

PART III: Crimes Against Humanity in Cameroon

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By the Centre for Human rights and Democracy in Africa and the Raoul Wallenberg Centre for Human Rights, with an Introduction by Pearl Eliadis and Felix Nkongho.

Introduction

This is the third and final article in the Global Justice Journal series on the crisis in Cameroon.

Part I of the series, *Cameroon's Unfolding-Catastrophe: Contextualizing The Crisis* (June 17, 2019) provided the background ongoing conflict in the Anglophone regions of Cameroon, drawing on the ground-breaking report launched by the Centre for Human rights and Democracy in Africa and the Raoul Wallenberg Centre in June 2019 entitled *Cameroon's Unfolding Catastrophe: Evidence of Human Rights Violations and Crimes against Humanity* (June 3, 2019)

Part II of the series, Serious Human Rights Violations in the Anglophone Regions of Cameroon (July 22, 2019) examined the nature and extent of the serious human rights violations perpetrated, including human rights violations that are emblematic of the crisis, including the razing of homes and villages, torture, cruel, inhuman and degrading treatment.

This section examines the evidence in relation to crimes against humanity canvassing acts of murder, deportation of populations, imprisonment and other severe deprivations of liberty, and rape and sexual violence, and persecution against an identifiable group. Evidence of the policy of the government is consistent with orders given by the Biya regime to militarize the region in 2017 and statements that he would "declare war" on the secessionists.[1] Since 2018, spreading violence and severe human rights violations have encompassed the entire geographic area of the two Anglophone regions, indicating a planned expansion of military activity. Attacks on villages and reprisal killings have been either carried out or orchestrated by security forces and suggest systematic and planned patterns of attack.

The Cameroonian crisis in the Anglophone regions will only be resolved if there is access to justice in accordance with the rule of law and consistent with international human right law as part of the peace process. The evidence discussed below points to serious concerns that crimes against humanity have taken place.

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Legal Framework:

Crimes against humanity are prohibited acts that are committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Crimes against humanity may take place during war or peacetime,[2] or even i times of emergency.[3]

These crimes derive from customary international law and have the character of peremptory norms of general international law and international conventional law that is already widely recognized.[4]

In 2001, the International Law Commission stated that the prohibition of crimes against humanity has been "clearly accepted and recognized" as a peremptory norm of international law.[5] The International Court of Justice has also indicated that the prohibition on certain acts, such as State-sponsored torture, has the character of jus cogens. This view necessarily means that a prohibition on the perpetration of such acts on a widespread or systematic basis would also have the character of *jus cogens*.[6] Because international crimes such as crimes against humanity and torture form part of *jus cogen* norms, they are non-derogable.[7]

Section 8 of Cameroon's Code of Military Justice of 2017 grants the Military Tribunal exclusive jurisdiction to adjudicate on certain matters, which include:

- Military offences and war crimes;
- Crimes against humanity and crimes of genocide;

- Offences relating to acts of terrorism and the security of the State.[8]

Crimes against humanity include any of the following acts when committed as part of a *widespread or systematic attack directed against any civilian population, with knowledge of the attack:*

(a) Murder;

(b) Extermination;

(c) Enslavement;

(d) Deportation or forcible transfer of population;[9]

(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

(f) Torture;[10]

(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender … or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph;

(i) Enforced disappearance of persons;

(j) The crime of apartheid;

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.[11]

In the Cameroonian context, the acts that are immediately relevant are namely (a), (d), (e), (f), (g), and (h) (the "Underlying Acts"). The factual basis for the Acts is set out in Section 2 of this preliminary report.

i) *Contextual Elements of Crimes against Humanity*

1) "Attack directed against any civilian population"

An "attack directed against any civilian population" means a course of conduct involving the "multiple commission of… [the acts listed above] against any civilian population."[12] An attack "may also be defined as a campaign or operation."[13] Although the term "any" civilian population suggests no requirement to establish a particular nationality, ethnicity, or identity, Anglophones in Cameroon do have a distinct historic, social, legal, and linguistic identity, and have been recognized as a "people" by

the African Commission:

