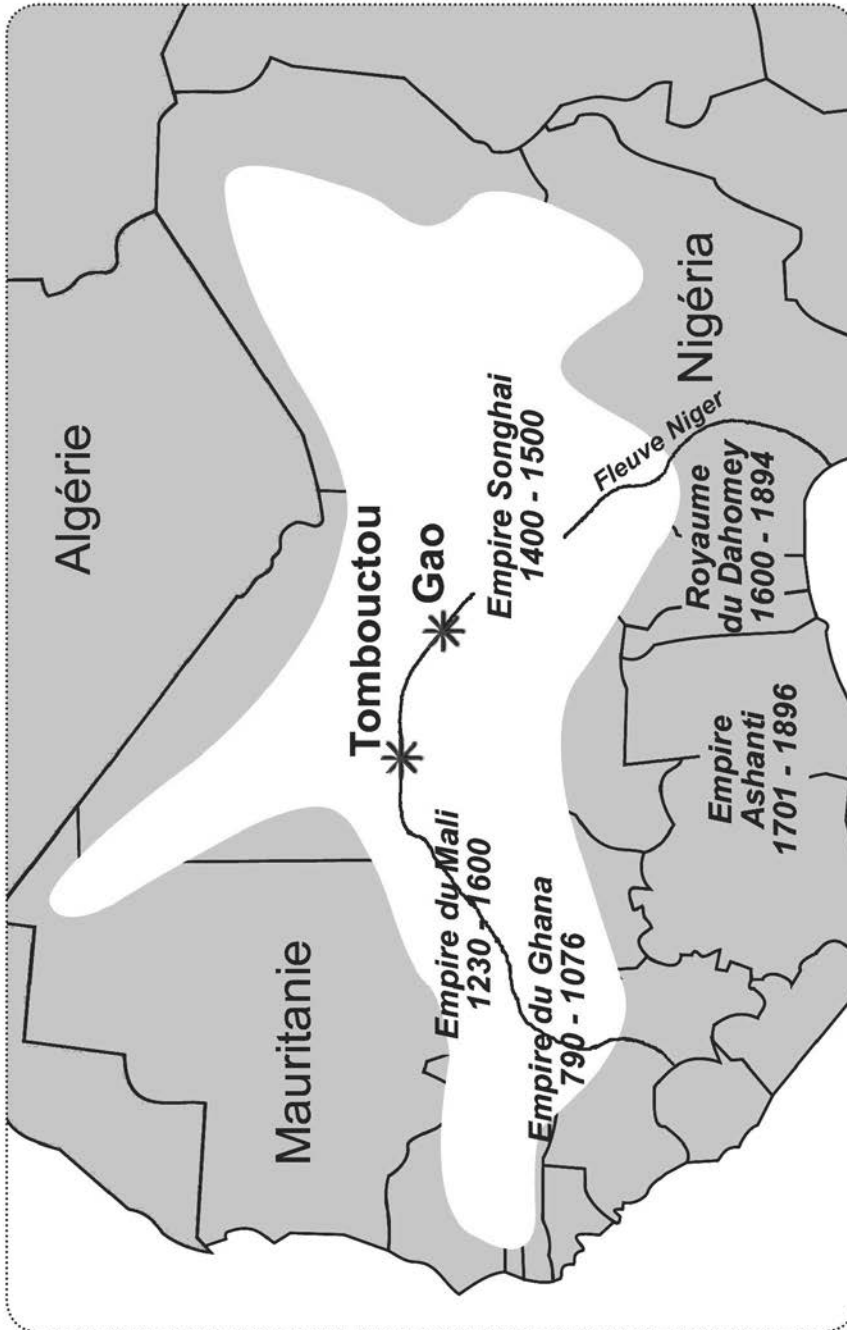
I. A HISTORIOGRAPHY IN WHICH AFRICA IS NOT ABSENT

Can concepts have different dimensions and indicators from one continent to another? From one civilization to another? What does it mean to be in line with the norms of “universal” legal texts and practices? Can it be functional beyond time? Territorial, spatial and/or institutional space?

The issue of the respect of fundamental laws guaranteeing citizens’ freedoms is an issue that has divided the conscience of human societies since their existence. They had to face all transgressions, refuse to allow themselves to be overwhelmed by the norms of the dominant, and had to resolve themselves to bring forth from the humus of the values of citizenship and humanism, the demands of men and women to be free. Ready to fight hard for their dignity. Willingness to fight for their recognition and acceptance as such for who they are! Whatever their religious or political convictions, sexual orientation or culture. As long as they respect the fundamental laws that guarantee citizens’ freedoms. But it is here that the problem arises and where the limits of the practice of these freedoms appear. The limits that can be read in the texts adopted from one country to another, their exegesis, and the time taken by a society to accept these elements of progressive evidence, which push the frontiers of collective consciousness to the limits of satisfying the demands of individuality... It is in fact the crux of the debate and the levers of the controversy that has always opposed civil society actors to the states and the Some claiming legitimacy. The other ones arguing legality in the name of the higher interests of the Nation, which would then be embodied by... The State! But what is the State and who possesses this popular legitimacy, which would then enshrine the interests of individuals not necessarily represented in socio-professional, trade union, religious or employer training?

Defending fundamental freedoms is a right and a duty. A moral imperative. A principle. An assertion of philosophy and ethics. But then why, why, why, are there so many slippages? Denial of justice? Discrepancies? Offsets? This can be the result of several causalities: the historical conditions of production and promulgation of basic laws, the strength of the various parties and the constraints of the moment. This set of parameters can undermine the exercise and practice of the fundamental laws that guarantee essential freedoms in our countries.

By taking the decision to analyse the relevance of the laws promulgated in Cameroon on the basis of their practice but also in comparison with what is said, written and practiced at the regional and international level, REDHAC undertakes an epistemological work on mores, relations with the law and the relation to the central notion of freedom that each civilization maintains with it. The Universal Declaration of Human Rights, driven by the revolution of the “Sans-culottes” in 1789—adopted as late as 1948—lays down the foundation in a controversy that could last 2 centuries! The principles stated, however, are not very different from the famous Manden Charter, or Mande Charter, the charter of Kouroukan Fougá, or, in the Malinke language, Manden Kalikan, which is the transcription of an oral content, going back to the reign of the first ruler Soundiata Keita (1190 to 1255). It was solemnly proclaimed on the day of Soundiata Keita’s induction as Emperor of Mali at the end of 1236. There is no written record of it prior to the 1960s and its authenticity is questioned by many researchers.



The Mandingo Empire

There are several versions of the Charter, the one described below, which dates back to 1222 and is derived from the work carried out since the 1970s by Wa Kamissoko and Youssouf Tata Cissé, was inscribed in 2009 by UNESCO on the list of the Intangible Cultural Heritage of Humanity.

This text is considered by its promoters, along with the Magna Carta of England in 1215, as one of the oldest references to fundamental rights. Its recognition would confirm its legal value and universal scope.

A work of scholars, this text in the form of an oath is known to us in two versions: one dated 1222 and comprising seven chapters, the other dated 1236 and containing forty-four articles. These two versions have been transcribed from works conducted since the 1960s with griots depository of these stories, belonging in particular to the brotherhood of hunters.

In 1949, Guinean scholar Souleymane Kante published a compilation of 130 legal rules dating from 1236 and located at “Kurukan-Fuga”. In 1960, Djibril Tamsir Niane published Sunjata or the Mandingo epic, a French translation of an oral narrative produced by Mamadou Kouyate which evokes the construction of a legal corpus in “Koroukan fougá”. In 1998, on the occasion of a workshop on the collection and safeguarding of African oral heritage, organized in Kankan (Guinea) by the Agence pour la Francophonie and CELTHO, Siriman Kouyaté composed a text of 44 articles based on several oral accounts from 1236. Finally, Youssouf Tata Cissé published the Testament of Sunjata and the Oath of the Hunters, based on accounts by Wa Kamissoko from 1222. The Hunters’ Oath was renamed the Mande Charter in 2007.

a) Content of the Charter

After a preamble “to the twelve parts of the World and in the name of the whole Mande”, the charter mentions seven words, which are as many headings of articles of the charter:

- A life is not older or more respectable than another life, just as another life is not superior to another life;
- Let no one go after his neighbor gratuitously, let no one harm his neighbor, let no one torture his fellow man;
- Harm demands reparation;
- Practice mutual aid;
- Watch over the homeland.
- Hunger is not a good thing, slavery is not a good thing either;
- War will never again destroy a village to take slaves from it; that is to say, no one will ever place the bit in the mouth of his fellow man to go and sell them; nor will anyone be beaten

in the Mandé, a fortiori put to death, because he is the son of a slave;

- «Everyone is free to do his or her own thing, while respecting the prohibitions of the laws of his or her homeland».

According to the transcribers of the Manden charter, the abolition of slavery was a masterpiece of Soundiata Keita and the Empire of Mali. This charter would include the concepts of respect for human life, the right to life, the principles of equality and non-discrimination, individual freedom, justice, equity and solidarity. By challenging slavery, it would identify the violence of situations as preceding the violence of war.

II. THE OAU, THE AFRICAN UNION AND THE BIRTH OF THE CHARTER

a) The Organization of African Unity (OAU)

The Organization of African Unity was founded in 1963 at the Pan-African Summit in Addis Ababa, Ethiopia, which brought together 32 African states.

Its objective was to promote the unity and solidarity of African States and to bring the voice of the continent's c voice in a united and collective way. The organization was also dedicated to eradicating colonialism and had set up a Liberation Committee to support independence movements.

The charter of the organization (written by President Modibo Keita of Mali and President Sylvanus Olympio of Togo) was signed by 32 independent African states in May 1963.

At the time of its dissolution, fifty-three of the 54 African countries were members, Morocco having left the organization in 1985.

b) From the OAU to the AU

In July 1999, at the extraordinary summit in Sirte, the OAU decided to establish a new organization to replace it, the African Union (AU). The next fundamental steps that led to the constitution of the AU are the following:

- The adoption of the Constitutive Act of the African Union at the Lomé Summit on 11 July 2000 in Togo, which entered into force in May 2001.
- The 38th Conference of Heads of State and Government of the OAU, held on 9 July 2002 in Durban, South Africa, which proclaimed the official birth of the African Union.
- The objectives of the Union are to¹¹

(a) Achieve greater unity and solidarity between the African counties and the peoples of Africa;

(b) Defend the sovereignty, territorial integrity and independence of

¹¹ See the Constitutive Act of the African Union: <http://www.achpr.org/instruments/au-constitutive-act/>

its Member States;

(c) Accelerate the political and socio-economic integration of the continent;

Promote and defend African common positions on issues of interest to the continent and its peoples;

(d) Encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;

(e) Promote peace, security, and stability on the continent;

(f) Promote democratic principles and institutions, popular participation and good governance;

(g) Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;

(h) Establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;

(i) Promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;

(j) Promote cooperation in all fields of human activity to raise the living standards of African peoples;

(k) Coordinate and harmonize policies between existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;

(l) Advance the development of the continent by promoting research in all fields, in particular in science and technology;

(m) Work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.

c) African Charter On Human And Peoples' Rights

The African Charter on Human and Peoples' Rights was adopted on 27 June 1981 in Nairobi (Kenya) at the 18th Conference of the Organization of African Unity. It entered into force on 21 October 1986, after ratification by 25 States.

It is based on the Charter of the Organization of African Unity and the United Nations Charter and the Universal Declaration of Human Rights, while "taking into account the virtues of their historical traditions and the values of African civilization which should inspire and characterize their reflections on the conception of human and peoples' rights" (preamble to the Charter).

This instrument will be analyzed in detail in Chapter II (Regional level).

III. BUT WHAT IS FREEDOM? WHAT ARE LIBERTIES?

Are they definitively indivisible and untouchable when it comes to individualities, and do they become prohibitive when it comes to

governments with legal authority? Or charismatic? Or traditional? It is about the notion of freedoms like those of power and violence. It all depends on how you use it and from which place you're speaking.

The sociologist Henri Weber had an approach to freedom, authority and the construction of power and the exercise of their powers that seemed appropriate, although many politicians refused to exploit its relevance. However, it approached a scientific truth by warning against any normative or prescriptive attempt to found the law and freedoms within a society. Since this reading ended up defining a hierarchy, classifying societies that were more advanced than others in the application of human rights and respect for individual freedoms, on the basis of indicators considered universal, but adopted only by one part of humanity. The recent discussions on the legitimacy of the International Criminal Court to impose sanctions against former heads of state, testify to the complexity of the issue.

IV. THE RIGHT WOMAN AT THE RIGHT PLACE

What should I do? What should I not do? Every day and often several times a day, we are faced with this dilemma. Especially when our interests and dignity are at stake. The very field in which our rights are at stake is that of our relationship with those around us. And a popular wisdom teaches us that “the freedom of some ends where the freedom of others begins”.

Beyond these relations of proximity, what interests us in this guide is the relations between States and their citizens. It should be pointed out that it is at the national, regional or international level that we find ourselves with the same actors in the field of fundamental freedoms, i. e. always the duo: State and citizen. However, it is necessary to specify, whether at the national, regional or international level, one finds oneself with the same actors in the field of fundamental freedoms, namely States, political parties, civil society organizations, the media.

V. THE POWER RELATIONS

The State has always had precedence over other subjects of international law because of its public power. Indeed, on the subject of human rights, it expressly protects a very wide range of rights. Whether positive or negative, human rights obligations are incumbent on the State as a whole, regardless of any internal institutional structure and division of responsibilities between conventions. By becoming parties to international human rights treaties, States undertake to respect, protect and guarantee human rights.

Despite the preponderance of the State, there are special provisions on fundamental freedoms which aim to impose certain types of obligations on other actors, notably persons and non-State actors.

The monitoring role of the different actors



1 - State actors

Notwithstanding the vital role of international mechanisms, the monitoring role and the effective protection of human rights begins and ends at the national level. They concern the role of the judiciary, other similar bodies, national human rights institutions, parliaments, administrations and non-governmental organizations. The development of a genuine “human rights culture” is, from this point of view, essential, but it presupposes the example of what exists in Cameroon, such as the National Commission on Human Rights among others. Moreover, it is more incumbent on state authorities and national institutions to inform, educate and train in the culture of fundamental freedoms.

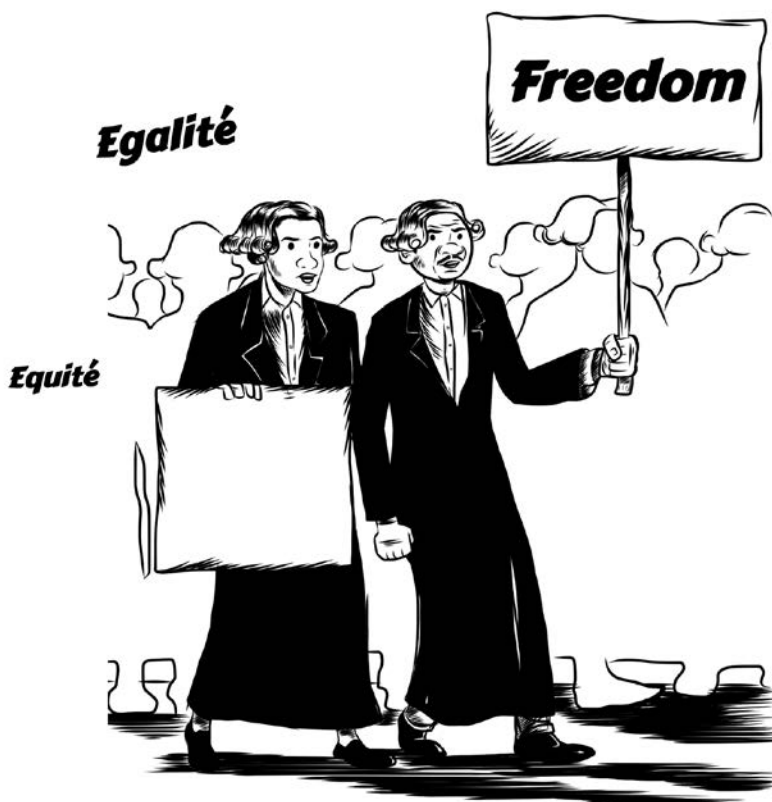
2 - Non-state actors

Civil society, the media, non-governmental organizations and the international community must ensure respect for fundamental freedoms by promoting the establishment of independent human rights bodies and by participating in the establishment of a culture of human rights through information, education and training.

In addition, the media can remind the public, through concrete campaigns, of the rationale for a human rights protection system and the atrocities that it must prevent, and in local languages if possible.



16 April 2017 : Arbitrary arrest and detention (Malabo, Equatorial Guinea) : Mr. Enrique A Bata ASUMU, President of NGOs CEID (Study and Initiative Centre for Development) and Mr. ALFREDO OKENVE, Vice-president, REDHAC focal point, arrested for having organized the 20 year celebration of their association. Released respectively on the 25 April and the 3 May 2017.



