



# **Serious Human Rights Violations in the Anglophone Regions of Cameroon PART II: Cameroon's Unfolding Catastrophe: Contextualizing the Crisis**

July 22, 2019

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Part I of this series, *Cameroon's Unfolding Catastrophe: Contextualizing the Crisis* (June 17, 2019), provided the background to the current conflict in the Anglophone regions of Cameroon, drawing on the ground breaking 2019 report by the Centre for Human Rights and Democracy in Africa (CHRDA) and the Raoul Wallenberg Centre for Human Rights (RWCHR).<sup>1</sup>

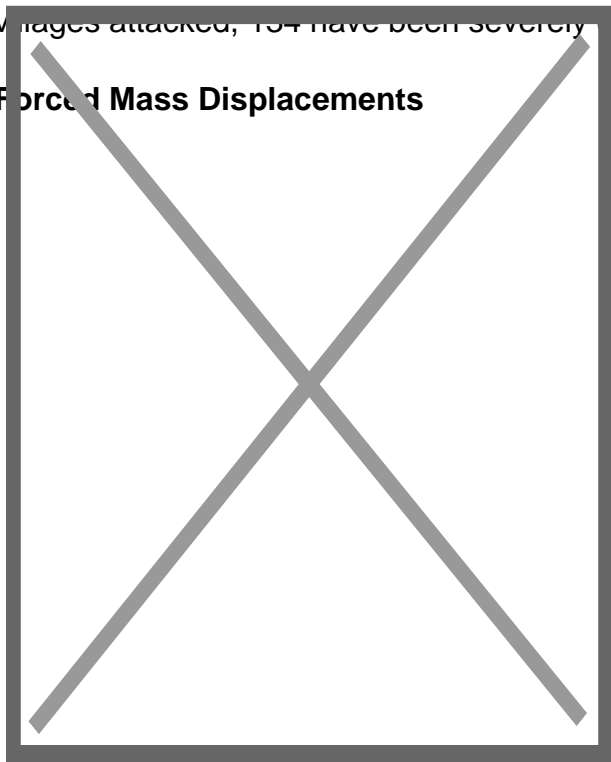
This article is Part II of the series, examining human rights violations that have taken place in the Anglophone regions of the country. Section I starts with a focus on the emblematic violations perpetrated against English-speaking Cameroonians that have taken place. Section II analyses the applicable human rights norms.

## Emblematic Violations of Human Rights:

### Razing Homes and Villages: An Established Military Tactic<sup>2</sup>

Mass displacements of Anglophone populations have taken place in Cameroon, largely the result of the burning and razing homes and villages in the North West and South West regions as a military tactic by national security and defence forces. Burning villages is the signature human rights violation perpetrated in the conflict, with the CHRDA reporting **206 settlements** raided and partially destroyed by state defence forces as at May 2019 during attempts to crack down on armed separatists. Of the villages attacked, 154 have been severely damaged.<sup>3</sup>

### Forced Mass Displacements



Attacks of villages and military security operations have

triggered mass displacements in the Anglophone regions. The crisis has forced the displacement of half a million people.

Internally displaced persons (IDPs) are mostly situated in the bush in remote areas and therefore have little or no access to medical assistance. Limited or no access to potable water has resulted in dysentery and diarrhea, especially among children. Most IDPs suffer from malaria after sleeping rough with no protection. Girls and young women have no access to sanitary pads or basic hygiene products and are forced to use whatever is available in their surroundings, resulting in serious infections. Most IDPs are women and children who have abandoned their farms and have limited access to food.

According to Cameroon's Ministry of Justice, prisons in the country stood at 171 percent capacity on December 31, 2017 and in the South West region alone, occupancy rates stood at 218 percent capacity.<sup>4</sup> According to CHRDA researchers, the under-capacity in the North West region (at 88

percent) reflects the practice of transferring prisoners out of the region to other, more secure areas.