… the Commission finds that “the people of Southern Cameroon” qualify to be referred to as a “people” because they manifest numerous characteristics and affinities, which include a common history, linguistic tradition, territorial connection and political outlook. More importantly they identify themselves as a people with a separate and distinct identity. Identity is an innate characteristic within a people. It is up to other external people to recognise such existence, but not to deny it.[14]

The term “any civilian population” can include persons targeted for their political affiliation or even perceived political affiliation.[15] In addition, although the targeted population must be of a “predominantly” civilian nature, the presence of combatants within the population does not change its civilian character.[16] If individuals who do not qualify as civilians are present among the population, it “does not deprive the population of its civilian character.”[17] In Cameroon, the presence of non-state armed groups and other individuals who do not qualify as civilians do not deprive the populations in which they reside, namely villages in the South West and North West regions, of their civilian character.

Attacks have been reported against Anglophones inside or in front of their homes and constitute further evidence that these attacks were directed against a *civilian* population, since individuals in their private homes are clearly not partaking in hostilities.[18] Moreover, raids on villages where no local armed troops are subsequently found is further evidence that the attacks are directed against civilian populations.[19] Thus, the campaign of military raids into these villages inhabited by civilians, as documented above, constitute evidence of attacks directed against a civilian population.

2) *“Widespread or Systematic Attack”*

The phrase “widespread or systematic” means that an attack may be either widespread or systematic in order to meet the threshold for a crime against humanity, but it does not have to be both.[20] Nevertheless, there is considerable evidence of both the widespread and systematic nature of the attacks in Cameroon.

‘Widespread’ connotes the large-scale nature of the attack and the number of its victims.[21] It either entails “an attack carried out over a large geographical area or an attack in a small geographical area directed against a large number of civilians.”[22] In Cameroon, the attack has been carried out both over a large geographical area and against large number of civilians. From late 2016 to 2018, the violence and the attacks spread from a few divisions in the South West to the entire geographic area of the Anglophone regions, affecting the most significant Anglophone areas in the country.

The term “systematic” connotes “the organised nature of the acts of violence and the improbability of their random occurrence.”[23] It also “refers to the existence of ‘patterns of crimes’ reflected in the non-accidental repetition of similar criminal conduct on a regular basis.”[24]

The systematic nature of an attack has been found in circumstances where troops have attacked and/or burned down villages, followed by the rounding up of villagers who are beaten, killed, or tortured.[25] Similar patterns have been seen in Cameroon. As was established in Section 2, security forces have consistently carried out large-scale operations characterized by similar modus operandi and patterns, suggesting that they were based on orders from the highest levels of the State.[26]

Intention can be inferred through organized conduct, following a consistent pattern of reprisal attacks on villages, rounding up, mistreating and/or killing of villagers, arresting and detaining villagers and transferring them out of the jurisdiction, as documented against the Anglophone population.

The existence of a policy or plan can be inferred from repetitive acts, patterns of behaviour, evidence of preparations, and collective mobilization.[27] The systematic nature of the attacks is evidenced by apparent planned and routine violence, including coordinated attacks on protesters, attacks on a large number of entire villages by military units, and patterns of reprisal attacks and reprisal killings directed against specific villages.

The Underlying Acts of Crimes against Humanity

Each of the underlying acts require that the perpetrator knew or intended the conduct to be part of a widespread or systematic attack against a civilian population. Even a single act may qualify as a crime against humanity, as long as there is a link with the widespread or systematic attack against a civilian population.[28] As was largely demonstrated in previous sections, state agents have been involved in murder, arbitrary arrests and detentions, torture, and mass displacement.

1) Murder

The crime against humanity of murder constitutes a killing of one or more persons, where killing is interchangeable with “caused death.”[29] Cameroonian state agents have repeatedly used excessive and lethal force against civilian populations in circumstances where they knew or should have known that death or serious injury would result. Reported Incidents of sporadic and indiscriminate use of live ammunition have taken place, as well as other weapons against peaceful protestors and civilians, murder of suspected secessionists hors de combat, and planned attacks and burning of entire villages have had the foreseeable likelihood of leading to death or serious injury.