CHAPTER II:

THE SOURCES OF FUNDAMENTAL RIGHTS AND FREEDOMS IN CAMEROON, IN AFRICA AND THE WORLD



○ **I. FORMAL AND LEGAL SOURCES**

- **Universal Declaration of Human Rights** (UDHR) proclaimed by the United Nations General Assembly in Paris, 10 December 1948 (General Assembly resolution 217 A)¹²
- **International Covenant on Civil and Political Rights**, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 (ratified by Cameroon, 27 June 1984)¹³
- **African Charter on Human and Peoples' Rights** (adopted on 27 June 1981, ratified by Cameroon on 20 June 1989)¹⁴
- **Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**, Adopted by General Assembly resolution 53/144 of 9 December 1998¹⁵
- **Resolution on the promotion, protection and enjoyment of human rights on the Internet** adopted by the General Assembly, resolution A/HRC/32/L.20, 27 June 2016;¹⁶
- **Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa** adopted by the African Commission on Human and Peoples' Rights during its 56th Ordinary Session in Banjul, Gambia (21 April to 7 May 2015)¹⁷.
- **Declaration of Principles on Freedom of Expression in Africa** (adopted by The African Commission on Human and Peoples' Rights, meeting at its 32nd Ordinary Session, in Banjul, The Gambia, from 17th to 23rd October 2002)¹⁸
- **African Commission on Human and Peoples' Rights Guidelines on Freedom of Association** and Assembly in Africa, 21 September 2017.

12 <http://www.un.org/en/universal-declaration-human-rights/index.html>

13 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

14 <http://www.achpr.org/instruments/charter-democracy/>

15 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>

16 <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/131/89/PDF/G1613189.pdf?OpenElement>

17 http://www.achpr.org/files/instruments/principles-guidelines-countering-terrorism/principles_and_guidelines_on_human_and_peoples_rights_while_countering_terrorism_in_africa.pdf

18 http://www.achpr.org/files/instruments/principles-guidelines-countering-terrorism/principles_and_guidelines_on_human_and_peoples_rights_while_countering_terrorism_in_africa.pdf

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- **II. IN CAMEROON**
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- **a) Sources:**
 - Laws and regulations of Cameroon
 - The Constitution¹⁹
 - The new Penal Code promulgated on 12 July by the President of the Republic, Paul Biya, after an amendment of article 127²⁰;
 - Recueil des nouveaux textes sur les droits et libertés, Yaoundé: Editions Sopecam, December 1990;
 - Consistent jurisprudence making a clear difference between a request for demonstration and a declaration²¹.

b) Cameroon's response to the development of fundamental freedoms

November 1989, the Berlin Wall collapses. The breath and the dust of its fall cross the vast world. The “east wind” was then referred to as the wall separating Western and Eastern Europe. In fact, we could just as easily speak of a westerly wind. But let's move on! That is not our concern.

While this wind was supposed to carry freedom where it did not exist, the Cameroonian Government took upon itself to modernize its legal arsenal and submitted to the National Assembly in 1990 a series of legislative proposals relating to individual, civil and political liberties, freedoms of associations, trade unions and others.

From 1990 to the present day, some of these laws have been amended two or three times. These include the law on social communication. The Criminal Code was revised in July 2016. These are the laws that regulate our daily lives.

i. Freedom of expression and opinion:

*Law N°90/046 of 19 December 1990²² abrogating Order N°62/OF/18 of 12 March 1962. This order repressed whatever was considered as subversive.

ii. Territorial security and freedom to demonstrate:

*Law N°90/047 du 19 December 1990²³
Relating to the State of Emergency

Section 1: A state of emergency may be proclaimed throughout the national territory or in any part thereof in the event of:

19 http://www.cameroonconstitution.com/wp-content/uploads/2016/01/Constitution_Law-No.-96-06-of-18-January-1996.pdf

20 <http://www.assnat.cm/index.php/en/laws/adopted-laws-2/83-law-n-2016-007-of-12-jul-2016>

21 *Judgment of Judge Yvonne Leopoldine AKOA in the case of Public Prosecutor against Jean-Marc BIKOKO et alii*, <http://germinalnewspaper.com/>

22 [https://ihl-databases.icrc.org/applic/ihl/ihl_nat.nsf/0/f60ec89c08aecfecc1256ae90037804b/\\$FILE/Law%20No.%2090-47%20of%2019%20December%201990.pdf](https://ihl-databases.icrc.org/applic/ihl/ihl_nat.nsf/0/f60ec89c08aecfecc1256ae90037804b/$FILE/Law%20No.%2090-47%20of%2019%20December%201990.pdf)

23 http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=22743&p_classification=01.05

- An occurrence which, by its nature and gravity, is considered a national disaster;
- A series of disturbances undermining public order or the security of the State;
- A foreign invasion.

Section 2: The state of emergency shall be proclaimed by decree. For the Government, this law n° 90/047 of 19 December 1990 on the state of emergency, in addition to providing for restrictions on certain freedoms such as freedom of movement freely, freedom of association and assembly, allows the administrative authority to order, either on its own initiative or at the request of the authorities in charge of the administration of the districts subject to the state of emergency, the detention for a period of two months renewable once only of individuals considered dangerous for public security.

*Law n° 90/048 of 19 December 1990 Relating to Military Judicial Organization

Section 1: The provisions of Articles 5, 10, 29, 31 and 33 of Ordinance No. 72/5 of August 26, 1972 on the jurisdiction of the military court are amended and supplemented as follows:

Section 5: (New) The military court has sole jurisdiction to hear against any person over the age of 18 years on any purely military offenses provided for in the Code of Military Justice; offenses of any kind committed by military personnel with or without civilian co-perpetrators or accomplices, either within a military establishment or in the service; all offenses of any kind involving a member of the armed forces or similar, perpetrated in a region subject to a state of emergency or exception; all offenses related to those set out above.

Section 10: (New) In the context of the offenses referred to in art. 5: the judicial police officers may carry out domiciliary visits, searches and seizures only upon the written order of the Minister of Defense.

- They can keep suspects in custody for 48 hours from their arrest. This period may be extended three times with the written authorization of the Government Commissioner.
- The judicial police officers are required to address daily a state of those kept in custody to the Minister of Defense with a copy to the Minister of Justice, Garde des Sceaux;
- Any act performed outside of the above prescriptions may result in the application of criminal or disciplinary sanctions against judicial police officers and give rise to compensation.

Section 29: (New) The judgments of the Military Court are subject to appeal to the Court of Appeal of Yaoundé.

iii. Freedom of press and of media professionals

*Law n° 90/52 of 19 December 1990²⁴

Relating to Freedom of Mass Communication

PART I GENERAL PROVISIONS

Section 1: Freedom of the press, as guaranteed by the Constitution, shall be exercised in accordance with the provisions of this law.

Section 2:

(1) This law shall apply to all forms and means of mass communication in particular to printing, bookselling, press organs, publishing houses, distribution agencies, bill-posting and to audio-visual communication establishments.

(2) The profession of journalism shall be practiced in accordance with the provisions of this law.

PART II WRITTEN COMMUNICATION CHAPTER I PRINTING AND BOOKSELLING

Section 3:

Persons shall be free to engage in printing and bookselling

Section 4:

All printed matter intended to communicate opinions to the public must bear the name and address of the printer.

CHAPTER II PRESS ORGANS PART I FREEDOM OF PUBLICATION

Section 5:

(1) "Press organ" shall mean any newspaper, periodical, magazine or pamphlet intended to communicate opinions, ideas, thoughts, current or social events which is published at regular intervals.

(2) The above definition shall not include publications of a scientific, artistic, cultural, technical or professional nature regardless of their publication intervals.

Section 6:

Persons shall be free to engage in the publication of press organs.

Section 7: (new)

(1) All natural persons or corporate bodies wishing to publish in press organs shall be bound, prior to the maiden issue, to make a declaration there of against a receipt at the office of the Senior Divisional Officer having jurisdiction.

(2) The declaration referred to in Section 7 (1) shall include:

24 http://cnc.gov.cm/images/Documents/Lois/com_sociale.pdf

- the title and intervals of the publication;
 - the head office of the press organ;
 - the full names, filiation, non conviction certificate of proprietor and/or co-proprietors;
 - the articles of association for corporate bodies;
 - the full names, filiation, non-conviction certificate as well as address of the publisher, co-publisher or assistant publisher;
 - the name and addresses of the printing press where the press organ will be published;
 - the full names of members of the permanent editorial staff which must comprise no less than two journalists who are holders of professional cards bound to the press organ by a working contract.
- (3) the Senior Divisional Officer shall issue a receipt within fifteen days of the submission of the declaration where the file is in accordance with the provisions in section 7(2) above. After this deadline, the silence of the Senior Divisional Officer shall be construed to mean a receipt has been issued. Where the Senior Divisional Officer expressly refuses to issue a receipt, the application may refer the matter to the judge under the conditions provided for in Section 17 (2) and (3) below.
- (4) The publisher shall forward a copy of the receipt to the Magistrate with jurisdiction before the first issue is published or inform him of the silence of the Senior Divisional Officer.
- (5) Any amendments in the conditions listed in subsection (2) above shall be defined within five days in accordance with section 7(1).

PART III THE PUBLISHER

Section 8:

- (1) Each press organ must have a publisher
- (2) Where the owner is a natural person, he shall automatically be published
- (3) in case of corporate ownership, the publication declaration shall state which official of the corporate body (chairman, director or manager) is the publisher.

Section 9:

- (1) Where the publisher enjoys an immunity he must designate co publishers who does not enjoy any immunity.
- (2) All obligations binding the publisher shall apply to the co-publisher.

Section 10:

The publisher and, when applicable, the co-publisher, must reside in Cameroon. They must be of full age and enjoy their full rights of citizenship.

Section 11:

The full names of the publisher and co-publisher must appear on the front page of each issue of a press organ, under its name.

Section 12:

- (1) In the event of legal proceedings, the publisher shall be bound to disclose the true identity of the author of an article written under a

pen-name.

(2) The publication of an unsigned article, document or text in a press organ shall entail the liability of the publisher.

PART III.

COMPULSORY SUBMISSION OF COPIES

Section 13: (new)

Each press organ shall be bound to submit copies to the judicial authority. In this regard, the publisher shall be bound to submit to the State Counsel, no less than two hours after publication, two signed copies of each issue.

Section 14: (new)

Each press organ shall be bound to submit copies to the administrative authority. In this regard, the publisher shall be bound to submit no more than two hours after publication, two signed copies of each issue to the administrative authorities having jurisdiction. As concerns the capital city, such copies shall be submitted to the ministry in charge of territorial administration.

Section 15:

(1): Each publisher shall be bound to file official copies.

In this regard, he must supply to the branch of the National Archives in the head office of the newspaper, four signed copies of each issue not later than four hours following its release. Two of such copies shall be forwarded within twenty-four hours to the National Library in Yaoundé.

(2) The printer and publisher of any printed matter intended for mass communication, with the exception of the press organs referred to into Section 15(1) shall each supply four signed copies thereof to the branch of the National Archives in the area of the head office of the printing press not later than 2 (two) hours following their publication. Two of such copies shall be forwarded to the National Library in Yaoundé within 24 (twenty-four) hours following their publication.

(3) The conditions of implementation of this Section shall be laid down by regulations.

Section 16:

Each publisher shall submit to central or external services of the Ministry in charge of Information according to the area of location of the head office of, the press organ 2 (two) signed copies of the publication not later than 2 (two) hours following its release.

PART IV

4. SEIZURE AND BAN

Section 17: (new)*

(1) In case of conflict with the principles of public policy:

- The seizure of a press organ may be ordered by the administrative authority having jurisdiction; and
- The banning of a press organ may be ordered by the Minister in charge of Territorial Administration.

(2) The seizure or banning order may be appealed against. In such

case the publisher shall refer the matter to the competent judge sitting in chambers hour by hour or following similar legal provisions in force in the North-West and South-West Provinces.

(3) The magistrate shall make a ruling:

- within a time-limit of two (2) hours for dailies;
- within a time-limit of twenty-four (24) hours for periodicals. The judge to whom the matter is referred under the conditions stipulated above shall make a ruling at the first instance after duly hearing both parties.

(4) In case of an appeal, the ruling shall be made as provided for in subsection (2) above.

(5) Any person whose honor, dignity, esteem, reputation, or private life has been injured may request in accordance with the procedure provided for in subsections 1, 2,3 and 4 of this section, and without prejudice to legal action:

- either the seizure of a press organ by the administrative authority;

Or through a writ of injunction, the withdrawal from circulation of a press organ.

PART V

SPECIAL OBLIGATIONS

Section 18:

(1) Each issue of a press organ must bear a complete list of the permanent editorial staff.

(2) However, as concerns dailies, such a list shall be published once a month in the last issues.

Section 19:

Each issue of a press organ must bear the full name of its managing editor and the number of copies printed.

The number of copies printed shall be checked once every quarter by the Minister in charge of the press.

Section 20:

(1) Each press organ must publish its advertisement rates once every quarter.

(2) It must not use more than half of its space for advertisements and announcements.

(3) Any advertisement must be preceded by a caption showing that its purpose is to promote or advertise.

Section 21:

The distribution of a press organ shall be suspended as soon as the administrative authority establishes that the said organ does not fulfill all the prescribed conditions. The suspension shall be lifted as soon as the conditions of publication are once more fulfilled.

PART VI

FOREIGN PRESS ORGANS

Section 22:

“Foreign press organ” shall mean any organ published in any language whatsoever and having its head office outside Cameroon.

Section 23:

The distributor of each foreign press organ must submit (2) two copies of such organ to the Ministers in charge of External Relations, Territorial Administration, Information, and Justice not less than 24 (twenty four) hours prior to its distribution and circulation.

Section 24:

(1) The circulation, distribution and sale of a foreign press organ in Cameroon may be banned by decision of the Minister in charge of Territorial Administration.

Such ban shall apply automatically even where the said organ resumes publication under a different name.

(2) Seizure of any issue of such organ shall be affected under the same conditions.

(3) The ban and seizure referred to in Subsections 1 and 2 above may be subject to appeal under the conditions provided for under Section 14 of this law.

**CHAPTER III
PUBLISHING HOUSES**

Section 25:

“Publishing house” shall mean any natural person or corporate body or legal grouping publishing one or more press organs which it may own or hire or manage.

Section 26:

(1) Where a publishing house becomes a company, its shares must be registered.

(2) No dummies shall be allowed during the acquisition of shares in a publishing house.

Section 27:

No publishing house may publish more than three press organs. However, such restriction shall not apply to publishing houses of the public sector where such houses publish as part of their public service mission.

Section 28:

Every publishing house must notify the Senior Divisional Officer having jurisdiction and the public of the following, within one month following the date on which it took cognizance thereof:

Any transfer of or promise to transfer selling rights;

Any transfer of or promise to transfer ownership or exploitation of the ownership of a press organ.

The publishing house making the transfer shall also be bound by this obligation.

Section 29:

Every publishing house shall, once each year and for each of its publications, publish a balance sheet, a list of owners and a list of members of the editorial staff.

CHAPTER IV DISTRIBUTING AGENCIES

Section 30:

Persons shall be free to distribute press organs and other printed material

Section 31:

(1) Any person wishing to engage in the sale or distribution of books, literature, newspapers, drawings, engravings, lithographs and the like by the roadside or any other public or private place shall be bound to make a declaration thereof at the divisional, sub divisional or district office of his place of residence

(2) The declaration shall include the full name, occupation, permanent address age and place of residence of the person concerned.

(3) Occasional selling and distribution shall not be subject to any declarations.

Section 32:

All vendors and distributors in public places shall be duly appointed by a distribution agency. Such agency shall take all the necessary steps to furnish the administrative authority of the place of distribution with the names of the persons so appointed.

CHAPTER V BILL-POSTING

Section 33:

Bill-posting in public buildings and places shall be organized by the officials empowered to do so.

Section 34:

(1) In each council area, the mayor shall, by order, designate the places other than public buildings and places where laws and other instruments of administrative authorities may be posted.

It shall be forbidden to post private notices in such places

(2) Manifestos, circulars, electoral notices and notices of cultural nature may be posted in reserved places other than those referred to in preceding subsection.

PART III AUDIO-VISUAL COMMUNICATION

CHAPTER VI COMMON PROVISIONS

Section 35:

Audiovisual communication shall involve the setting up and operation of radio broadcasting and televisions companies.

Section 36:

(1) Subject to the regulations governing private radio, persons shall be free to engage in audio-visual communication.

(2) However, the setting up and operation of a private radio broadcasting or television company shall be subject to the obtention of a licence.

(3) The conditions for the granting and utilization of the licence referred to in Subsection (2) shall be determined by regulations, after the reasoned opinion of the National Communication Board.

Section 37:

Each audio-visual communication company shall have a station manager who must be one of the owners of the company.

Section 38:

The manager shall reside in Cameroon. He must be of full age, enjoy his full rights of citizenship and have no immunity.

CHAPTER VII

PUBLIC SECTOR AUDIO-VISUAL COMMUNICATION

Section 39:

One or more sector establishments or state corporations set up and organized by decree may be charged with the operation of public sector audio-visual communication.