## **Torture and Cruel, Inhuman, and Degrading Treatment**

Between January 2018 and January 2019, Human Rights Watch documented at least 14 cases of torture at a State Defense Secretariat (*Secrétariat d'Etat à la défense*, "SED") detention site.<sup>5</sup>

Total numbers are likely much higher, as detainees are subjected to torture in secrecy and former detainees are hesitant to speak out for fear of reprisals. Detainees have been severely beaten and subject to near-drowning techniques to extract confessions.<sup>6</sup>

In July 2018, the CHRDA reported that 18 Anglophone civilians were arbitrarily arrested, detained, and tortured in cells in the Kondengui Central Prison in Yaoundé.<sup>7</sup> CHRDA's president, Mr. Felix Agbor Nkongho, stated that the detainees were "kept in tight chains and were brutally tortured last night [July 3, 2018] by prison guards who repeatedly called them Ambazonians."<sup>8</sup> Among them was Mr. Tanyi Robert Tataw, 32 years of age, who was arrested in the South West region on June 16, 2018. He was molested, blindfolded, and told to consume excrement. He lost an eye and was transferred naked to Yaoundé.<sup>9</sup>

A video released in 2018 documented gendarmes in the North West region torturing a separatist leader after his arrest.<sup>10</sup> The video shows gendarmes tying the suspect's hands behind his back, kicking him, and stomping on his head, while he lies on his stomach in the mud. The video went viral on social media. A government minister acknowledged that the behaviour was "clearly out of the norms and legal techniques in such circumstances."<sup>11</sup>

Finally, mass arrests and detentions have caused harsh and often life-threatening prison conditions in Cameroon, including gross overcrowding, lack of access to water and medical care, and deplorable hygiene and sanitation.<sup>12</sup>

## **LEGAL ANALYSIS**

The Preamble of the Constitution of Cameroon incorporates human rights standards of the *Universal Declaration of Human Rights* (UDHR), the *African Charter on Human and People's Rights*, and all ratified international conventions. The Preamble further provides that "human beings, without distinction as to race, religion, sex or belief, possess inalienable and sacred rights." The first three articles of the Preamble provide:

All persons shall have equal rights and obligations. The State shall provide all its citizens with the conditions necessary for their development;

- The State shall ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law;
- Freedom and security shall be guaranteed each individual, subject to respect for the rights of others and the higher interests of the State.<sup>13</sup>

Under the Constitution, international law takes precedence over national law. Article 45 of the Constitution provides, “Duly approved or ratified treaties and international agreements shall, following the publication, override national laws, provided the other party implements the said treaty or agreement.”

Therefore, all international obligations duly approved or ratified are binding on all state agents, including law enforcement, military personnel, gendarmes and members of the security forces. Cameroon is party to the following several international human rights instruments, whose provisions are directly relevant to the issues discussed in this article:

- *African Charter on Human and People’s Rights* (ratification on June 20, 1989).
- *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* (CAT; ratification on December 19, 1986);
- *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW; ratification on August 23, 1994);
- *Convention on the Rights of the Child* (CRC; ratification on January 11, 1993) and its *Optional Protocol* (ratification on February 4, 2013);
- *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD; ratification on June 24, 1971);
- *International Covenant on Civil and Political Rights* (ICCPR; ratification on June 27, 1984);
- *International Covenant on Economic, Social and Cultural Rights* (CESCR; ratification on June 27, 1984); and
- *Maputo Protocol* (2006).<sup>14</sup>

Cameroon has positive obligations to respect, protect, and fulfill these rights. Under the ICCPR, the State is obliged to ensure that all individuals within its territory and subject to its jurisdiction enjoy the rights enumerated therein without distinction based on, among other grounds, language, political, or other opinion, or other status.<sup>15</sup> Cameroon is also a party to the *Vienna Convention on the Law of Treaties*, which provides that “every treaty in force is binding upon the parties to it and must be performed by them in good faith.”<sup>16</sup>

The balance of this article will focus on two of the most serious human rights violations that result from the events and incidents mentioned above, namely: (a) the right to life and security of the person, and (b) the right to be free from torture and cruel, inhuman or unusual treatment or punishment.