2) Deportation or forcible transfer of population

The crime against humanity of deportation or forcible transfer requires the transfer of a population that was lawfully present in the area of which the perpetrator was aware.[30] Deportation or forcible transfer is interchangeable with “forcibly displaced.” Moreover, the term “forcibly” is not limited to physical force but includes the threat of force or taking advantage of a coercive environment. As noted in Part II of this series, CHRDA has recorded that 176 villages have been attacked and burned, many of which have been completely emptied, and that more than 500,000 people have been displaced and unable to stay in their homes. The displacements comprise about 10 percent of the region’s population or 1 in

5 Anglophones living in those regions. Military operations carried out throughout the Anglophone region have forced hundreds of thousands to flee the violence into the bush with little on which to survive.

3) Imprisonment or other severe deprivation of physical liberty

According to international criminal jurisprudence, “imprisonment” is defined as the “unlawful captivity of a person in an enclosed environment, such as a prison or psychiatric institution; [whereas] ‘other severe deprivation of physical liberty’ denotes the unlawful restriction of the person’s movements to a specific area, such as a ghetto, camp or a house.”[31] In Cameroon, rights organizations have documented mass arbitrary arrests and detention in physical prisons, as well as other places like a village community hall. Moreover, it is required that the victim be deprived of “physical liberty without due process of law.”[32] This may occur when there is no legal basis to detain a person or when their procedural rights are denied, resulting in severe deprivations of liberty.[33]

Mass arbitrary arrests, detentions, transfers of Anglophone civilians to Francophone jurisdictions, and prosecutions by military tribunal have taken place without guarantees of due process during the crisis. The Working Group on Arbitrary Detention (WGAD) has taken the position that arbitrary detention may constitute a crime against humanity, reiterating that “under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the fundamental rules of international law may constitute crimes against humanity.”[34] When human rights defenders are targeted and detained in conditions of severe deprivation of liberty (including lack of access to counsel, incommunicado detention, lack of access to bail, inhuman treatment in detention including torture, failure to promptly submit the custody of the accused to judicial authorities), arbitrary detention may cross the threshold from violation of civil and political rights to crimes against humanity.[35]

4) Torture

The crime against humanity of torture connotes the infliction of severe physical or mental pain or suffering, while in the custody of the perpetrator.[36] As documented above, there is extensive evidence of torture in the custody of state agents, including members of the security forces, gendarmes, and prison wardens.

Incommunicado detention, overcrowded cells in detention centres, combined with acts of inhumane, cruel, or degrading treatment against members of the Anglophone minority that have been documented in this report, have been used collectively and systematically. The result of such practices is to punish and instill fear in the population.[37]

5) Rape and sexual violence[38]

Rape constitutes any form of penetration with a sexual organ of any part of the body, or with any object or part of the body in the anal or genital opening of the victim. The invasion must also have been coerced in some way or committed against a person incapable of giving genuine consent.

The crime of sexual violence is an act of a sexual nature against a person or that coerces the person to engage in an act of a sexual nature, including acts "caused by fear of violence, duress, detention, psychological oppression or abuse of power … or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent."[39] In this context, military, security forces, and ASGs have engaged in sexual assault, exploitation of female IDPs and refugees at security checkpoints, and gender-based violence against women villagers, students and demonstrators. Government-imposed curfews have only served to further exacerbate these acts of sexual violence because women who are attempting to return home or travel near or after curfew are subject to sexual demands in order to allow them to pass checkpoints and security points.

6) Persecution

The systematic marginalization of the South West and North West regions in the Republic of Cameroon is the product of a half-century of discriminatory policies aimed at suppressing and assimilating minority Anglophones.

Persecution may consist of the targeting of a group causing severe deprivation of fundamental rights.[40] The underlying acts amount to persecution if the acts "constitute a denial of or infringement upon a fundamental right laid down in international customary law."[41] Cameroonian Anglophones are considered to be a distinct group or people,[42] and persecution against them has been well documented in the politicization of government administration and justice institutions; the formal or informal disqualification of Anglophones from elected public office; attacks on freedom of expression, association, and peaceful assembly; raids on and destruction of Anglophone villages; violent repression and the excessive use of force, persecution and forcible displacement and asylum in the bush and in neighbouring countries, the shutting down of Anglophone schools, leaving thousands of children without schooling, and the economic marginalization of Anglophone regions, food insecurity, and heightened vulnerability of women and children, especially in rural areas.