Section 40:

A tax may, as when necessary, be instituted for the financing of public sector establishments and state corporations operating radio and television stations.

Section 41:

(1) Air time shall be granted to political parties in public radio and television broadcasts.

(2) The conditions of interventions of political parties represented in the National Assembly within the framework of the right of reply and of expression of political parties provided for in Section 41(1) above shall be defined by regulations after consultation with the National Communication Board.

CHAPTER VIII

PRIVATE SECTOR AUDIO-VISUAL COMMUNICATION

Section 42:

No single natural person or corporate body may be granted more than one licence for the setting up and operation of a private audio-visual communication company.

Section 43:

It shall be forbidden for a natural person or corporate body to own more than one audio-visual communication company and a press organ at the same time.

Section 44:

It shall be forbidden to lend one's name in any manner whatsoever to any person who is applying for a license to set up and operate an audio-visual communication company.

Section 45:

Shares representing the capital of a private sector audio-visual communication company shall be registered.

PART IV JOURNALISTS

Section 46 :

A person shall be deemed to be a journalist where on the basis of his intellectual faculties, his training and talents, he is recognized as being fit to carry out research and process information intended for mass communication.

(2) The criteria for identifying journalists as defined above shall be determined by regulations.

Section 47:

A journalist shall be bound to process information in an objective and responsible manner.

(2) The requirements of the ethics of journalism shall also be binding on the collaborators of journalists.

Section 48:

A code of ethics for journalists shall be laid down by regulation after consultation with the National Communication Board.

Section 49:

(1) Unless otherwise provided by the law and regulations, persons shall be free to have access to official documents.

(2) The documents concerned are all files, reports, studies, minutes, statistics, directives, instructions, circulars memoranda and all documents relating to acts of positive law.

Section 50:

(1) Journalists and their collaborators shall not be bound to disclose their source of information.

(2) Disclosure may take place only before a judge in camera

Section 51: (new)

(1) Except in case of judicial inquiry and conflict with the principles of public policy, it shall be forbidden to search the premises used for the design, manufacture, printing and conservation of documents of mass communication organs. In such case, the search shall be carried out at the request of the State Counsel or on the authorization of the judge.

(2) The above provisions shall apply to audiovisual communication companies

PART V OFFENCES AND PENALTIES

CHAPTER IX CORRECTION AND RIGHT OF REPLY I PRESS ORGANS

Section 52:

(1) The publisher shall insert free of charge, in the very next issue, all corrections sent to him by the depository of public authority concerning acts carried out in the performance of his duties that might have been incorrectly reported upon.

(2) Such corrections which must be adequately highlighted and

contained in the table of contents of the newspaper shall not exceed two times the article replied to.

Section 53:

(1) The publisher of a daily shall, within forty-eight hours of reception insert the reply of any person named or referred to in the publication.

(2) As regards press organs which are not dailies, the reply shall be published in the next issue two days after reception.

(3) The reply shall be inserted in the same space as the article that triggered it. It shall be presented in the same characters and print.

(4) The reply shall be limited in length to the article which triggered it excluding the address, the normal complimentary clause and the signature.

These provisions shall apply to rejoinders where the journalist has added new comments to the reply.

(5) The reply shall always be inserted free of charge

(6) The reply shall be required only in the issue(s) or edition(s) in which the article was published

(7) Publishing a special issue or edition containing a reply that a corresponding issue or edition of the newspaper ought to have published shall be considered as a refusal to insert.

Section 54:

(1) During elections, the stipulated forty-eight hour time-limit for the insertion of a reply in a daily newspaper shall be reduced to twenty-four hours. In such case, the reply shall be handed in at least eight hours before the printing of the newspaper in which it is supposed to appear.

(2) As soon as elections begin, the publisher shall declare to the Legal Department the time he intends, during such period, to print his newspaper.

(3) The time-limit of summons for refusal to insert shall be reduced to twenty-four hours and the summons may be served hourly.

(4) The judgment ordering inserting shall be enforceable on the basis of its record notwithstanding any appeal.

Section 55:

Barring an act of God, the prescription period for proceedings relating to a forced insertion shall be four months from the date of publication

II AUDIO-VISUAL COMMUNICATION COMPANIES

Section 56:

Audio-visual communication companies shall broadcast free of charges, in their next news programme and in the very next program of the same nature as that which triggered it. Any corrections sent to them by the depository of public authority concerning any act carried out in the performance of his duties which was incorrectly reported upon in one of their programmes.

Section 57:

(1) The station manager shall be bound to broadcast any reply from the person named, designated or implicated by his audio-visual communication company forty-eight (48) hours after its receipt.

- (2) The reply shall be broadcast under technical and audience conditions equivalent to those of the programme which triggered it.
- (3) The length of the reply shall not exceed the length of the programme which motivated it.
- (4) The above mentioned provisions shall apply to rejoinders where some new comments have been made about the reply.

Section 58:

- (1) During elections, the time-limit provided for the broadcast of a reply shall be reduced to twelve hours after its receipt.
- (2) The time-limit of a summons for refusal to broadcast shall be reduced to 24 hours and the summons may be issued hourly.
- (3) The judgment ordering broadcast, and such broadcast alone, shall be enforceable on the basis not its record notwithstanding any appeal

Section 59:

Barring an act of God, the prescription period for proceedings relating to forced broadcasts shall be four months from the date of the broadcast.

**CHAPTER X
PENALTIES****Section 60:**

- (1) Whoever sets up and operates a private audio-visual communication company without the license provided for in section 36(2) of this law shall be punished with fine of from 300,000 to 3,000,000 francs. The fine shall be concurrent with the seizure of the technical equipment used.
- (2) Whoever concurrently takes ownership of or has shares in more than one audio-visual communication company and a press organ in violation of the provisions of section 43 above shall be punished with fine of from 300,000 to 3,000,000 francs

Section 61 :

Any owner of a press organ or audio-visual communication company without a publisher or station manager as stipulated in sections 8 and 37 of this law shall be punished with fine of from 250,000 to 2,500,000 francs and a penalty of from 100,000 francs to 1,000,000 per issue published or per day of broadcast.

Section 62:

The following shall be liable to the same fine and penalty as provided for in section 61 above

- (i) Whoever distributes a foreign press organ without a declaration provided for in section 7 above
- (ii) Whoever distributes a foreign press organ that is banned in accordance with the provisions of section 24 above

Section 63:

Whoever publishes a press organ banned in accordance with the provisions of section 17 of this law shall be liable to a fine of from 300,000 to 3,000,000 francs and to a penalty of from 100,000 to 1,000,000 francs per issue published.

Section 64:

Whoever takes ownership of or has shares in more than three print me-

dia organs and in more than one audio-visual communication company in violation of the provisions of Section 27 and 42 above shall be liable to a fine of from 200,000 to 5,000,000 francs.

(2) Whoever violates the provisions of sections 26, 44 and 45 of this law relating to the financial transparency of mass communication companies shall be punished with fine of from 200,000 to 5,000,000 francs.

Section 65:

Any publisher or station manager who does not reside in Cameroon as provided in sections 10 and 38 above shall be liable to a fine of from 100,000 to 1,000,000 francs and to a penalty of from 20,000 to 200,000 francs per day of residence out of the national territory.

Section 66:

Whoever publishes a press organ that has been suspended in accordance with the provisions of section 21 of this law shall be punished with fine of from 100,000 to 1,000,000 francs and with a penalty of from 100,000 to 500,000 per issue of the publication.

Section 67:

Whoever continues to distribute and sell a press organ that is the subject of seizure in accordance with the provisions of section 17 above or a foreign press organ that is the subject of the same measure in accordance with section 24 (2) of this law shall be punished with fine of from 100,000 to 1,000,000 francs.

Section 68:

Whoever, without justification, refuses to publish or broadcast any corrections or replies in accordance with sections 52 and 56 above shall be punished with fine of from 100,000 to 2,000,000 francs.

Section 69:

Any person who refuses to publish or broadcast a reply in accordance with sections 53 and 57 of this law shall be punished with fine of from 50,000 to 2,000 000 francs.

Section 70:

Any publisher or station manager who does not comply with the obligations stipulated in sections 28 and 29 above shall be punished with fine of from 100,000 to 1,000,000 francs per issue published.

Section 71:

Whoever puts up election posters in violation of the provisions of section 34(2) of this law shall be liable to the same fine as in section 70 above.

Section 72:

Any distributor using a vendor or another distributor on the road side without having made the declaration provided for in section 32 above shall be punished with fine of from 100,000 to 500,000 francs.

Section 73:

Whoever does not comply with the obligation to file official copies, or to submit copies to the legal and administrative authorities as provided for in sections 13, 14, 15 and 16 above shall be liable to the penalties laid down in section 70 of this law per issue or edition published

CHAPTER XI PRESS AND AUDIO – VISUAL COMMUNICATION OFFICES PERSONS LIABLE

Section 74:

The under-mentioned persons shall, in the following order, be punishable as principal offenders for offences committed through press and audio-visual communications organs as provided for by the Penal Code:

- (1) Publishers, station managers and editors, regardless of their occupations or designations, as well as the authors.
- (2) Failing the persons referred to in subsection (1) above, printers, distributors and managers of recording or broadcasting companies.
- (3) Failing the persons referred to in subsection (2) above, bill-posters, peddlers and vendors.

Section 75:

The persons to whom section 97 of the Penal Code applies may be prosecuted for the same reasons and in all cases.

Section 76:

Owners of press and audio-visual communication organs as well as authors shall be jointly and severally liable for damages awarded to third parties against the persons specified in the two preceding sections.

II. COMPETENT COURTS AND PROCEDURE

Section 77:

Violations of the provisions of this law as well as offences committed through press and audio-visual communications organs shall be referred to Courts of First Instance with jurisdiction in summary proceedings.

Section 78:

- (1) Prosecution of offences referred to in section 77 above shall be automatic and at the instance of the legal Department.
- (2) However, with regard to abuse and defamation, proceedings shall be instituted.

-When a complaint is lodged by the person who is the subject of the abuse or defamation or by any other authorized natural person or corporate body in the case of an individual.

-When a complaint is lodged by a member of the institution or its head in the case of an assembly, a corps, a government service or a corporate body.

Section 79:

Except in the case of prosecution by the public prosecutor, the discontinuance of the plaintiff or the prosecution party shall stop the public action.

Section 80:

- (1) In case of judicial inquiry or summons, the incriminated act must be qualified as void;
- (2) In case of judicial inquiry, the closing order must be made within

thirty days from the date of referral to the Magistrate Instructor;
(3) However, in the event of insult or defamation during an election period against a candidate, the time limit for citation is reduced to twenty-four hours.

Section 81:

The defendant who wishes to prove the defamatory facts has five days after the summons to notify to the public prosecutor or the complainant at his elected domicile, as the case may be:

- 1- the facts qualified in the quotation from which he intends to prove the truth;
- 3 the name, professions and domicile of his witnesses;
- 4- his place of residence elected within the jurisdiction of the court seized; all forfeiture

Section 82:

The civil action resulting from the offenses of defamation cannot, except in the case of the death of the author of the incriminated act, of amnesty or immunity, be pursued separately from the public action.

Section 83:

For any offense committed by means of social communication body, the competent court rules:

- 1- in ordinary time, within a period of fifteen days from the date of the first hearing;
- 2- at election time, within forty-eight hours.

Section 84:

(1) In case of conviction, the judgment may pronounce, as the case may be, the confiscation or destruction of materials of the incriminated facts and, possibly, the suspension of the social communication body concerned;

(2) The court may order the publication of the judgment under the conditions set out in sections 52 and 54 of this law;

(3) In case of conviction for insult or defamation, publication is by right.

Section 85:

The aggravation of penalties resulting from the recidivism is applicable in all the cases.

Section 86:

(1) The opposition period is five days from the date of service of the decision on the defaulting party, personally or at home;

(2) The time for appeal and appeal shall be five days from the date of judgment or judgment.

Section 87

(1) Public prosecution and civil action resulting from offenses committed by means of a social communication body shall be barred after three years from the date on which they were committed.

**CHAPTER XII
MISCELLANEOUS**

Section 88:

A National Communication Council is created whose organization and functioning are set by regulation.

Section 89:

All previous provisions contrary to this law are repealed, in particular the laws of 29 July 1981 on the freedom of the press, N66 / LF / 18 of 21 December 1966 on the press and its amendments; N87 / 019 of 17 December 1987 fixing the regime of audiovisual communication in Cameroon.

Limits

This law n°90/052 of 19 December 1990 on the freedom of social communication in Cameroon gives a confused picture of the journalist. Article 46 considers the journalist as “person shall be deemed to be a journalist where on the basis of his intellectual faculties, his training and talents, he is recognized as being fit to carry out research and process information intended for mass communication”.

Paragraph 1 stresses that the criteria to identify a journalist defined in such terms are defined via regulation. Such a definition paves the way for a variety of intrusions into the profession. Nowadays there is confusion on the status of the journalist. Who qualifies as a journalist? Who does not? The profession has become a refuge for all kinds of persons who do not necessarily qualify to exercise the trade. The confusion gave birth to concepts such as:

“Hilton Journalist”: they are so-called journalists, sometimes belonging to no press institution, who dwell at the Yaounde Hilton Hotel waiting for government seminars and high-level meetings. Made up of school and university dropouts, this group of youths engages in all kinds of misbehaviors that shed a negative light on the profession: blackmail, racket, slander, defamation of important personalities.

“Badge and vest Journalists”: this group gain legitimacy in the public’s eye by making badges and vests with the official stamp of private or international TV channels. This is common in the Northern part of the country due to the creation of private channels in the South. Most journalists are actually image-takers. They have created a sort of in-between status, neither journalists, nor cameramen.

iv. Freedom of association

* Law N°90/053 of 19 December 1990²⁵ Relating to Freedom of Association

**PART I
GENERAL PROVISIONS****Section I:**

(1) Freedom of association proclaimed by preamble of the Constitution shall be governed by provisions of this law.

(2) It shall mean the right to set up an association and to be or not to be a member of an association.

(3) It shall be enjoyed by all natural persons and corporate bodies throughout their national territory.

²⁵ http://cnc.gov.cm/images/Documents/Lois/com_sociale.pdf

Section 2:

An association shall be the act of a number person pooling their knowledge or activities for purposes other than to share profits.

Section 3:

Any member of an association may withdraw at any time after having paid the contribution due for the current year.

Section 4:

Associations founded in support of a cause or in view of purpose contrary to the Constitution, the law and public policy, as well as those whose purpose is to undermine especially security, the integrity of the national territory, national unity, national integration or the republican character of the State shall be null and void.

Section 5:

- (1) Association shall fall under two systems:
- The declaration system
 - The authorization system
- (2) Foreign and religious associations shall under the authorization system
- (3) All other forms of association shall all under the declaration system. However, the systems provided for under Sub-section 1 above, shall not apply to the facto economic or socio-cultural associations.
- (4) : (new) Political parties, trade unions, sports associations and non – governmental organizations shall be governed by special instruments,

**PART II
SYSTEM OF DECLARED ASSOCIATIONS**

**CHAPTER I
FORMATION**

Section 6:

Subject to the cases of nullity provided for under section 4, association shall be formed freely; however, they shall have no legal status until they have declared their formation and furnished two copies of their constitutions.

Section 7:

- (1) The declaration provided for under section 5 above shall be made by the founders of the association at the divisional office of the area where the association has it's headquarters. A receipt shall be issued to them as soon as the file is complete if the said association is not considered null and void.
- (a) The declaration shall indicate the name, object and headquarters of the association, as well as the names, occupations and addresses of those who, in whatever capacity, shall be responsible for running its business.
- (b) Any modification of or change in this information must be brought to the knowledge of the senior Divisional officer within two months.
- (c) Silence on the part of Senior Divisional Officer within two months after submission of the declaration file shall be tantamount to acquiescence and shall amply acquisition of legal status.

Section 8:

Everybody shall have the right to take cognizance on the spot, at the office of the senior Divisional officer, of the declaration and constitution of an integration and of the changes that have taken place in its administration. He may choose to be issued to him, at his expense copies and excerpts thereof.

**CHAPTER II
FUNCTIONING****Section 9:**

Associations shall be administered freely in compliance with their constitution and laws in force.

Section 10:

Any association declared under the constitution the conditions provided for by this law may freely:

- institute legal proceedings;
 - manage and use funds derived from contributions;
 - purchase and own:
 - a) Premises for its offices and meetings of its members
 - b) Immovable property necessary for pursuing its aims;
- 2) The stocks and shares of all associations shall be listed as registered securities

Section 11:

No declared associations, save those recognized as serving the public interest, may receive either grants from public bodies, or immovable property as gifts and legacies from private individuals.

**CHAPTER III
DISSOLUTION****Section 12:**

Association may be dissolved:

- Voluntarily by their members in accordance with their constitutions,
- By a court decision on the initiative of the legal department or at the request of any interested party, in case of nullity as provided for under section above. The judgment ordering the closure of the premises and/or prohibiting all meeting of the members of an association shall become enforceable notwithstanding any appeal which may be lodged.