### *State Deprivation of the Right to Life*

Thousands of soldiers, police officers, civilians, and separatists have lost their lives in the conflict. Defence and security forces have used live ammunition against protestors in the streets, razed entire villages and entered people’s homes and shot inhabitants, while survivors fled their villages to hide in the bush.<sup>17</sup> As noted earlier, IDPs face severe insecurity and the extent of the crisis has triggered a humanitarian crisis.

The State's obligation to protect the right to life includes the duty to prevent and punish arbitrary deprivation of life by criminal acts but also to prevent arbitrary killing by their own law enforcement personnel.<sup>18</sup> Deprivation of life caused by state authorities is an offence of the utmost gravity, especially if the act is the result of the intentional action of state agents.<sup>19</sup> The evidence demonstrates that security forces used excessive force and lethal weapons with the intention of causing death or serious injury to ASGs and civilians, where they knew or should have known the consequences of their actions. Even the targeting and killing of suspected members of armed secessionist groups violates the right to life under the ICCPR. Indeed, the UN Human Rights Committee held that where law enforcement personnel have killed suspects of a prior kidnapping, they have violated the right to life under the ICCPR and "deprived them of all the protections of due process of law laid down by the Covenant."<sup>20</sup> Such actions by state agents resulting in deprivation of life are considered "disproportionate to the requirement of law enforcement in the circumstances of the case."<sup>21</sup>

Similarly, acts such as indiscriminate shooting into crowds of peaceful protestors or on residential streets, breaking into the homes of civilians and killing or injuring them, and the burning of villages, all constitute intentional acts where security forces knew or should have known that there was a foreseeable likelihood of death or serious injury, in violation of the Constitution, Articles 4 and 6 of the African Charter, and Articles 6 and 9 of the ICCPR.

Local armed groups and separatist militias also have been responsible for numerous killings and attacks on civilians, government officials, and security agents. These groups are non-State actors, but the State is obliged to guarantee the right to life to all those under its jurisdiction, whether the risk to their lives results from a state agent or a private actor which engenders are positive right to life and to security, includes a duty to prevent private entities from causing deprivations of life.<sup>22</sup> Article 6 of the ICCPR imposes on the State a specific duty to ensure that entities or private individuals respect, protect and fulfill with right to life.<sup>23</sup>

Under international human rights law jurisprudence, the right to life includes "a primary duty on the State to secure the right to life by putting in place an appropriate legal and administrative framework to deter the commission of offences against the person, backed up by law enforcement machinery for the prevention, suppression and punishment of breaches of such provisions."<sup>24</sup>

The positive obligation must be interpreted reasonably so as to avoid impossible or disproportionate burdens on the authorities.<sup>25</sup> This principle is especially important given the limitations on policing and securing order in unstable contexts like the Anglophone regions of Cameroon. However, the use of excessive force, the unrestricted use of lethal force, as well as reprisal attacks on entire villages and unarmed civilians and the extrajudicial killings of persons suspected to be secessionists with no due process all constitute clear violations of the rights to life and security of the person. Cameroon is also legally required to take practical and effective measures to protect the right to life.

*Right to Be Free from Torture and Cruel, Inhuman or Unusual Treatment or Punishment*

Between January 2018 and January 2019, Human Rights Watch documented 26 cases of incommunicado detention and enforced disappearance at SED detention sites, the headquarters of the National Gendarmerie, including 14 cases of torture.<sup>26</sup> Anglophones who are arrested are frequently detained in cruel, inhuman, degrading, and even life-threatening conditions.<sup>27</sup> The general conditions in Cameroonian prisons are significantly below the UN minimum standards, which must be observed notwithstanding the country's level of development.<sup>28</sup> Inhuman prison conditions also amount to violations of Article 7 of the ICCPR.<sup>29</sup>

International jurisprudence has characterized as torture acts similar to those described in this article series in several cases.<sup>30</sup>

Incommunicado detention is a common practice in counter-terrorism measures in Cameroon. Detainees are denied access to family, friends, and lawyers. The right to challenge the lawfulness of detention must always be available through an effective remedy. According to the UN Human Rights Committee, Article 9(4) of the ICCPR operates when a person is held incommunicado and effectively barred from challenging the arrest and detention.<sup>31</sup> The Human Rights Committee is of the view that such practices are a violation of Article 10 of the ICCPR because incommunicado detention are considered cruel and/or inhuman treatment.<sup>32</sup>

These cases of incommunicado detention often amount to enforced disappearance. The International Convention against Enforced Disappearance defines “enforced disappearance” as the “deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person.”