Conclusion

Increasing violence and sustained patterns of systemic discrimination, are in part the result of the rise of radicalized armed separatist groups and secessionist forces. Perhaps because of the long-standing conflict in the regions, it is sometimes argued that the current crisis is just one more conflict in a series of reciprocal attacks and reprisals between government and these secessionist forces.

The international community frequently responds with benign statements about the importance of dialogue and seeking peace. The evidence set out in this series of articles, and in the underlying Report discussed in the Introduction set out evidence of gross violations of human rights and atrocities, as well as patterns of those violations as widespread and systematic in the two regions, with a significant number of civilian victims. These facts point to evidence of crimes against humanity. Minimizing or normalizing the seriousness of the attacks on civilians as the inevitable product of internal conflict serves to shield serious human rights violations and may enable further atrocities.

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[1] Cameroon Radio Television, “Attack on security and defense forces: The president makes a declaration”, (1 December 2017), online: <https://www.crtv.cm/2017/12/attack-on-security-and-defense forces-the-president-makes-a-declaration/>.
[2] *Prosecutor v. Tadic*, IT-94-1-T, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Judgment, Appeals Chamber, 2 October 1995, para. 141.
[3] Human Rights Committee, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001). Para 12, further notes that the prohibition against crimes against humanity persists even in times of emergency.
[4] E.g., the Charter of the International Military Tribunal, Nuremberg, and the judgement of the

Tribunal, resolutions of the Economic and Social Council of the United Nations 1074 D (XXXIX) of 28 July 1965 and 1158 (XLI) of 5 August 1966 on the punishment of war criminals and of persons who have committed crimes against humanity and the constituting statutes of international criminal tribunals in Yugoslavia and Rwanda.

[5] Drawing on the broad consensus evidenced in: Article 7 of the Rome Statute, the formulations in the Nuremberg and Tokyo Charters, the Nuremberg Principles, the 1954 draft Code of Offences against the Peace and Security of Mankind, the 1993 statute of the International Tribunal for the Former Yugoslavia , the 1994 statute of the International Criminal Tribunal for Rwanda, the 1994 draft statute for an international criminal court, and the Commission's 1996 draft Code of Crimes against the Peace and Security of Mankind. See also, Draft Articles on State Responsibility, Commentary on Article 26, para. 5, in Official Records of the General Assembly, Fifty-sixth Session, U.N. Doc. A/56/10, p. 283 (2001) (maintaining that those "peremptory norms that are clearly accepted and recognized include the prohibition of … crimes against humanity"); Martti Koskenniemi, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law, Report of the Study Group of the International Law Commission*, U.N. Doc. A/CN.4/L.682, para. 374 (Apr. 13, 2006), as corrected by U.N. Doc. A/CN.4/L.682/Corr.1 (Aug. 11, 2006) (identifying crimes against humanity as one of the "most frequently cited candidates for the status of jus cogens"); Jurisdictional Immunities of the State (Germany v. Italy; Greece intervening), I.C.J. Reports 2012, p. 99, at para. 95 crimes against humanity in the Arrest Warrant case do "undoubtedly possess the character of *jus cogens*"); *Almonacid Arellano et al. v. Chile,* Inter-Am. Ct. H.R., Judgment, Preliminary Objections, Merits, Reparations and Costs, Series C No. 154, para. 96 (Sept. 26, 2006) (acknowledging the *jus cogens* status of crimes against humanity).

[6] *Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal*), I.C.J. Reports 2012, 422, at para. 99; see also *Prosecutor v. Furundžija,* Trial Chamber, Judgment, ICTY Case No. IT-95-17/1, para. 153 (1998).

[7] *Jus cogens* norms hold the highest hierarchical position among all other international norms and principles.

[8] Law No 2017/012 of 12 July 2017, establishing the Code of Military Justice.

[9] See Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998 (entered into force on 1 July 2002), Art. 7(2)(d). 'Deportation or forcible transfer of population' means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.

[10] See Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998 (entered into force on 1 July 2002), Art. 7(2)(e) ("'Torture' means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.")

[11] See Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998 (entered into force on 1 July 2002), Art. 7(1).