Section 13:

(1) the minister in charge of territorial administration may, upon the reasoned recommendation of the senior divisional officer, issue an order to suspend a period not exceeding three months, the activities of any association for disturbance of public order.

(2) The minister in charge of territorial administration may also issue an order to suspend any association which departs from its original objectives or whose activities seriously undermine public order or the security of the state.

(3) Notwithstanding the provisions of article 12 ordinance N72/6 of 26 August 1972 to organize the Supreme Court, the orders provided for

under sections (1) and (2) may be appealed against, by a mere application submitted before the president of the administration bench. This appeal shall be lodged within 10(ten) days following the date of service to the person running the association or at this residence. The president shall by order make a ruling within 10(ten) days.
(4) The exercise shall be not bar enforcement of the court order.

Section 14:

The dissolution of an association shall not bar any legal procedure that maybe instituted against the officials of such association.

PART III

SYSTEM OF AUTHORIZED ASSOCIATIONS

CHAPTER IV

FOREIGN ASSOCIATIONS

Section 15: Groups having the characteristics of an association, which have their registered office abroad or which, having their headquarters in Cameroon, are directed in fact by foreigners, or in which more than half of the form they may use sham.

Section 16: (1) foreign associations may not carry out activities within the territory without prior authorization from the minister in charge of territorial administration upon the recommendation of the minister in charge of external relations.

(2) the application for authorization to carry out activities which shall be deposited at the minister in charge of external relations by the founders or the representatives a foreign association, shall spell out the activities to be undertaken, the locations in Cameroon, shall spell out the activities to be undertaken, the locations in Cameroon, names, occupations and addresses of theses who, in wherever capacity are responsible for running its business.

(3) Foreign associations may not possess establishments in Cameroon without separate authorization for each such establishment. Applications for authorization to open each new establishment shall be submitted to the Minister in charge of External Relations who shall, after giving his opinion forward them to the Minister in charge of Territorial Administration.

Section 17:

(1) an authorization may be issued on a temporary basis or may be subject to periodical renewal.

(2) It may be subject to certain conditions

(3) It may be withdrawn at any time.

(4) Foreign associations which are refused an authorization or whose authorization has been withdrawn must cease their activities forthwith and must liquidate their properties within three months of the date of notification of the decision.

(5) Withdrawal of an authorization shall under no circumstances entail compensation for damages.

Section 18:

Senior Divisional Officers may at any time request the officials of any

association or establishment operating in their division to furnish, within fifteen days, written information which will enable the determination of its headquarters, its objectives, the nationalities of their members, board members or real officials.

Section 19:

Foreign associations, whatever their form, which do not apply for an authorization under the conditions laid down above, shall be automatically void.

Section 20:

(1) Whoever, in whatever capacity, administers or continues to administer a foreign association or an establishment which operates without authorization shall be punished with imprisonment for from fifteen days to six months or with fine of from 100 000 to 1 000 000 francs, or with both such imprisonment and fine.

(2) Any other person who participates in the functioning of such association or in the establishment shall be punished with imprisonment for from ten days to three months or with fine of from 50 000 to 500 000 francs, or with both such imprisonment and fine.

(3) Officials, board members and persons participating in the activities of an association or establishment which, without fulfilling the conditions stipulated by the order granting authorization, operate beyond the time limits set by the order, shall be liable to punishment with the penalties provided for under Section 20(2) above.

Section 21:

Foreign associations may be recognized as serving the public interest

CHAPTER V

RELIGIOUS CONGREGATIONS

Section 22:

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 religious doctrine.

Section 23:

The existence of all religious congregations must be authorized. The same shall apply to all congregational establishments.

Section 24: The authorization of a religious congregation or a congregational establishment shall be granted by a decree of the President of the republic upon the recommendation of the Minister in charge of Territorial Administration.

Section 25:

(1) Religious congregations may not receive public grants or immovable properties as gifts or legacies.

(2) However, they may receive immovable property as gifts and legacies needed for the exercise of their activities.

Section 26:

Religious congregations shall keep an account of their revenue and expenditure and draw up an annual financial account for the past year

and an inventory of their movable and immovable property.

Section 27:

Officials of religious congregations shall present, upon request by the Minister in charge of Territorial Administration or his representative, the accounts and inventories referred to in the preceding Section as well as the complete list of their leaders.

Section 28:

(1) Any deeds of gift inter vivos or by virtue of will, whether or not subject to payment, made directly, through an intermediary or by any indirect way, whose purpose is to enable legally or illegally founded religious congregations to avoid the obligations of Section 27 shall be declared null and void.

(2) Such nullity shall be declared either by the Legal Department upon receipt of order from the Minister in charge of Territorial Administration or at the request of any person concerned.

Section 29:

Representatives or officials of a religious congregation who issue false statements or who refuse to comply with the instructions of the minister in charges of Territorial Administration or his representative within the limits of the provisions of sections 27 above shall be punished under sections 314 and 120 of the penal code.

Section 30:

Any religions congregation guilty of disturbance against public order may be suspended by an order of the minister of territorial administration .such suspension shall be ordered in compliance with section 13 above.

Section 31:

Where a two-month notice served upon duly authorized religions associations which has altered its original purpose subsequently remains unheeded such congregation may be dissolved by a decree of the president of the republic.

PART IV

FINAL MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section 32:

(1) Any association which makes an effective and decisive contribution towards the realization of government's priority objectives may, upon request and upon the reasoned recommendation of the minister in charge of territorial administration, be recognized, by a decree of the president of the republic, as serving the public interest.

(2) Consequently, the association may:

- Perform all civil acts not forbidden by its constitution, but it may not own acquire buildings other than those necessary for the achievement of its objectives
- Receive all types of gifts and legacies, subject to an authorization from the minister in charge of territorial administration, for the gifts and legacies consisting of immovable property;
- Receive state and local council grants, in which case the state shall

on sure that the grants are property used.

Section 33:

(1) founders or board members of an associations which continues its activities which is reestablish illegally after a judgment or decision has been issued or its dissolutions, shall be punished with fine of from 100,000 to 1000,000 francs or with imprisonment.

(2) Whereas the decision to dissolve has been motivated by armed demonstration, the attempt against the internal or external security of the state, the maximum penalty provided for in the preceding sub section shall be doubled.

(3) Any person who encourages meetings of members of a dissolved association by allowing them use of these premises shall be liable to the same penalties.

Section 34:

Associations which can provide evidence of possession of deeds of declaration or recognition, or authorization issued in accordance with the legislation in force at the time of publication of this law shall be excepted to show proof of soon deeds within 12 months by furnishing a copy there of to the minister in charge of territorial administration.

Section 35:

Law N° 67/LF/19 of 12 June 1967 relating to freedom of association were by repealed and replaced by the provisions of this law.

OTHERS REFERENCE LAW

v. Political Parties law

*Law N°90/056 of 19 December 1990²⁶ Relating to Political Parties

vi. Freedom of public demonstrations

*Law n° 90/54 of 19 December 1990 Relating to the Maintenance of Law and Order²⁷

CHAPTER I

GENERAL PROVISIONS

Section 1: This law relating to the maintenance of law and order shall lay down the principles to be observed by administrative authorities and the forces of law and order in time of peace to maintain or restore law and order when it is threatened.

CHAPTER II

POWER OF THE ADMINISTRATIVE AUTHORITIES

Section 2: Administrative authorities may, at all times and depending on the circumstances, take the following measures within the framework of operations the maintenance of law and order:

- control the movement of persons and goods according to the law ;
- requisition persons and goods according to the law
- requisition the police and gendarmerie to maintain or restore order ;
- take measure to detain person for renewable period of 15(fifteen days order to fight banditry;

²⁶ http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=21822&p_country=CMR&p_count=290

²⁷ <http://www.droit-afrique.com/uploads/Cameroun-Code-2016-penal1.pdf>

CHAPTER III USE ARMS

Section 3:

(1) The use arms shall be forbidden in routine operations for the maintenance of law and order

(2) Shooting with blank cartridges or in the air shall be forbidden.

(3) However, tears gas, batons and other similar instruments may be used in case of need to restore law and order

Section 4:

(1) notwithstanding the provisions of Section 3 (I) above, the use arms may be authorized by the administrative authority, in the following cases

(a) When force and serious widespread interference are uses against the forces of law and order

(b) When fire arms are used against the forces of law and order.

(c) The both cases of arms shall be allowed only if the forces of law and they cannot defend themselves otherwise and only after several warnings through a loud-speaker or any other means.

Section 5: Arms may be used without requisitions against person involved in organize crime or armed rebel groups.

CHAPTER IV PENALTIES AND MISCELLANEOUS PROVISION

Section 6:

Offences committed in violation of the provision of sections 3(1) and above shall be punished with the penalties provided for in Section 275 of the Penal Code.

Section 7: All previous provisions repugnant hetero, in particular law N°. 59 -33 25 May 1959 on the maintenance of law and order, are hereby repealed.

Section 8: This law shall be registered, published according to the procedure of urgency and inserted in the official gazette in English and French.

vii. Regulations Governing Public Meetings and Processions

*Law NO. 90/55 of 19 December 1990²⁸ to Lay Down Regulations Governing Public Meetings and Processions

CHAPTER I GENERAL PROVISIONS

Section 1: The public meetings and demonstrations shall be governed by the provision of this law.

CHAPTER II PUBLIC MEETINGS

Section 2:

Any meeting held in a public place or a place open to the public shall be a public meeting.

²⁸ <http://openkamer.blogspot.com/2013/09/loi-n-90054-du-19-decembre-1990-portant.html>

Section 3:

- (1) Persons shall be free to hold public meeting, no matter their purpose.
- (2) However, such meetings shall be subject to prior declaration.
- (3) Meetings on public highways shall, except on a special authorization be forbidden.

Section (4):

The declarations referred to in section 3 (2) above shall be made to the District Head or Sub-divisional officer with jurisdiction where the meeting is planned, at least three clear days before it is held.

- (2) The declaration shall state the full names and permanent residence of the organizers, the purpose of the meeting, the venue, date and meeting time, and must be signed by one of them.
- (3) The authority receiving the declaration shall immediately issue a receipt thereof.

Section 5:

- (1) any public meeting shall have an executive comprising at least (three) persons responsible for keeping the peace, preventing any violation of the law, prohibiting all speeches that conflict with public policy or that is likely to incite people to commit felonies or misdemeanors.
- (2) The administrative authority may send a representative to attend the meeting.
- (3) Only the executive may adjourn or stop the meeting, However, where the meeting gets out of control, the representative of the administrative authority may if duly requested by the executive, put an end to it.

**CHAPTER III
PUBLIC PROCESSIONS**

Section 6:

- (1): All processions, demonstrations, parades, march and rallies of persons and, in general, all processions on the public highway shall be subject to prior declaration.
- (2) The prior declaration referred to in the preceding sub-section shall not apply to processions on the public highway that is in keeping with local or religious traditions and practices.

Section (7):

- (1) The declaration referred to in section 6 above shall be made in the District or Sub-Divisional office of the area where the procession is planned at least 7 (seven) clear days before the date of the said procession.
- (2) The declaration shall state the full names and permanent residence of the organizers, the purpose of the procession, the venue, the date and hour thereof and where necessary, the route chosen and shall be signed by one of the organizers who elects domicile in the chieftown of the district or subdivision.

Section 8:

- (1) The District Head or Sub-divisional Officer receiving the declaration shall immediately issue a receipt thereof.
- (2): However, if he deems that the planned procession is likely to seriously disturb the peace, he may, as the case may be:
Schedule another venue or route for it;
Prohibit it by order which he shall immediately notify to the signatory of the declaration at the elected domicile.
- (3) Where a procession has been prohibited, the organizer may, by a simple application submit the matter to the President of the High Court with jurisdiction who shall, after hearing the parties in chambers, rule by court order no later than 8 (eight) days after the matter is brought to him
- (4) The order shall be subject to appeal in accordance with ordinary law procedure.

viii. Law on terrorism (controversial)

*Law N° 2014/028 of 23 December 2014²⁹ on the Suppression of Acts of Terrorism

CHAPTER 1 GENERAL PROVISIONS

Section 1:

Purpose and Scope

- (1) This law relates to the suppression of acts of terrorism
- (2) The provisions of the penal code, the criminal procedure code and the military justice code that are not repugnant to this law shall remain applicable
- (3) The offences provided for in this; law shall fall exclusively under the jurisdiction of military tribunal

CHAPTER II OFFENCES AND PENALTIES

Section 2:

Acts Of Terrorism

- (1)Whoever, acting alone as an accomplice or accessory, commits or threatens to commit an act likely to cause death, endanger physical integrity, cause bodily injury or material damage, destroy natural resources, the environment or cultural heritage with intent to:
 - 1.a) Intimidate the public, provoke a situation of terror or face the victim, the government and/or a national or international organization to carry out or refrain From carrying out an act, adopt or renounce a particular position;
 - 2.b) Disrupt the national functioning of public services, the delivery of essential services to the public to create a crisis situation among the public;
 - 3.c) Create widespread insurrection in the country;
- (2). Shall be punished with the death penalty.

²⁹ <http://www.dibussi.com/2014/12/cameroon-terrorism-law.html>

Whoever:

- 1.a) Provides and/or uses war weapons and equipment;
- 2.b) Provides and/or uses microorganisms or any other biological agents, in particular viruses, bacteria, fungi or toxins;
- 3.c) Provides and/or uses chemical, psychotropic, radioactive or hypnotizing substances;
- 4.d) Perpetuates hostage taking;

In order to attain the same objectives as those inferred in sub section 1 above shall be punished with the death penalty,

(3) The penalty shall be life imprisonment where the visible consequences of the act referred to in sub section (1) above are animal disease or plant destruction.

Section 3:

Financing Of Acts Of Terrorism

(1) Whoever directly or indirectly:

- 1a. Provides and/or collects funds;
- 1b. Provides or offers or collects funds

With the aim of financing acts of terrorism and by whatever means, shall be punished with the death penalty.

(2) The offence referred to in Section 3 (1) above shall be deemed to have been perpetrated even where the funds, the material means and/or financial services have not effectively been used to commit the offence;

(3) The financing of terrorism shall be deemed to have been perpetrated even where the goods are collected and the services are offered in the territory of another state.

Section 4: Laundering Of Proceeds Of Terrorism Whoever,

(a) procures, receives, keeps, converts, dissimulates or disguises goods that are proceeds or acts of terrorism;

(b) partakes in the use or sharing even occasionally, of proceeds of acts of terrorism, shall be punished with the death penalty.

Section 5: Recruitment and Training

1. Whoever recruits and or trains people to participate in the act of terrorism, regardless of where they are committed, shall be punished with the death penalty.

2. The penalty provided for the 1 above shall be applied to whoever:

- 2a. Offers or promises gifts, presents or any kind of benefit to another with the intention of getting the later to be part of a group that has been established or a deal reached to commit acts of terrorism;
- 2b. Threatens or pressurizes another to be part of a group that has been established or a deal reached to commit acts of terrorism.

3. Whoever deliberately joins or undergoes training in a terrorist group abroad with intent to commit acts of terrorism within the country, shall be punished with imprisonment of from ten (10) to twenty (20) years.

4. In the cases provided for the subsection (2) above, the offence shall be deemed to have been committed even where urging someone to be part of the group or deal failed to materialize.

Section 6: Criminal Liability Of Corporate Bodies

1. For the purpose of this law, a corporate body may be held criminally liable.
2. Where the corporate body is responsible for acts of terrorism, the penalty shall be the fine of fifty million (50.000.000) FCFA.

Section 7: Interruption Of The Offence Or Its Effects

1. Whoever, being the principal perpetrator or an accomplice of an act of terrorism, helps to stop the offence from being committed shall be punished with imprisonment of from ten (10) to twenty (20) years.
2. The penalty provided for in subsection (1) above shall apply to whoever, being the principal perpetrator or an accomplice of an act of terrorism, helps to prevent the offence from causing death, injury or material damage.

Section 8: Acclamation Of Acts Of Terrorism

Whoever publicly acclaims acts of terrorism shall be punished with imprisonment of, from fifteen to twenty years or a fine of, from twenty five million francs (25,000,000) FCFA to fifty million (50,000,000) or both such imprisonment and fine.

Section 9: False Statement Or Defamatory Reports

Whoever makes a false statement of defamatory report to an administrative or judicial authority pursuant to section 7 and 16 of this law shall be punished with imprisonment of twenty years.

Section 10: Witness Protection

For the purposes of this law, whoever assaults or threatens a witness, in implicitly, with violence, battery of death, shall be punished with life imprisonment.

CHAPTER III: SPECIAL PROVISIONS

Section 11: Remand in Custody

For the purpose of this law, the duration of remand in custody shall be fifteen days renewable upon the authorization of the State Prosecutor.

Section 12: Referral Before The Competent Court

For the purposes of this law, matters shall be referred to the military tribunal by a direct order to be placed on trial, issued by State Prosecutor.