## **Rights to Remedy**

State parties' legal systems must effectively guarantee the immediate termination of prohibited acts and complaints must be investigated promptly and impartially by competent authorities.<sup>33</sup> The HRC states in General Comment 20 that States:

must ...guarantee freedom from such acts within their jurisdiction; and to ensure that they do not occur in the future. States may not deprive individuals of the right to an effective remedy, including compensation and such full rehabilitation as may be possible.

There is no evidence that the State has conducted comprehensive investigations of the many serious allegations of incommunicado detention, torture, and other ill-treatment in detention centres.<sup>34</sup>

The African Commission on Human and Peoples' Rights met at its 62<sup>nd</sup> Ordinary Session from April 25 to May 9, 2018, to release a Resolution on the Human Rights Situation in the Republic of Cameroon.<sup>35</sup> The Commission expressed concerns about the “continuous deterioration of the human rights situation in Cameroon.”<sup>36</sup> The African Commission expressed deep concerns about allegations of:





- Beatings, denial of medical care, *Thomas v Jamaica*, Communication No 321/1988, UN Doc CCPR/C/4/D/321/1988, 1992 Human Rights Committee, Forty-sixth session; being locked in a cell without light, decent food or adequate health care; *Fray Deidrick v Jamaica*, Communication No 619/1995, 1998 Human Rights Committee, Fifty-fourth session; “without being given as much as a glass of water: *Garcia v Ecuador*, Communication No. 319/1988, U.N. Human Rights Committee, Forty-sixth session; beating a prisoner so hard that he required several stitches, *Allan Henry v Trinidad and Tobago*, Communication No. 84/1981, U.N. Human Rights Committee, Forty-sixth session; *Guillermo Ignacio Dermit Barbato et al. v. U.S.*, Communication No. 84/1981, U.N. Human Rights Committee, Forty-sixth session; *Release and the Right to be Presumed Innocent: A Handbook on Pre-Trial Release at International Law*, [http://www.unhcr.org/refugees/refugees/right-to-be-presumed-innocent/>](#).
30. *Laureano v Peru* Communication 540/1993, U.N. Doc. CCPR/C/56/D/540/1993 (1996), Human Rights Committee, Fifty-sixth session; *Polay Campos v Peru* Communication 53/1993, U.N. Doc. CCPR/C/53/D/542/1993 (1996), Human Rights Committee, Fifty-sixth session; *Polay Campos v Peru* Communication 53/1993, U.N. Doc. CCPR/C/53/D/542/1993 (1996), Human Rights Committee, Sixty-first session, to name a few.
31. *Compilation of General Comments and General Recommendations adopted by human rights treaty bodies*, U.N. Doc. HRC/1991/1, paras. 14-15, 1991, Human Rights Committee, Forty-sixth session; General Comment No. 20, para 14 Article 7 (Prohibition of torture, or other cruel, inhumane or degrading treatment or punishment), U.N. Doc. HRC/1991/1, paras. 14-15, 1991, Human Rights Committee, Forty-sixth session.
32. Amnesty International *Report 2017/2018*: supra note 27, 113.
33. African Commission on Human and Peoples’ Rights, “Resolution on the Human Rights Situation in the Freetown area of Sierra Leone”, U.N. Doc. ACHPR/Res. 2000/003, 2000, African Commission on Human and Peoples’ Rights, Sixty-second session, paras. 1-2, 2000, African Commission on Human and Peoples’ Rights, Sixty-second session, available online: [http://www.achpr.org/sessions/62nd\\_os/resolutions/395/](http://www.achpr.org/sessions/62nd_os/resolutions/395/).
34. *Ibid.*
35. *Ibid.*
36. *Ibid.*
37. *Ibid.*