[12] Rome Statute of the International Criminal Court, July 17 1998, 37 ILM, 999 (1998) [Rome

Statute], Art. 7(2)(a).

[13] *Prosecutor v. Ruto,* Pre-Trial Chamber II, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-01/11, para. 177 (Jan. 23, 2012) [*Ruto 2012*], para. 164

[14] *Kevin Mgwanga Gunme et al v Cameroon 266/03*, para 179.

[15] *Ruto 2012*, *supra* note 13, para. 164.

[16] See, e.g., *Prosecutor v. Mrkši?*, Trial Chamber, Judgment, ICTY Case No. IT-95-13/1, para. 437 (Sept. 27, 2007) [*Mrkši? 2007*], para. 442; *Prosecutor v. Tadi?, Trial Chamber, Opinion & Judgment,* ICTY Case No. IT-94-1-T, para. 623 (May 7, 1997) *[Tadi? 1997], para*. 638; *Kunarac 2001*, para. 425 ("the presence of certain non-civilians in its midst does not change the character of the population"); Blaški? 2000, para. 214 ("the presence of soldiers within an intentionally targeted civilian population does not alter the civilian nature of that population").

[17] *Prosecutor v. Akayesu*, Trial Chamber, Judgment, Case No. ICTR-96-4-T, paras. 578-98 (Sept. 2, 1998) [*Akayesu 1998*], para. 582.

[18] *Prosecutor v. Jean-Pierre Bemba Gombo*, Pre-Trial Chamber II, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges, ICC-01/05-01/08, para. 94 (June 15, 2009) [*Bemba 2009*].

[19] *Ibid* paras. 95-98.

[20] See, e.g., *Prosecutor v. Akayesu*, Trial Chamber, Judgment, Case No. ICTR-96-4-T, paras. 579 (Sept. 2, 1998) [*Akayesu 1998*]; *Prosecutor v. Kayishema*, Trial Chamber, Judgment, Case No. ICTR-95-1, para. 123 (May 21, 1999) [*Kayishem*a 1999] ("The attack must contain one of the alternative conditions of being widespread or systematic."); *Prosecutor v. Mrkši?*, Trial Chamber, Judgment, ICTY Case No. IT-95-13/1, para. 437 (Sept. 27, 2007) [*Mrkši? 2007]* ("[T]he attack must be widespread or systematic, the requirement being disjunctive rather than cumulative.")

[21] *Prosecutor v. Kunarac*, Trial Chamber, Judgment, ICTY Case No. IT-96-23, para. 428 (Feb. 22, 2001) (Kunarac 2001); see *Prosecutor v. Katanga*, Pre-Trial Chamber Decision on the Confirmation of Charges, ICC-01/04-01/07, para. 394 (Sept. 30, 2008) (Katanga 2008); see also *Prosecutor v. Kordi? and ?erkez*, Appeals Chamber, Judgment, IT-95-14/2-A, para. 94 (Dec. 17, 2004); *Prosecutor v. Blagojevi? and Joki?*, Trial Chamber, Judgment, ICTY Case No. IT-02-60-T, para. 545-46 (Jan. 17, 2005). 237 Bemba 2009, para. 83; 1996 ILC Report, at 47 (using the phrase "on a large scale" instead of widespread); *Akayesu 1998*, para. 580; *Kayishema* 1999, para. 123; see also *Mrkši? 2007*, para. 437 ("widespread refers to the large scale nature of the attack and the number of victims ")

[22] *Prosecutor v. Jean-Pierre Bemba Gombo*, Pre-Trial Chamber II, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges, ICC-01/05-01/08, para. 83 (June 15, 2009) (hereinafter Bemba 2009)

[23] *Prosecutor v. Katanga*, Trial Chamber II, Judgment, ICC-01/04-01/07 (Mar. 7, 2014), [Katanga 2014] para. 1123.

[24] *Ibid.*

[25] *Prosecutor v. Akayesu*, Trial Chamber, Judgment, Case No. ICTR-96-4-T, para. 580 (Sept. 2, 1998) ("systematic may be defined as thoroughly organized and following a regular pattern on the basis of a common policy").

[26] See "Razing Homes and Villages: an Established Military Tactic" in Section 2 of this report for a pattern of systematic destruction of Anglophone villages by State security forces.