Section 13: Mitigating Circumstances

For the purpose of this law, and in the event of acceptance of mitigating circumstances:

1. The imprisonment term may not be less than ten (10) years,
2. The fine may not be less than twenty million FCFA (20,000,000)
3. In any case, no suspended sentence may be given

Section 14: Ancillary penalties

In the case provided for in sections 2, 3,4,5,6 and 7 above, the competent court shall, in the case of conviction, additionally pronounce the secondary penalties provided for under section nineteen of the penal code

Section 15: Indefeasibly Of Court Action And Penalties

For the purpose of this law, action by the legal department and penal-

ties pronounced by competent court shall not be time-barred

Section 16: Waivers

Prosecution shall be waived for any natural or legal person who, after agreeing with another person to commit an act of terrorism and before the commencement of execution:

1. Reports it to a public official (Administrative, Judicial or Military)
2. Uses of all means to help stop the commission of the offence
3. Helps to identify his or her co-offenders of accomplices

CHAPTER IV: FINAL PROVISION

Section 17: This law shall be registered, published according to the procedure of urgency and inserted in the official gazette in English and French.

COMMENTS

Like the new Penal Code, this law, although promulgated on 23 December 2014, is controversial. The military court, as the only one empowered under this security law adopted by Cameroon, is already used in legal proceedings against people convicted of terrorism. Published in the public press on 24 December, the “Law N° 2014/028 of 23 December 2014 on the suppression of acts of terrorism” was promulgated by Paul Biya with another series of texts, adopted at the same time by the National Assembly and the Senate. The anti-terrorism law promulgated by the President of the Republic provides for the death penalty for perpetrators of terrorist acts, which could be equated with demonstrators, according to the opposition’s interpretation, denouncing the vague and imprecise nature of certain provisions of the law. The law also condemns the “apology” of acts of terrorism, even through the media. Cameroon, which is subject to repeated incursions by Nigerian Islamists from Boko-Haram into the Far North region, and attacks by Central African rebels in the East, is not the only African country to have a binding legal framework against people suspected of supporting criminal activities against the state.

In addition, with regard to this anti-terrorism law, which is under debate, it condemns to death anyone found guilty of terrorist acts. But the controversy and criticism is mainly focused on the definition of terrorist acts in this law, which is extended to public demonstrations. Adopted effortlessly by Parliament, the Anti-Terrorism Act immediately turned most of the opposition political class and civil society organizations against it. Its defendants are generally considered to be liberticidal, and are concerned about the definition of terrorist acts in Section 2 of the Law, and above all about the criminal sanction incurred: “Whoever, acting alone as an accomplice or accessory, commits or threatens to commit an act likely to cause death, endanger physical integrity, cause bodily injury or material damage, destroy natural resources, the environment or cultural heritage with intent to”; or whoever. “Disrupt the national functioning of public services, the delivery of essential services to the public to create a crisis situation among the public, Shall be punished with the death penalty”. For opponents, it is a law that criminalizes meetings and public demonstrations.

ix: Relating to the Penal Code

*Law N°007/2016 of 12 July 2016³⁰ Relating to the Penal Code ; it was promulgated by the President of the Republic after an amendment of Section 127.

Sources

The Government of Cameroon has based its review of the Penal Code of 12 July 2016 on criminal provisions enacted by recent laws and certain international instruments. Thus, the original text retains its structure and numbering, and very specific innovations have been introduced. This new law introduces major innovations. The criminal liability of legal persons and alternative penalties to imprisonment or fines have been introduced. Also, with regard to crimes, misdemeanors and contraventions, some special laws have been incorporated. These include the Electoral Code, which deals with electoral offenses, the creation and organization of a financial market, the law on civil status, the law on the protection of national cultural and natural heritage, the law governing archives, the law on cyber security and cybercrime, the law on the State seal and other public seals.

With regard to the internalization of international conventions ratified by Cameroon, we can cite the United Nations Convention against Corruption, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Palermo Convention against Crime and the OHADA Uniform Acts on the Law. This code is distributed over 372 articles spread over four books. On the form of the document, no major change. The text retains the original structure and numbering that we know of.

Although already promulgated, this revision of the Penal Code has been and continues to be contested in Cameroon by citizens and human rights defenders who assert that the new Penal Code contains no provisions against administrative authorities that violate fundamental freedoms on a daily basis and subject to reprisals of all kinds by human rights defenders, journalists and other activists who occupy space with citizens that the State has abandoned. The Code is contested because neither the professional bodies of the judiciary, civil society organizations, political parties, academics and legal experts have been consulted in its elaboration. The problem is that the revised and proposed Penal Code, which provides for the punishment of adultery, vagrancy, begging and also provides for fines and prison sentences ranging from six to three years for tenants who are in default.

³⁰ http://www.assnat.cm/gestionLoisLegislatures/libraries/files_upload/uploads/Lois/2014-028fr.pdf



"I am free"

*"Yes ! To say
nothing !"*



*"The respect for fundamental freedoms is guarantee
of the Rule of Law"*

III. AT THE REGIONAL LEVEL

a) THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

i. Adoption

The African Charter on Human and Peoples' Rights is a regional treaty adopted on 27 June 1981 at a summit of Heads of State and Government of the Organization of African Unity (OAU)³¹. It entered into force on 28 October 1986. Cameroon is a party to this Charter after having signed it on 23 July 1987 and ratified it on 20 June 1989, more than a year before the advent of multi-party-ism under the law of 19 December 1990. It contains a set of provisions which guarantee and protect fundamental freedoms and rights such as freedom of expression, freedom of association, freedom of opinion, the right to information, etc.

i.a Freedom of expression

Freedom of expression includes freedom of assembly and demonstration. It is referred to in Article 11 of the African Charter on Human Rights, which states that "Everyone has the right to meet freely with others. This right shall be exercised subject only to the necessary restrictions laid down by laws and regulations...".

i.b Freedom of association

Freedom of association is governed by Article 10 of the Charter, which provides that "everyone has the right to freely form associations with others, subject to compliance with the rules laid down by law".

i.c Freedom of opinion and the right to information

The African Charter on Human and Peoples' Rights guarantees the citizens of the Contracting States the freedom of opinion in article 9, paragraph 2, which states that "everyone has the right to express and disseminate his or her opinions within the framework of laws and regulations". Paragraph 1 of the same provision protects the citizen's right to information. This provision of the Charter protects journalists in print, radio, television and cybernetic media as well as Internet users subscribing to social networks (Facebook, Whatsapp, Twitter, LinkedIn, etc.).

ii. Context

As mentioned above, the African Charter on Human and Peoples' Rights was adopted at the end of an OAU summit held in Nairobi, Kenya in June 1981. The OAU was founded on May 25, 1963 in Addis Ababa in Ethiopia by Haile Selassie I, emperor of that country at the time. One of the OAU's objectives was to combat all forms of colonialism and racism.

³¹ The OAU became the African Union in July 2002 at a summit of Heads of State and Government in Durban, South Africa.

³² Alioune Badara Fall, in *La Charte africaine des droits de l'homme et des peuples, entre universalisme et régionalisme*,

The existence of the organization before the Charter came into force was marked by dictatorial one-party political regimes³² with the implication of restricting fundamental freedoms (in Cameroon, Côte d'Ivoire, Togo, Gabon, Senegal, etc.), the apartheid system (racial segregation between whites and blacks) in South Africa as early as 1948, armed conflicts in Angola (1961-1975 independence war), in Mali (Tuareg insurgency between 1962 and 1964), Nigeria (Biafra War 1967-1970), Chad (civil war 1965-1979).

It is in these circumstances that it was necessary to draft a Charter protecting the citizens of the State Parties against abuse of power. In addition, the Charter has provided a mechanism to ensure its implementation: the African Commission on Human and Peoples' Rights.

B) THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND THE AFRICAN COURT OF HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights has been included³³ in the African Charter on Human and Peoples' Rights. It has 11 members who are nationals of the States Parties (maximum one per State)³⁴ chosen from among persons of good character, integrity and competence in human rights and the rule of law. The members of the Commission are elected³⁵ by the Conference of Heads of State and Government following a secret ballot and a list submitted by each Member State for a renewable term of six years. This legal mechanism placed with the OAU at the time of the entry into force of the Charter has several missions³⁶ among which the promotion and protection human rights in Africa through a number of means such as the interpretation of the Charter and the elaboration of principles and rules such as the Declaration of Principle on Freedom of Expression in Africa and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance (see below).

The Commission has the power to investigate³⁷ human rights violations and receive complaints of human rights violations. A complaint³⁸ (communication) may be lodged with the court either by a victim, a person or an organization representing the victim or an NGO, the complaint must relate to violations of Charter rights and

³³ Article 30 of African Charter on Human and Peoples' Rights, (<http://www.achpr.org/fr/instruments/achpr/>)

³⁴ Article 31, *op.cit.*

³⁵ Article 33, *op.cit.*

³⁶ Article 45, *op.cit.*

³⁷ Article 46, *op.cit.*

³⁸ Introduction, *African Charter on Human and Peoples' Rights*, Amnesty International, p.41.

must be filed with the Commission after all internal remedies have been exhausted, unless the procedure is prolonged over time.

However, the African Commission on Human and Peoples' Rights can only issue opinions and has no binding power. Not all of the Commission's recommendations are always respected by the States concerned by the communications. In its decision³⁹ made public on 18 May 2016, the African Commission on Human Rights gave the State of Cameroon six months to release Jean Marie Atangana Mebara, the former secretary general of the Cameroonian presidency, and compensate him for his arbitrary detention to the tune of 400 million CFA francs. But a few weeks later, he was sentenced to 25 years in prison⁴⁰ in another case of financial malpractice. The former minister is still being held in Yaounde Central Prison. However, a more restrictive mechanism for recalcitrant states has been provided for. It is the African Court on Human and Peoples' Rights.

Suzanne Mengue NTYAM⁴¹ has been working there since September 2016. The first judges of the Court were sworn in on 2 July 2006. Cameroon ratified the Protocol establishing the Court on 18 July 2014⁴². According to Article 5 of the Protocol, the African Commission on Human and Peoples' Rights, States Parties, inter-State African organizations, individuals and NGOs with observer status at the African Commission on Human and Peoples' Rights, are competent to refer violations of the African Charter on Human and Peoples' Rights to the Court. However, according to article 34, paragraph 6, the Court may receive complaints from individuals and NGOs only if the State being prosecuted has made a declaration accepting the Court's competence to receive complaints from these entities. As of 21 October 2011, only Ghana, Tanzania, Mali, Malawi, Malawi and Burkina Faso have made this declaration. However, to circumvent this difficulty, individuals (including victims) and NGOs with consultant

39 Speech 416/12, 18e extraordinary session of 29 July to 7 August 2015, Nairobi, Kenya, (<http://www.achpr.org/fr/communications/decision/416.12/>)

40 *Jeune Afrique*, Cameroun: Jean Marie Atangana Mebara condamné à 25 ans de prison, (<http://www.jeuneafrique.com/336001/politique/cameroun-jean-marie-atangana-mebara-condamne-a-25-ans-de-prison-tcs/>).

41 *camerouninfo.net*, Cameroun - Portrait: Mme Suzanne MENGUE, Magistrat hors hiérarchie à la Cour Suprême du Cameroun, élue Juge de la Cour Africaine des droits de l'homme et des peuples (<http://www.cameroon-info.net/article/cameroun-portrait-mme-suzanne-mengue-magistrat-hors-hierarchie-a-la-cour-supreme-du-cameroun-269556.html>).

42 Law N°2014/013 of 18 July 2014 authorising the President of the Republic to ratify the Protocol crating the African Court of Human Rights.

status may refer the matter to the African Commission on Human Rights, which in turn is responsible for joining the African Court on Human and Peoples' Rights⁴³.

Unlike the African Commission on Human Rights, the African Court makes rulings more binding on states. According to Article 2 of the Protocol, the African Court “complements the protective functions conferred on the African Commission on Human and Peoples' Rights by the African Charter on Human and Peoples' Rights”. The Court may also settle disputes amicably.

The African Court on Human and Peoples' Rights handed down its first decision on 15 December 2009 in a case between the Chadian pastor Michelot Yogogombaye and Senegal⁴⁴ concerning the prosecution of former Chadian president Hissène Habré. The very first substantive decision⁴⁵ was rendered by the Court on 14 June 2013. It deals with the case of Reverend Christopher Mtikila, the NGO Tanganyika Law Society and The Legal and Human Rights Center against the State of Tanzania over the dispute over the independent candidacy for election.

According to Articles 29 and 30 of the Protocol, the Council of Ministers is notified of the Court's judgments given at a public hearing and the Council of Ministers is responsible for their application on behalf of the Conference of Heads of State and Government, and the States Parties to the Protocol must ensure that they are enforced.

C) THE AFRICAN CHARTER FOR DEMOCRACY, ELECTIONS AND GOVERNANCE

Adopted on 30 January 2007 at the 8th Ordinary Session of the Assembly of the African Union (AU) in Addis Ababa, Ethiopia, the African Charter on Democracy, Elections and Governance (ACDEG) entered into force on 15 February 2012: “The entry into force of this treaty is an important step for governance in Africa as it provides guarantees of respect for the rule of law, of fight against discriminations or of the exercise by the citizens of their fundamental freedoms of expression, peaceful demonstration or participation in the political life”, said the International Federation for Human Rights (FIDH) in a press release⁴⁶ published on its website a few days after

⁴³ *Practical Guide, the African Court of Human and Peoples' Rights : towards the African Court of Justice, International Federation for Human Rights, p.76.*

⁴⁴ *Application No. 001/2008: The petitioner was rejected as Senegal was not one of the States that declared the Court competent to receive the petition of individuals and NGOs in accordance with article 34, paragraph 6, of the Protocol on the Establishment of the Court..*

⁴⁵ *Applications N°009/2011 and N°011/2011.*

⁴⁶ *www.fidh.org, Entry into force of the ACDEG: A major instrument for peace, security and democracy in Africa (https://www.fidh.org/fr/plaidoyer-international/union-africaine/Entree-en-vigueur-de-la-CADEG-Un)*

the entry into force of the ACDEG. Cameroon ratified the ACDEG on the 16 January 2012.

i. Context

The ACDEG was adopted 5 years after the transition from the OAU to the African Union (AU)⁴⁷ on 9 July 2002 at the Durban Summit in South Africa. The objectives of the AU at its inception¹ include promoting democratic principles and institutions and the participation of people in good governance, promoting and protecting human and peoples' rights in accordance with the African Charter and related international and regional instruments.

In adopting the ACDEG, AU member states wished to remain consistent with the "objectives and principles set out in the Constitutive Act of the African Union, in particular, Articles 3 and 4, which underline the importance of good governance, popular participation, the rule of law and human rights"⁴⁸. The adoption of ACDEG comes at a time when, since the early 1990s, African states have been experimenting with the democratic political system after several years of monolithic rule. But democratic culture has difficulty in rooting itself in African customs. Hence the post-electoral conflicts, the seizure of power by weapons, changes in the constitution for the purpose of confiscating power, etc., are all factors that have contributed to the conflict

ii. ACDEG serving democracy, human rights and good governance

ACDEG sanctions the seizure of power by weapons⁴⁹. The Charter also prescribes sanctions against heads of state, which amends the constitution to perpetuate itself in power (amendment of the

⁴⁷ *The AU in brief* (<https://au.int/web/fr/luu-en-bref>)

⁴⁸ *Preamble, African Charter on Democracy, Elections and Governance*, (http://www.ipu.org/idd-f/afr_charter.pdf).

⁴⁹ *Article 14 alinéa 1, 2 et 3 de la Charte africaine de la démocratie, des élections et de la gouvernance, article 23 alinéa 1, 2 et 3*

constitution in violation of one of the principles of democracy). The Charter requires that the amendment of the constitution be made on the basis of consensus⁵⁰. The perpetrators of unconstitutional changes of government can be brought before the AU courts⁵¹. The ACDEG protects and promotes human rights⁵² by encouraging signatory states to promote the activities of civil society organizations⁵³ and to guarantee the independence of the legislative and judicial powers vis-à-vis the executive⁵⁴. It also calls on States to promote transparency and to combat corruption and embezzlement of public funds⁵⁵.

Failure to comply with any of the provisions of ACDEG may result in a referral to the African Court of Human Rights. The latter is not only aware of the violation of the African Charter on Human Rights, but also of protocols to the African Charter on Human Rights and any other legal instruments at the African level, such as ACDEG⁵⁶.

D) PARITY, GENDER AND MINORITIES RIGHTS

336: Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders - ACHPR/Res. 336 (EXT.OS/XIX) 2016.⁵⁷

275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity – ACHPR/RES/275 (2014).⁵⁸

⁵⁰ Article 10 alinéa 2, *op. cit.*

⁵¹ Article 25 alinéa 5, *op. cit.*

⁵² Article 6 et 7, *op. cit.*

⁵³ Article 12, paragraph 3, *op. cit.*

⁵⁴ Article 15 paragraph 2

⁵⁵ Article 33 paragraph 1, 2 et 3, *op. Cit.*

⁵⁶ Article 3 paragraph 1 du Protocole à la Charte portant création de la Cour africaine des droits de l'homme

⁶⁷ <http://www.achpr.org/fr/sessions/19th-20th/resolutions/336/>

⁵⁸ <http://www.achpr.org/fr/sessions/55th/resolutions/275/>



***"FUNDAMENTAL FREEDOMS ARISE
FROM THE UNIVERSALITY OF RIGHTS"***

IV. AT THE INTERNATIONAL LEVEL

a) Reference documents on the rights to: demonstration, association expression, information, hold public meetings.

- Universal Declaration of Human Rights (art. 19: right to freedom of opinion and expression, art. 20: right to freedom of assembly and peaceful association)
- The Covenant on Civil and Political Rights (art. 19: right to freedom of opinion and expression, art. 21: right to freedom of peaceful assembly, art. 22: right to freedom of association)
- Charter of Human Rights of the European Union (Art. 11: right to freedom of expression and information; Art. 12: right to freedom of assembly and association)
- Human Rights Council resolution of 5 July 2012 on the promotion, protection and enjoyment of human rights on the Internet⁵⁹

i. Universal Declaration of Human Rights⁶⁰

Article 19: Freedom of opinion and expression

Everyone has the right to freedom of opinion and expression, which includes the right not to be disturbed for his or her opinions and the right to seek, receive and impart information and ideas by any means of expression, regardless of frontiers.

Article 20: Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one can be obliged to belong to an association.

ii. The International Covenant on Civil and Political Rights⁶¹

Article 19: Right to freedom of opinion and expression

1. No one can be worried about their opinions.
2. Everyone has the right to freedom of expression; this right includes the freedom to seek, receive and impart information and ideas of any kind, regardless of frontiers, in oral, written, printed, artistic or other media of his or her choice.
3. The exercise of the freedoms provided for in paragraph 2 of this article entails special duties and responsibilities. It may therefore be subject to certain restrictions which must, however, be expressly laid down by law and which are necessary:
 - (a) Respect for the rights or reputations of others;
 - (b) For the protection of national security, public order, public health or morals.

⁵⁹ http://ap.ohchr.org/Documents/F/HRC/d_res_dec/A_HRC_26_L24.pdf

⁶⁰ <http://www.un.org/fr/universal-declaration-human-rights/index.html>

⁶¹ <http://www.ohchr.org/FR/ProfessionalInterest/Pages/CCPR.aspx>

Article 21: Right to freedom of peaceful assembly

The right of peaceful assembly is recognized. The exercise of this right may be subject only to such restrictions as are imposed in accordance with the law and are necessary in a democratic society in the interests of national security, public safety, public order or for the protection of public health or morals, or the rights and freedoms of others.

Article 22: Right to freedom of association

1. Everyone has the right to freedom of association with others, including the right to form and join trade unions for the protection of his or her interests.

2. The exercise of this right may be subject only to such restrictions as are prescribed by law and are necessary in a democratic society in the interests of national security, public safety, public order, or for the protection of public health or morals or the rights and freedoms of others. This Article shall not prevent the exercise of this right by members of the armed forces and the police from being subject to legal restrictions.

3. Nothing in this article shall be construed so as to permit States Parties to the 1948 Convention of the International Labour Organization concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which infringe or apply the law in such a way as to affect the guarantees provided for in that Convention.

iii. European Union Charter of Human Rights⁶²

Article 11: Right to freedom of expression and information

Everyone has the right to freedom of expression. This right includes freedom of opinion and the freedom to receive or impart information or ideas without interference from public authorities and regardless of frontiers.

2. The freedom of the media and their pluralism are respected.

Article 12: Right to freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and association at all levels, including political, trade union and civic rights, including the right to form and join trade unions with others for the defense of his or her interests.

2. Political parties at Union level shall contribute to? the expression of the political will of the Union's citizens.

iv. Human Rights Council resolution of 5 July 2012 on the promotion, protection and enjoyment of human rights on the Internet⁶³

⁶² http://www.europarl.europa.eu/charter/pdf/text_fr.pdf

⁶³ http://ap.ohchr.org/Documents/F/HRC/d_res_dec/A_HRC_26_L24.pdf



"We are slaves of laws to be free"

Cicéron



CHAPTER III:

IN PRACTICE

I. WHO ARE THE ACTORS AND HOW DO THEY INTERACT? LIMITS AND STRENGTHS

Who are the actors involved? How do they move? What are their motivations? Their strategy? Their means of action? Their successes? Their failures? What lessons?

II FROM CONCEPTS OF CIVIL SOCIETY... TO DEMOCRATIC INSTITUTIONS

Civil society is a concept that encompasses the activities of all actors in the life of a society outside the political sphere in the partisan sense, it is not supposed to be governmental power and not to represent the interests of government. It plays a fundamental role in the creation and consolidation of republican customs and customs in the life of a so-called democratic state. Democratic institutions are the royal means of expressing fundamental freedoms, which themselves are inherent human rights. However, how can we strengthen civil society in the expression of fundamental freedoms with a view to effectively consolidating democratic practice in Cameroon?

a) In Cameroon

The consolidation of democratic practices and practices varies according to the circumstances.

Cameroon has ratified the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Cameroonian citizens may feel that they enjoy their fundamental freedoms. Their expression, however, is subject to restrictions due to what the State and the government call “The best interests of the Nation”, whose incumbent officials ensure that they hold the coercive monopoly.

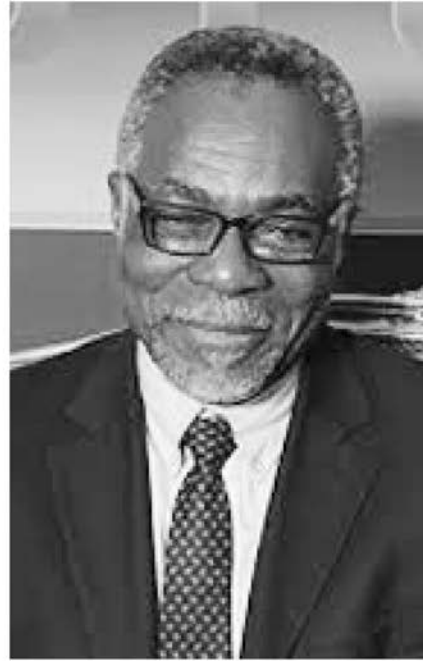
Freedom of association is a right recognized to all Cameroonians. It is widely applied in view of the number of existing associations throughout the country. Freedom of expression and opinion are the prerogative of all Cameroonians. Whether individually, collectively or through the media, everything is said about everything. Only in specific cases, there are unofficial intimidation of commentators on sensitive issues.

Freedom of peaceful assembly exists, but it is controlled by the state, as well as the freedom to demonstrate, in order to contain any dissenting ideas of the regime in power and any call for revolt.

Freedom of access to the Internet is being debated in Cameroon. Indeed, since the socio-political Anglophone crisis of 2016, the North-West and South-West regions have been suspended from the Internet network by mobile operators operating in the territory for more than two (02) months. Yet the rest of the country enjoyed this freedom. Indeed, the State of Cameroon respects fundamental freedoms in a circumstantial way.

If there is a fairly violent civil and political protest, immediately, the practice of these freedoms is revised downwards or almost non-existent, as was the case with the freedom of Internet access and the freedom to hold peaceful meetings in the north-western and south-western parts of Cameroon.

In the face of these abuses, civil society is the only one capable of denouncing and enforcing fundamental freedoms by adopting certain attitudes with a view to consolidating the country’s democratic practice.



26 February 2013: Arrest and arbitrary detention (Gendarmerie of Bonanjo, Douala): Mr. Same Alexis Ndema, President of the UPC, and Mr. Albert Moutoudou, Secretary General of the UPC. Arrested during a public protest «against the inability of ELECAM to organize credible and transparent elections », they were condemned on November 4, 2013 by the Court of First Instance of Douala Bonanjo to 1 month of imprisonment with 3 years conditional sentencing and 26,000 FCFA of fines.



20 May 2015: Prohibition to participate in the parade on the occasion of the Feast of the Cameroon National Unity for CPP members.



21 October 2017: march of the SDF in support of the English-speaking populations of Cameroon prohibited by the sub-prefect of Douala 1st.

III. PRACTICES AND EXERCISE OF FUNDAMENTAL FREEDOMS IN CAMEROON

a) Obstacles to the effective protection of Human Rights in Cameroon

The effective national realization of the promotion and protection of international human rights is constantly present in major discourses of contemporary law. Although Cameroon has adopted major international human rights instruments, violations continue to occur at an alarming and regular rate. This section examines the multifaceted and multidimensional obstacles to the enjoyment of human rights in Cameroon.

Obstacles to the promotion and protection of human rights in Cameroon can be divided into three categories: legal, social and political. The absence of a declaration of justiciable rights and genuine judicial independence in Cameroon is a major legal obstacle to the protection and promotion of human rights in Cameroon. In addition, there are numerous overriding clauses in the field of international human rights that are not only broad but also vague and unclear. This is a significant weakness that seriously hinders the promotion of human rights. Similarly, the socio-political environment in Cameroon is not sufficiently conducive to a human rights regime. The government very often shows regrettable autocratic drifts and erects a culture of impunity by regularly disobeying decisions that are unfavourable to regional and international settlement mechanisms. As a result, those who have the material means to seek redress often find themselves without recourse.

For the sake of clarity, the various obstacles will now be examined under different headings as follows.

i. THE ABSENCE OF A DECLARATION OF JUSTICIABLE RIGHTS

Generally speaking, a bill of rights is an elaborate constitutional enumeration of the fundamental rights and privileges of citizens whose state has an obligation to protect against violation, the remedies available, and statutory guidelines for their interpretation and application. In this way, the spectrum of guaranteed fundamental rights, the remedies available, and the legal mechanisms for their interpretation and application are clearly defined by law.

A declaration of rights in most democratic societies has precedence over all other laws and sources of law and any incompatibility to the extent of such incompatibility shall be declared null and void by a court of competent jurisdiction.

Cameroon does not have a constitutional enumeration of the fundamental rights that are guaranteed. There are also no available remedies or legal mechanisms for their interpretation and application. The mere recognition of fundamental rights in the preamble of the Constitution affirms Cameroon's commitment to the fundamental

freedoms proclaimed by the Universal Declaration of Human Rights, the Charter of the United Nations and the African Charter on Human and Peoples' Rights. The tenuous recognition of fundamental rights in the Constitution is an obstacle to the protection and promotion of these rights in many ways:

First, the scope of application of fundamental rights in the Constitution is grossly reduced almost exclusively to civil and political rights (first generation rights) with limited recognition of social and economic rights (second generation rights) and no reference to collective rights (third generation rights).

Second, constitutionally recognized rights are not expressed in such a way as to impose an obligation on the state. For example, "freedom of worship and the free exercise of its practice are guaranteed" but without specifying how, when and by whom. Similarly, "no one may be compelled to do what the law does not require".

Third, fundamental rights are based on the archaic notion that the state, as the main actor, is responsible for creating an environment in which citizens can enjoy human rights. It is also the only actor who may possibly infringe these rights. Thus, the Constitution of Cameroon does not envisage other potential actors such as non-governmental organizations (NGOs) and multinationals, whose activities may also violate the human rights of individuals.

Fourth, the human rights provisions in Cameroon's constitution are written in very obscure language. The rights are expressed in a language of hope, aspiration and exhortation that nullifies the attempt by Article 65 of the Constitution to dress the Preamble in substantive terms.

The enforceability of fundamental rights provisions is a decisive factor in their effectiveness. It is difficult to imagine an effective mechanism for the implementation of these rights. Thus, perpetrators of human rights violations cannot be held legally responsible for their actions.

ii. THE ABSENCE OF GENUINE JUDICIAL INDEPENDENCE

The exercise of an independent judiciary by the judiciary is essential for the effective realization of human rights in Cameroon. Judicial independence is enhanced by a range of internal institutional measures, including but not limited to a credible appointment process and the non-removability of judges.

The mechanism for the appointment and dismissal of judges in Cameroon by the Constitution is the establishment of the Supreme Council of the Judiciary, which is strongly inclined towards the executive branch and does not offer a guarantee of judicial independence. Consultations are required between the Head of State, the President of the Superior Council of the Judiciary and other members of the Council for the appointment, promotion, transfer, demotion or discipline of Magistrates. However, the level of consultation conducted or legally required is unknown. Thus, the appointment, promotion, transfer,

demotion or discipline of Magistrates is not protected or detached from politics, ethnicity and other compromising considerations. The result is the excessive politicization of the judicial system. For fear of reprisals, the Magistrates and Judges have lost judicial authority to examine the abuses of the executive branch. For example, although Article 45 of Cameroon's Constitution is very clear on the primacy of international human rights law over domestic law, the courts in Cameroon have opposed the application of this rule.

In addition, the main perpetrators of human rights violations in Cameroon are state agents, whether acting for or on the instructions of the executive. Without impartial justice to better interpret the law and hold perpetrators accountable, it is clear that many perpetrators of human rights violations cannot be held legally responsible for their actions.

iii. WEAK HUMAN RIGHTS INSTITUTIONS

The lack of strong human rights institutions is a major gap in the protection and promotion of human rights in Cameroon. The National Commission on Human Rights and Freedoms and the National Communication Council are key institutions that have a direct impact on the protection and promotion of human rights.

It is unfortunate that these institutional mechanisms are not sufficiently robust or capable of providing effective and appropriate platforms for the meaningful protection and promotion of human rights. This is all the more true since these institutional mechanisms are not independent and do not have the financial or logistical means to function properly as they should. Government interference or influence is evident when the government is under direct or indirect control of the government through funding, membership and provision of operational guidelines.

Thus, these institutions are unable to conduct credible and independent investigations into alleged human rights violations by the government or other stakeholders. When they tried to do so, their reports were not made public. The effect is that these institutions have not been able to hold the perpetrators accountable, despite gross violations of human rights.

iv. LIMITED LOCUS STANDI

The promotion and protection of human rights in Cameroon is often limited by the doctrine of locus standi. Locus standi generally means' legal capacity, based on sufficient interest in an area—to initiate legal proceedings in search of a certain cause. The legal concept of locus standi is based on the assumption that no court is required to award compensation for a claim in which the claimant has a distant, hypothetical or no interest.

In Cameroon, the issue of locus standi in human rights litigation is not only relevant but extremely important. In order to effectively support a legal action, the applicant must demonstrate that he or she is the one whose right has been or is in imminent danger or is violated or restricted. Thus, unless a person has the locus standi, he is considered an undesirable one and a trial at his instance would be incompetent and not maintainable.

The control of the interest in acting in constitutional matters by restricting individuals' access to the Constitutional Council is a serious inhibiting factor. In Cameroon, constitutional courts are not easily accessible to everyone, except in cases of electoral disputes. The effect is that Cameroonian citizens do not have the legal capacity to challenge the constitutionality of laws.

In addition, there is no provision in Cameroon's constitution that allows an individual to petition the Constitutional Council or any other tribunal for alleged human rights violations. Ordinary citizens, who are essentially the main victims and beneficiaries of human rights provisions, are thus denied the right to challenge laws that violate human rights.

The costs of justice even for human rights issues are exorbitant. Civil society organizations are essentially the only ones with the financial clout to bring costly prosecutions. However, the limited interest in taking action among civil society organizations and the exclusion of amici curiae under Cameroonian law have greatly hampered prospects for mitigating the impact on human rights violations.

v. ABUSE OF DEROGATORY CLAUSES IN REGIONAL AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

An in-depth analysis of the content of the various international human rights instruments related to Cameroon reveals ill-defined cases of authorized derogations inherent in these cases. In other words, many of the human rights guaranteed by international human rights instruments are not sacrosanct or granted in absolute terms. Rather, the various instruments create forums where it is legitimate and legally viable for rights to be violated.

For example, article 4 of the International Covenant on Civil and Political Rights, for example, recognizes and provides for the following exemptions

«In the event that an exceptional public danger threatens the existence of the nation and is proclaimed by an official act, the States Parties... may take measures derogating from the obligations provided for in the present Covenant...»

Similarly, Article 6 of the African Charter on Human and Peoples' Rights allows for limitations and restrictions on the rights it guarantees by providing, *inter alia*, that "no one may be deprived of his or her liberty except for reasons and under conditions previously determined by law...", while Article 11, by limiting the right to freedom of assembly, allows for "necessary restrictions imposed by law".

These broad-based sunset clauses indicate that the nature and extent to which citizens will actually enjoy human rights will depend on the goodwill of the legislature and do not contain any obligation to enact laws that will promote rather than violate human rights.

The practical and legal implications of these take-back clauses are simply that the State of Cameroon is authorized to limit, restrict or suspend the enjoyment of these rights. Authorized derogations may be misinterpreted because they are not well defined. For example, there is no definition of public emergency in the International Covenant on Civil and Political Rights, as «Cameroon draws heavily on these recovery clauses to introduce laws that will effectively restrict the enjoyment of fundamental rights by its citizens.

vi. NON-IMPLEMENTATION OF AGENCY DECISIONS

The accessibility of international settlement mechanisms for victims of human rights violations is one thing, and the implementation of such decisions by the State party is another. It is a well-known fact that the decisions of these international settlement bodies are not directly applicable and depend largely on the good will of the State Party concerned to implement adverse decisions.