[27] *Prosecutor v. Katanga*, Trial Chamber II, Judgment, ICC-01/04-01/07 (Mar. 7, 2014), [Katanga 2014] para. 1109; *Prosecutor v. Gbagbo*, Pre-Trial Chamber I, Decision on the Confirmation of Charges against Laurent Gbagbo, ICC-02/11-01/11, paras. 211-12, 215 (June 12, 2014) [*Gbagbo 2014].*

[28] *Prosecutor v. Dusko Tadic*, IT-94-1-T, Opinion and Judgment, Trial Chamber, 7 May 1997, para. 649. See also IACtHR, *Almonacid-Arellano et al. v. Chile*, Ser. C No. 154, Preliminary Objections, Merits, Reparations and Costs, Judgment, 26 September 2006, para. 96.

[29] International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000) art. 7(1)(a) [ICC, Elements of Crimes].

[30] *Ibid*, Art. 7(1)(d).

[31] ICC, Pre-Trial Chamber III, Situation in the Republic of Burundi, Public Redacted Version of "Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi", ICC-01/17-X, para. 68 (October 25, 2017).

[32] ICC, Pre-Trial Chamber III, Situation in the Republic of Burundi, Public Redacted Version of "Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi", ICC-01/17-X, para. 68 (October 25, 2017).

[33] OAS, "Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela" at p. 350. http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf,

[34] Opinion No. 4/12, at para. 26 (A/HRC/WGAD/2012/4); see Opinion No. 47/12, at para. 22 (A/HRC/WGAD/2012/47); Opinion No. 50/2012, at para. 27 (A/HRC/WGAD/2012/50); Opinion No. 60/2012, at para. 21 (A/HRC/WGAD/2012/60); Opinion No. 9/2013, at para. 40 (A/HRC/WGAD/2013/9); Opinion No. 34/2013, at para. 31 (A/HRC/WGAD/2013/34); Opinion No. 35/2013, at para. 35 (A/HRC/WGAD/2013/35); Opinion No. 36/2013, at para. 34 (A/HRC/WGAD/2013/36); Opinion No. 48/2013, at para. 14 (A/HRC/WGAD/2013/48); Opinion No. 22/2014, at para. 25 (A/HRC/WGAD/2014/22); Opinion No. 37/2014, at para. 42 (A/HRC/WGAD/2014/37); Opinion No. 1/2016, at para. 43 (A/HRC/WGAD/2016/1); Opinion No. 25/2016, at para. 33 (A/HRC/WGAD/2016/25); Opinion No. 28/2016, at para. 54 (A/HRC/WGAD/2016/28); Opinion No. 44/2016, at para. 37 (A/HRC/WGAD/2016/44); Opinion No. 60/2016, at para. 27 (A/HRC/WGAD/2016/60); Opinion No. 26/2017, at para. 67 (A/HRC/WGAD/2017/26) [*Dai*].

[35] In relation to deprivation of physical liberty, crimes against humanity of persecution under art. 7(1)(h) of the *Rome Statute* may also be applicable: see *Decision on the "Prosecutor's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute"*, Case No. ICC-RoC46(3)-01/18 (ICC Pre-Trial Chamber) (6 September 2018), at para. 75.

[36] ICC Elements of Crimes, Art. 7(1)(f).

[37] See, for example, similar findings in the case of Venezuela. OAS, "Report of the General Secretariat of the Organization of American States and The Panel of Independent International Experts On The Possible Commission Of Crimes Against Humanity In Venezuela" at p. 94. http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf.

[38] *See* ICC Elements of Crimes, art. 7(1)(g)-6.

[39] ICC, Elements of Crimes Annex; Rome Statute.

[40] *See* ICC Elements of Crimes, art. 7(1)(h).
[41] *Prosecutor v. Tihomir Blaški?*, Case No. IT-95-14-A, Judgement, 29 July 2004, para. 139 (“Blaški? Appeal Judgement”).
[42] *Kevin Mgwanga Gunme*, *supra* note 14.

Image: Scorched vehicles left following clashes in the Mile 16 neighborhood of Buea, 12 September 2018, author: M. E. Kindzeka (VOA), Public Domain: Voice of America