One of the consequences of this is that these international settlement bodies depend on the defaulting State Party for the enforcement of their decisions. There is little guarantee that when there are adverse findings against Cameroon, they will be considered sacrosanct. On the contrary, it is unfortunate and regrettable that Cameroon routinely disobeyed these unfavorable findings taken against it for gross violations of human rights, ignoring the consequences for those whose rights had been violated.



CHAPTER IV :

**STRATEGIC
PROPOSALS**



What emerges from the diagnosis is edifying!

After identifying the various regional and international texts that enshrine these fundamental freedoms, we have analyzed their contribution to the promotion of these freedoms. Then, take stock of the Cameroonian practice of these freedoms. Finally, it was necessary to formulate an implementation strategy, recommendations and proposals for action, with a view to assisting policymakers and other stakeholders in their decision making, with a view to substantially improving the enjoyment of fundamental rights by citizens.

In fact, we can see that there are many shortcomings in the implementation of the principles of fundamental freedoms and respect for citizens' rights, which make it difficult for them to flourish:

- Insufficient frameworks for consultation and a dynamic exchange between the various parties;
- The very epistemology of concepts, sometimes unrelated to the cultural anthropology of the peoples concerned;
- Lack of mobilization of actors;
- The intelligibility of laws;
- The quality of their formulation and their dissemination languages;
- Lack of civic education policy, lack of awareness of African populations;
- The limited use of national languages;
- The distance between the judiciary, its practices, notions of justice within populations; the structure of States and their authoritarian history.

In view of these shortcomings, this guide proposes to orient its combat strategy in the direction of strengthening the civil society and the State's civic capacities with the aim of making more fluid the means to consolidate fundamental rights and freedoms, democratic institutions and the rule of law in Cameroon and Africa.

Consequently, the present chapter is divided into three points:

- **ACTIONS**
- **RECOMMENDATIONS TO IMPROVE THE ROLE OF THE DIFFERENT ACTORS**
- **THE ROLE OF THE ACTORS**

I. THE ACTIONS

a) ANIMATIONS FOR POPULAR AND CIVIC EDUCATION

It is essential to organize activities that actively involve the population in order to facilitate their appropriation of issues related to fundamental freedoms in Cameroon: conferences - debates,

round tables, awareness raising and mobilization campaigns, basic civic education actions in schools through reading or reciting tales, the projection of animated cartoons, videos, documentaries, plays on the theme of fundamental freedoms...

b) LEGISLATIVE TOOLS TO IMPROVE RIGHTS

- Appoint or designate a mediator/ombudsman to facilitate resolution of problems between the executive and the citizen;
- The possibility for a group of citizens: number to be defined - by referendum - to refer the matter to the Constitutional Court;
- The creation of popular assemblies composed of representatives of associations, customary chiefs and religious figures, in front of the local executive authorities.

c) THE PRODUCTION OF DOCUMENTARIES FOR DIDACTIC AND INFORMATIVE PURPOSES

upstream and downstream, in order to truly promote a society of fundamental rights and freedoms on the continent.

**d) A NATIONAL FORUM ON THE PRACTICE OF RIGHTS AND FREEDOMS
26 YEARS AFTER LA BAULE**

Why?

26 years after La Baule's speech on the development of democracy in Central Europe and Africa, it is time to assess the progress made and to question ourselves, because it was a great moment for many countries that remained hesitant and whose dictatorial practices had not yet really met with a direct counterweight.

Which objectives ?

Contribute to a better life together in Cameroon;
Consistency of each individual's aspirations;
Building a National Contract like Manifest Destiny.

Who?

Civil society organizations, representatives of governments, political groups and communities, parliamentarians, senators, judges, lawyers and magistrates, the army, the police, diaspora, diplomatic representations, regional and international human rights NGOs, regional and international human rights mechanisms (African Commission on Human and Peoples' Rights, United Nations Human Rights Committee), students, etc...

What about?

Themes:

- Emergence of democracy and development 26 years later;
- Evolution of democratic institutions in Africa and Central Europe. Failures and successes of the BAULE speech. What prospects?
- Revision of legislative texts such as the anti-terrorism law of 23 December 2014, the laws of 19 December 1990 governing public demonstrations and public meetings, the law of 19 December 1990 on social communication, the Code of Journalistic Ethics, etc.
- Presentations on certain regional legal instruments such as the African Charter on Human and Peoples' Rights, the African Charter on Democracy, Elections and Governance, the Principles and Guidelines on Fair Trial and Legal Aid and International Assistance such as the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights. These general assembly will give rise to proposals for amendments and modifications of the national laws. These proposals will be distributed to parliamentarians and members of government.

e) PRODUCTION OF AN ANIMATED FILM

A cartoon with characters such as Yaya de Yopougon to introduce children to the cultural universe of rights and fundamental freedoms.

Synopsis:

In the city of Maroua, an innocent 8-year old little girl, Aminatou watches from her balcony a crowd shouting and singing «liberties, respect for fundamental freedoms, respect for rights, etc...». Wonders never cease, and she will notice soon enough while looking at the street that fighting for fundamental freedoms is a long and winding road.

Characters:

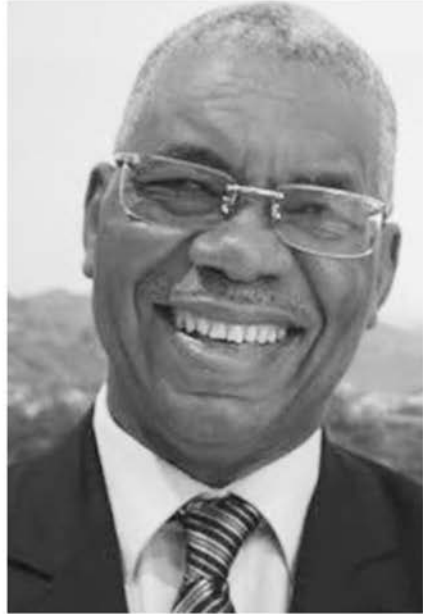
- Aminatou's family: Baba, Aida and her siblings
- Gendarmes and police officers
- Mustapha, the young soldier in shock
- An association of women fighting against forced marriage.

Beside these actions, African states should promote the African Charter on Human Rights, as well as the Mandé Charter, ACDEG and other African instruments, by including them in the school and basic education curricula, by translating these two fundamental texts into the majority of African languages.



Arrest and arbitrary detention at the request of the Vice President of the Senate of Cameroon (Central Prisons of Garoua and Tchollire): 30/11/2013 - 21/09 / 2015, Celestin Yandal, Cameroonian Human Rights Defender and Activist, President of the Touboro Youth Collective

15 September 2015: Arrest and arbitrary detention: Mr. Jean Marc Bikoko, President of the Central Public Sector Union and Coordinator of Dynamique Citoyenne, arrested with other collaborators in Yaoundé. Trial pending before the Yaounde Tribunal of First Instance.



09 August 2014: Abduction, sequestration and arbitrary detention: DGRE and Yaoundé Main Prison, Mr. Aboubakary Siddiky, National President of Patriotic Movement of the Cameroonian Salvation (MPSC), political party of the opposition; charged in the context of the fight against terrorism with «Outrage to the President of the Republic; Hostility against the fatherland and revolution; Complicity of assassination; And wearing and illegal possession of weapons of war. **Sentenced to 25 years in prison on 30 October 2017**

27 August 2014: Convocation by the governor of Maroua, arrest and arbitrary detention: DGRE and Yaoundé Main Prison: Barrister Harissou, Notary at the first charge of Maroua, charged in the framework of the fight against terrorism «Outrage to the president of the Republic ; Hostility against the fatherland and revolution; Complicity assassination; And wearing and illegal possession of weapons of war. **Acquitted on 30 October 2017**

II. RECOMMENDATIONS TO IMPROVE THE ROLE OF ACTORS

Strengthen the monitoring and control of the powers responsible for enforcing these freedoms;

Strengthen the role of State and non-State actors in consolidating the rights to fundamental freedoms;

Build inclusive platforms for better education;

Establish mechanisms for dialogue in a consensual manner to combat impunity.

III. THE ROLE OF ACTORS

A) THE MEDIA

They can play a key role in supporting the exercise of human rights by disseminating information on the various texts promoting different fundamental freedoms, publishing articles on violations of these freedoms, and encouraging the public to support their action.

Organize the profession by:

The establishment of a peer tribunal;

The creation of a commission to issue the journalist's identity card consisting exclusively of journalists and journalists' assistants;

Conduct a campaign to decriminalize press offences;

The setting up of new networks or the consolidation of existing networks bringing together media professionals and press unions to promote the mutualisation of actions to be carried out and a joint advocacy strategy.

i. In the audiovisual media

Create broadcasts on a regular basis with government actors; political actors; civil society actors; legal and judicial authorities who will be able to exchange views on issues relating to rights and freedoms, so as to educate and sensitize the public, who may be unaware of the texts in force.

ii. In the print media

Facilitate one or more sections dealing with articles related to human rights and conducting interviews with the above-mentioned actors.

iii. In the cybernetic press

To monitor social networks, facilitating debates and publishing information or cases of abuse of rights with a view to limiting the number of injustices, bans on demonstrations and meetings involving certain civil society associations and political parties, including the opposition;

Create pages where it can animate forums, post the texts in force, in the sense of informing, communicating, educating, sensitizing and working to stop the faults committed by administrative and state actors.

iv. Actions to build the capacities of the media

- Training of actors in the fundamentals of freedoms;
- Creation of reflection groups and periodic debates involving these actors;
- Periodic meetings with representatives of political groups, members of governments and civil society organizations involved in this thematic area;
- Study trips or political cafés for Human Rights and Fundamental Freedoms;

b) CIVIL SOCIETY

Support networks: Civil society in general could create informal monitoring networks that would enable a large number of people to be informed quickly of threats to fundamental freedoms.

This type of initiative would have the merit of strengthening the protection of human rights and helping to prevent abuses against them. Such networks should be established at the local, national and regional levels and links should be established with relevant international bodies, such as international human rights non-governmental organizations.

Promote the creation of spaces and platforms for regular consultation and the development of joint action plans.

Actively engage in the drafting of alternative reports on the situation of fundamental freedoms in Cameroon to submit to the various human rights mechanisms at the regional (CADHP) and international (United Nations) levels.

c) TRANSNATIONAL COMPANIES

In particular, they should be careful not to explicitly or implicitly request or encourage State authorities to repress human rights defenders who criticize their activities. They may also be concerned about violations of fundamental freedoms by the authorities.

d) THE AFRICAN UNION, CAEMC, ECCAS

These actors should encourage the Cameroonian government to comply with regional and international human rights norms and standards, including those relating to fundamental freedoms.

e) THE UNITED NATIONS AND ITS MECHANISMS

These actors should:

- Encourage the Government of Cameroon to respect its freely agreed commitments in the field of fundamental freedoms through the adoption and ratification of international human rights instruments;
- Mobilize the special mechanisms whose mandate includes the protection and promotion of fundamental freedoms for visits to

the country and the formulation of relevant recommendations to national authorities;

f) THE AFRICAN COMMISSION, THE AFRICAN COURT

It is well known that the decisions taken by these structures are often slow, voluntary or random in their application at the level of the signatory and member states. In order for these decisions and rulings to have the force of law on States, it would be desirable that coercive legal means be available to accompany the acts of the African Commission and the African Court. For example, such acts should be ratified by the Parliament of States Parties.

- Raise awareness among African Union member-state governments, civil society organizations and civil society organizations of the need to incorporate the Commission's Principles and Guidelines into their legislation;
- Amend all African legal instruments for the protection of human rights with a view to incorporating clauses such as suspension of development aid to countries that do not respect the Commission's communications against states that violate human rights;
- Encourage the Cameroonian government to respect its freely agreed commitments in the field of fundamental freedoms through the adoption and ratification of regional human rights instruments;
- To mobilize special mechanisms whose mandate includes the protection and promotion of fundamental freedoms for visits to the country and the formulation of relevant recommendations to national authorities.

g) DIPLOMATIC MISSIONS AND OTHER DEVELOPMENT PARTNERS (UNDP, WORLD BANK, etc.)

- Encourage the Government of Cameroon to comply with regional and international human rights norms and standards, including those relating to fundamental freedoms;
- Support the actions of Cameroonian civil society to strengthen the capacities of its members as well as government officials in the field of protection and promotion of fundamental freedoms; protection of victims of violations of fundamental freedoms; organization of frameworks for inclusive dialogue between state and non-state actors; advocacy with the authorities.

h) THE GOVERNMENT OF CAMEROON

Cameroon, whose involvement in the vivacity and vitality of the various institutions existing at both the sub-regional and continental levels is never contradicted by the words of its leaders, must take a further step in the implementation of the acts resulting from these structures. The National Assembly and the Senate should systematically appropriate these acts so as to place our country more closely in the ranks of States that respect the treaties and decisions made by the various institutions to which it belongs.

The creation within our Parliament of a Special Commission in charge

of collecting, appropriating and ratifying the aforementioned acts may help Cameroon not to lag behind in implementing the legal decisions taken by the international structures of which it is a member or State Party.

- Repeal and/or amend Cameroonian legislation in accordance with the recommendations included in point 2 below (Amendments to the Laws) in order to bring it into conformity with regional and international human rights norms and standards;
- Stop using the anti-terrorism law to justify reprisals, arrests and arbitrary detention of activists, human rights defenders, opposition political parties and journalists;
- Refrain from censoring the media (written and online press, television, radio, blog, etc.) and social networks in order to fully guarantee the right to freedom of association and information;
- Organize inclusive consultations with civil society (NGOs, activists, defenders, journalists) on specific themes to promote inclusive dialogue and be open to receiving recommendations and comments from these actors, to be taken into account in formulating new laws or amending existing ones;
- Promote the development and dissemination of vulgarization tools to the population, in close collaboration with civil society, of relevant standards related to fundamental freedoms, codes of conduct and good practices.

i) AMENDMENTS TO LEGISLATION

i. Concerning the antiterrorist law

It is imperative to bring this law into line with regional and international human rights norms and standards, including those relating to fundamental freedoms. In particular, it must be rewritten with a view to the abolition of the death penalty in its entirety. In addition, it is important that the civil courts, and not the military courts, should have jurisdiction over terrorist acts.

ii. A law to strengthen the rights of human rights defenders:

REDHAC has already formulated a draft bill on the protection and promotion of human rights defenders in Central African countries. This draft bill was inspired by law N°2014-388 of 20 June 2014 protecting Human Rights Defenders adopted in Côte d'Ivoire, and the first bill still in the making in the Democratic Republic of Congo. The draft law was elaborated during a sub-regional consultation held in Brazzaville in April 2016, which brought together REDHAC focal points, legal experts from Cote d'Ivoire who contributed to the drafting of the draft law of Cote d'Ivoire, other defenders from Africa, under the High Patronage

of Mrs. Reine Alapini Gansou, Special Rapporteur. After drafting, the compliance of this bill with international human rights standards was determined by a team of volunteer lawyers from the international organization, The Advocates for Human Rights, which reviewed and analyzed the draft. REDHAC is currently in the advocacy phase with the governments of Cameroon and other Central African countries to encourage them to adopt this bill.

iii. Law No. 90/053 of 1990 December 1990 on freedom of association

This law provides for a declaration system that the State of Cameroon has transformed into an authorization system giving the sub-prefectures the latitude to prohibit meetings on a regular basis. With regard to the registration of associations and organizations, the articles that empower the authorities to arbitrarily refuse registration of any association that criticizes or opposes government action must be repealed and reformulated in order to promote associative life in Cameroon.



19 November 2015: The delegation of advocacy for the adoption of the African Charter for Democracy, Elections and Governance (ACDEG) before the president of the national assembly of the CAR. The delegation led by Mrs. Ngo MBE, Executive Director of REDHAC was composed by Barrister Bruno Hyacinthe GBIEGBA and Barrister DANGAVO Guy, lawyers at the Bar of the CAR, Mr. MOKE LOAMBA, President of the Association for Human Rights and the Prison World (ADHUC) and Mr Jean Jacques MATHAMALE, coordinator of the Center for Environmental Information and Sustainable Development (CIEDD). all members of Redhac.



17-18 November 2015: Human Rights Defenders Capacity Building Workshop on the monitoring and reporting techniques of human rights violations during the electoral period organized by REDHAC in Bangui, CAR, with the facilitation of Amnesty International and MINUSCA.



19 November 2015: Working meeting at the headquarters of the American Bar Association in Bangui, CAR, in the framework of the advocacy led by REDHAC on the adoption of the African Charter for Democracy, Elections and Governance (ACDEG).



19 November 2015: Advocacy session at MINUSCA in Bangui, CAR on the adoption of the African Charter for Democracy, Elections and Governance (ACDEG). From left to right: Mr. Musa Gassama, Director of the Human Rights Division of MINUSCA and Mrs. Mbe, REDHAC Executive Director.



17-18 November 2015: A human rights defender in Bangui, in CAR, on the occasion of the Human Rights Defenders Capacity Building Workshop on the monitoring and reporting techniques of human rights violations during the electoral period organized by REDHAC



07-08 March 2016: Training workshop on «Vulgarization of Regional and International Mechanisms in Human Rights Democracy: The African Charter on Democracy, Elections and Good Governance» in Congo Brazzaville.



09 October 2017: Police officers search priests in Mamfe, South West region of Cameroon, which together with the North West region is severely affected by the so-called Anglophone crisis



8 May 2017: Palais de Congrès, Niamey, Niger: Solemn opening of the 60th ordinary session of the African Commission on Human and Peoples' Rights by the President of the Republic of Niger, His Excellency Mahamadou Issoufou



AFTERWORD

TO CONCLUDE WITH THE USE OF THIS GUIDE

In any process, there are constructions that require a form of voluntarism on the part of state institutions but also of civil society organizations. Human societies are organized constructs. That is to say, they have surpassed the level of spontaneity and determinism and try, as far as possible, to lead men to ever more excellence, transcendence and height. The battle of human societies for more equity and justice, without being a myth of Sisyphus, remains a long term work, going beyond the time of men and joining that of humanity, understood as an irreversible civilization, whose species of men is not yet ready to die out. The best forecasts project the evolution of human civilization in the 2050s. This means that for the years to come, democratic construction still has a long way to go. No one knows for sure how long it will take. But without waiting for the big night, civil society organizations are working to lay the foundations for a fairer, more equitable civilization where the question of human rights would be an essential link in the process of living together on the planet.

Because it is not enough to rely on the optimism of the will, we must add to the pessimism of intelligence and the doubt of reality, lucid pragmatism to transform the present.

This is one of the functions of this guide: to give citizens, human rights defenders and states the tools they need to safeguard fundamental freedoms and thus strengthen democratic institutions in Central Africa.

Pr. Jean-Baptiste Fotso Djemo
Psychologist-Psychotherapist
Former professor at University of Paris X-Nanterre Associate Professor
Professor at University of Montagnes of Bangangté
West Cameroon



The laws of freedom



03 October 2016: Threatened with death by former rebel leaders now integrated into the regular army, exiled since December 2016: Bernadette Ntumba, Woman Human Rights Defender, Coordinator of the Association of Christian Mothers for Assistance to the Vulnerable (AMCAV) in the DRC.



Mrs Maximilienne Chantal Ngo Mbe Moutoudou, REDHAC Executive Director



30 July 2015: Arbitrary Arrest and Detention (DGRE, Yaoundé Main Prison), Ahmed Abba, journalist and RFI correspondent in the Haoussa language, sentenced on 24 April 2017 to 10 years in prison and 55 million FCFA in fines by the Military Tribunal of Yaounde in the context of the application of article 2 at 1 of the law 2014/028 on «Suppression of acts of terrorism in Cameroon». Trial pending before the Mfoundi Court of Appeal



28 October 2014: Arrest, hearing and provisional release on SED (State Secretariat for Defense), Prof. Baba Wame, Mr. Félix Ebole Bola and Mr. Rodrigue Tongue, Cameroonian journalists charged with «no denunciation» in the framework of the fight against terrorism. Trial before the Military Tribunal of Yaoundé. Acquitted on 30/10/2017



Barrister Alice Nkom, Head of the REDHAC Board of Directors





ANNEXES I

NATIONAL LEVEL

Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972

http://www.cameroonconstitution.com/wp-content/uploads/2016/01/Constitution_Law-No.-96-06-of-18-January-1996.pdf

Law No 2016/007 of 12 July 2016 relating to the Penal Code

<http://www.assnat.cm/index.php/en/laws/adopted-laws-2/83-law-n-2016-007-of-12-jul-2016>

Law N°90/042 du 19 December 1990 : instituting an identity card with which characteristics are defined by regulation way

https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=22741&p_country=CMR&p_count=323

Law N°90/043 of 19 December 1990 on the conditions of entrance, stay and departure from the Cameroonian territory

<http://www.refworld.org/cgi bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=528b69e34>

Law N°90/045 of 19 December 1990 carrying simplification of the criminal proceeding for some offences

Law N°90/047 of 19 December 1990 instituting the state of emergency on all or part of national territory

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=22743&p_classification=01.05

Law N°90/048 of 19 December 1990 on military judicial organization

Law N°90/052 of 19 December 1990 on social communication

http://cnc.gov.cm/images/Documents/Lois/com_sociale.pdf

Law N°90/053 of 19 December 1990 on freedom of association

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=21822&p_country=CMR&p_count=290

Law N°90/054 of 19 December 1990 relating to the maintenance of law and order

<http://opencamer.blogspot.com/2013/09/loi-n-90054-du-19-decembre-1990-portant.html>

Law N°90/055 of 19 December 1990 to lay down regulations governing public meetings and processions

<http://opencamer.blogspot.com/2013/09/loi-n90-055-du-19-decembre-1990-fixant.html>

Law No. 2014/028 of 23 December 2014 on the suppression of acts of terrorism

<http://www.dibussi.com/2014/12/cameroon-terrorism-law.html>

REGIONAL LEVEL

African Charter on Human and Peoples' Rights (adopted on 27 June 1981, ratified by Cameroon on 20 June 1989)

<http://www.achpr.org/instruments/achpr/>

African Charter on Democracy, Elections and Governance (adopted 25 October 2011, not yet ratified by Cameroon)

<http://www.achpr.org/instruments/charter-democracy/>

Declaration of Principles on Freedom of Expression in Africa (adopted by The African Commission on Human and Peoples' Rights, meeting at its 32nd Ordinary Session, in Banjul, The Gambia, from 17th to 23rd October 2002)

<http://www.achpr.org/sessions/32nd/resolutions/62/>

Resolution on the Right to Fair Trial and Legal Aid in Africa (adopted by The African Commission on Human and Peoples' Rights meeting at its 26th Ordinary Session, held in Kigali, Rwanda, from 1-15 November 1999)

[http://www.achpr.org/sessions/26th/resolutions/41/ACHPR/Res.275\(LV\)2014:Resolutionon](http://www.achpr.org/sessions/26th/resolutions/41/ACHPR/Res.275(LV)2014:Resolutionon)

Protection against Violence and Other Human Rights Violations against Persons on the Basis of their Real or Imputed Sexual Orientation or Gender Identity, adopted in 2014

<http://www.achpr.org/sessions/55th/resolutions/275/>

Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa adopted by the African Commission on Human and Peoples' Rights during its 56th Ordinary Session in Banjul, Gambia (21 April to 7 May 2015)

http://www.achpr.org/files/instruments/principles-guidelines-countering-terrorism/principles_and_guidelines_on_human_and_peoples_rights_while_countering_terrorism_in_africa.pdf

Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders - ACHPR/Res.336 (EXT.OS/XIX) 2016

<http://www.achpr.org/sessions/19th-eo/resolutions/336/>

Resolution on the Situation of Human Rights Defenders in Africa - ACHPR/Res.376 (LX) 2017 adopted by The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

<http://www.achpr.org/sessions/60th/resolutions/376/>

African Commission on Human and Peoples' Rights Guidelines on Freedom of Association and Assembly in Africa, 21 September 2017

http://www.achpr.org/files/instruments/freedom-association-assembly/guidelines_on_freedom_of_association_and_assembly_eng.pdf

INTERNATIONAL LEVEL

Universal Declaration of Human Rights (UDHR) proclaimed by the United Nations General Assembly in Paris, 10 December 1948 (General Assembly resolution 217 A)

<http://www.un.org/en/universal-declaration-human-rights/index.html>

International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 (ratified by Cameroon, 27 June 1984)

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by General Assembly resolution 53/144 of 9 December 1998

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>

Resolution on the promotion, protection and enjoyment of human rights on the Internet adopted by the General Assembly, resolution A/HRC/32/L.20, 27 June 2016

<https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/131/89/PDF/G1613189.pdf?OpenElement>

Charter of fundamental rights of the European Union, 18 December 2000

http://www.europarl.europa.eu/charter/pdf/text_en.pdf

ANNEXES II

ADDITIONAL READINGS

Law N°042 of 19 December 1990 Instituting an identity card with which characteristics are defined by regulation.

First article. –It is instituted an identity card whose characteristics are defined by regulation.

(2)The possession of the identity card is compulsory throughout the national territory for every 18-year-old citizen past.

Art. 2.–The identity card gives proof until proved otherwise of the identity of his holder. It must be introduced in any requisition. It is rigorously personal and cannot be given up nor lent. In case of loss, statement must be made within 15 days in the closest competent service.

Art. 3. The deliverance of the card gives rise to the perception of a stamp duty sum of which is determined by the law of finances.

Art. 4.–Counterfeiting, falsification of an identity card, usage, cession or even free acquisition of a forged or counterfeit card are punished for an imprisonment from one to three years and for a 50 000 - 200 000-fr fine or for one of these two troubles only.

Art. 5.– Is liable by an imprisonment from three months to one year and by a 50 000 - 100 000-fr fine or by one of these two trouble only:

- every person who takes in identity card or in statement that she makes with this effect a wrong registry office;

-every person who uses a card issued under another registry office than his or uses a national card other than his;

-the hotel keepers or their officials who accommodate knowingly, even freely, every person devoid of an identity card or card of a passport;

-every person who does not have her identity card.

Law N°043 of 19 December 1990

It fixes the conditions of entrance, of stay and of exit of the Cameroonian territory.

CHAPITRE I - OF THE CROSS - BORDER CONTROL OF POLICE

Article 1

Every person who enters Cameroon or who goes out of it is required to submit to the control of the police of borders.

CHAPITRE II - OF THE EXIT OF THE NATIONAL TERRITORY

Article 2

(1) Every Cameroonian who wants to leave the national territory must introduce a passport to the competent authority of police in the course of validity.

(2)Every resident foreigner who wants to leave the national territory must introduce to the authority aimed above a passport or quite other title of trip by serving, dressed in an exit visa.

Article 3

(1)Every Cameroonian or resident foreigner is punished for an imprisonment from 2 to 6 months and for a 500. 000-fr fine or for one of these two troubles only, who goes out of Cameroon without conforming to the dispositions of articles 1 and 2 above.

(2)Everything is punished for an imprisonment from 6 months to 2 years and for a 100. 000 -2. 000.

000- fr fine.

Cameroonian or foreigner who goes out of the national territory notwithstanding requisition duly notified by the judicial authorities, the charged Ministers of Finance, the Civil service and Control of the State, Job and social Foresight.

Article 4

For each of the cases envisaged in the article 3 above, are punished for the same troubles those who give assistant or assistance to thirds with a view to favoring their irregular exit of the national territory.

Article 5

The troubles of the article 3 paragraph 1 and 2 above are doubled: when the accomplice is a civil servant of the In land, customs Revenues or of maintaining of order; when the authority is found in possession of weapon or written proof having made easier the committee of offence; when the authority or the accomplice used a vehicle, a device, a cycle or a dock stolen especially to this end.

Article 6

(1) The foreign tourists, the temporary visitors and the passengers in transit can, anytime, leave the national territory without being forced in the formality of the exit visa.

(2) However, those of them who stay in Cameroon beyond the deadline of the granted visa are forced in this formality, without prejudice to troubles envisaged in the article 3 paragraph 1 above.

CHAPITRE III- CONDITIONS OF ENTRANCE IN CAMEROON

Article 7

(1) Every foreigner who disembarks in Cameroon must be in possession of a passport or quite other title of trip in the course of validity dressed in an entry visa, subject to diplomatic conventions.

(2) The foreigner who disembarks in Cameroon in violation of the dispositions of the previous paragraph and of those of the above, made article 1 the object of a decision of pushing back in his expenses, without prejudice to troubles envisaged in the article 3 paragraph 1 above.

(3) The foreigner condemned for irregular immigration is, after execution of his trouble, evicted from Cameroon.

Article 8

At the expiration of the validity of the granted visa, the foreigner temporary visitor, tourist or passenger in transit made the object of a decision of pushing back in its expenses, without prejudice to troubles envisaged in the article 3 paragraph 1 above.

Article 9

Are punished for troubles envisaged in the article 3 paragraph 1 of the present law those who, by fraud or in quite another way, favor immigration or stay irregular of one or several foreigners in Cameroon.

Article 10

Any air or maritime shipping line, any company consignee of a ship or of a plane, any passengers' common carried by of the Earth, fluvial, maritime or air way, which accepts as passengers for Cameroon the foreigners not provided with the regulation rooms is compelled to support expenses of their repatriation or of their pushing back. With this effect, aforementioned passengers are recorded without consultation in the guardhouse of the place of the questioning, under the supervision of the leader of post, at the expense of the conveyor.

**Loi N°90/045 du 19 décembre 1990*

Portant simplification de la procédure pénale pour certaines infractions.

Article 1 : *En cas de délit, le suspect est traduit devant la juridiction compétente par voie de flagrant délit.*

Art2 : *sont abrogées toutes dispositions antérieures contraires, notamment l'ordonnance n°72/17 du 28 septembre 1972.*



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ACRONYMS, ABBREVIATIONS AND DEFINITIONS

ACDEG: African Charter on Democracy, Elections and Governance ;

ACHPR: African Commission on Human and Peoples' Rights ;

AMICUS CURIAE: Personality or body that the civil court may hear without formalities for the purpose of acquiring information directly related to a court case.

APARTHEID: Literally separation, apart; racial discrimination policy adopted by the Government of

South Africa from the 1940s to 1994;

AU: African Union;

CACSC: Cameroonian Anglophone Civil Society Consortium;

CAEMC: Central African Economic and Monetary Community

CAMTEL: Cameroon Telecommunication (public telephony operator of Cameroon) ;

CELTHO: Centre for Linguistic and Historical Oral Tradition Studies;

CPP: Cameroon People's Party;

DGRE: General Direction of External Research;

DYNAMIQUE CITOYENNE : Network of Cameroonian civil society organizations ;

ECCAS: Economic Community of Central African States

FACEBOOK: Online communication Social Media;

FCFA: Franc of the African Financial Community ;

FIDH: International Federation for Human Rights ;

HOT COCOA FM 94: Radio based in Bamenda, North-Ouest Region of Cameroon ;

ICCPR: International Covenant on Civil and Political Rights;

LHRC: Legal and Human Rights Center;

LINKEDIN: Online professional Social Media ;

LOCUS STANDI: Legal capacity, based on sufficient interest in one area - to take legal action in search of a certain cause;

MINATD: Ministry of Territorial Administration and Decentralization ;

MINJUSTICE: Ministry of Justice ;

MPSC: Patriotic Movement of Cameroonian Salvation;

MRC: Movement for the Renaissance of Cameroon ;

MTN: Mobile Operator in Cameroon ;

NA: National Assembly;

NCHRF: National Commission on Human Rights and Freedoms;

NEXTEL: Mobile Operator in Cameroon ;

NGO: Non-governmental Organizations;

OAU: Organization of the African Unity;

OHADA: Organization for the Harmonization in Africa of Business Law;

ORANGE: Mobile Operator in Cameroon ;

RDPC: Cameroon People's Democratic Movement;

REDHAC: Central Africa Human Rights Defenders Network;

RFI: Radio France International ;

SED: State Secretariat for Defense

SOPECAM: Society of Press and Edition in Cameroon;

THE ADVOCATES FOR HUMAN

RIGHTS: Human Rights International Organization based in the United States ;

TWITTER: Online social media;

UDHR: Universal Declaration of Human Rights of 1948;

UN: United Nations ;

UNESCO: United Nations Education Science and Culture Organization;

UPC: Union of the Populations of Cameroon ;

WHATSAPP: mobile application with an online instant messaging system.



THE LAWS OF FREEDOM

This document is a guide for safeguarding fundamental freedoms in Cameroon: freedom of association and assembly, freedom of opinion, freedom of expression, access to information and to internet connection ... It has been made available to human rights defenders, activists, human rights State and non State actors, journalists, jurists, the National Commission on Human Rights and Freedoms (NCHRF) etc ... to use it to advocate with the Cameroonian government to harmonize the national legislation to regional and international standards in this domain, able to respect and guarantee the right to fundamental and public freedoms.

It is a contribution highlighting the existing legal voids in the Cameroonian legislation relating to fundamental freedoms. The purpose of this study is to give tools to the different actors - civil society, political parties, academics, administrative and governmental authorities - to improve the fundamental freedoms' situation: **both in practice and from a conceptual and legislative point of view.**

It is an advocacy document for human rights defenders, political actors, journalists.

A research which questions the inherent legal vacuums to the Cameroonian legislation on fundamental freedoms and examines the most appropriate measures to fill them, as well as the most effective practices in mitigating their freedom-destroying effects.

A collective and inclusive advocacy tool that calls for action all the actors involved at national, regional and international level, in the fight to strengthen the safeguard of fundamental freedoms in Cameroon and for a better respect for those freedoms.



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