

ACCESS TO JUSTICE FOR CHILDREN: CAMEROON

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Cameroon signed the CRC on 27 September 1990 and ratified it on 11 January 1993.¹ In addition, Cameroon signed on 5 October 2001 the two optional protocols to the CRC on the Involvement of Children in Armed Conflict² and on the Sale of Children, Child Prostitution and Child Pornography³ but only ratified the former on 4 February 2013 and has not signed or ratified the third Optional Protocol on a Communications Procedure.⁴

Cameroon is considered to follow the monist approach to applying international law.⁵ This means that all international treaties, which have been approved, duly ratified, and published by Cameroon, become part of the national law.⁶ As a result, the treaty provisions do not require further implementing action in order to be legally binding at national level. Therefore, the CRC has the force of law in Cameroon.

B. Does the CRC take precedence over national law?

Article 45 of the Constitution of Cameroon provides that “duly approved or ratified treaties and international agreements shall, following publication, take precedence over national laws”.⁷ Accordingly, domestic legislation must be

¹ *Second Periodic reports of states parties due in 2000, Cameroon*, 22 October 2009, CRC/C/CMR/2, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCMR%2f2&Lang=en.

² United Nations, 11b Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000, status as at 29 June 2015, available at:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.

³ United Nations, 11.c Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 25 May 2000, status as at 29 June 2015, available at:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en.

⁴ *ibid.*

⁵ Akonumbo A., “Implementation framework for children’s rights and welfare standards: Profiling the harmonization status of child law” (ACPF Report) (2008) 24. Cited in “Harmonisation of children’s laws in Cameroon, Country brief” in *Harmonisation of children’s laws in West and Central Africa*, African Child Policy Forum, 2012, p. 20. Available at: http://www.africanchildforum.org/clr/Harmonisation_of_Laws_in_Africa/Publications/supplementary-acpf-harmonisation-cb-we_en.pdf.

⁶ Constitution of Cameroon, Article 45, available at:

https://www.constituteproject.org/constitution/Cameroon_2008.pdf?lang=en.

⁷ *ibid.*

interpreted in line with the provisions of the CRC.

C. Has the CRC been incorporated into national law?

Since international instruments are incorporated into national law simply by means of ratification and take precedence over national laws by virtue of the Constitution of Cameroon, the CRC has been directly incorporated into national law.

In addition, the CRC has further been formally integrated as part of domestic law in Cameroon through the adoption of several laws and regulations in order to protect and promote the rights of children, including the following:

- Act No. 2000/08 incorporating the principle of free primary education at public schools;⁸
- Act No. 2005/015 of 29 December 2005 on Combating Child Trafficking and Slavery;⁹
- Decree No. 2005/160 of 25 May 2005 on the Organisation of the Ministry of Social Affairs, which created the Department of Social Protection of Childhood (article 41) to ensure the promotion and protection of the child.¹⁰
- Law No. 2011/011 of 6 May 2011 to amend and supplement certain provisions of the 1981 Ordinance on Civil Status, which extends the deadline for the declaration of births and gives other alternatives if necessary;
- Law No. 2011/024 of 14 December 2011, on combating the smuggling and trafficking of persons in Cameroon which includes all the components of the family. However, this law lacks implementation instruments.
- Decree No. 2010/0243/PM of 26 February 2010, to lay down the procedures for the exercise of certain powers transferred by the State to councils in the area of granting assistance and relief to the poor and needy;
- Decree No. 268/2012 11 June 2012, on the organisation of the Ministry of Basic Education (MINEDUB) which contains a provision on supervision and monitoring of the activities of Governments and the Children's Parliament;
- Decree No. 2013/031 of 13 February 2013 on the Organization and Functioning of the National Civil Status Bureau (BUNEC);
- Order No. 012/CAB/PM of 31 January 2013 on the setting up, organization and functioning of the Committee for the Coordination and Monitoring of Strategies to Combat Trafficking in Human Organs and Ritual Crimes;
- Order No. 082/PM of 27 August 2014, on the establishment of the Inter-sector Committee to Combat Child Labour;
- Resolution No. A/C3/67/21/Rev of the United Nations General Assembly on Stepping up the fight against Female Genital Mutilations (2013).¹¹

⁸ As set out in UN Committee on the Rights of the Child, *Concluding Observations of the Rights of the Child: Cameroon*, CRC/C/15/Add.164, 6 November 2001, para 3, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F15%2FAdd.164&Lang=en.

⁹ *Second Periodic reports of states parties due in 2000, Cameroon*, 22 October 2009, CRC/C/CMR/2, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCMR%2F2&Lang=en.

¹⁰ *ibid.*

¹¹ *Combined third to fifth periodic reports of States parties due in 2015, Cameroon*, 5 September 2016,

However, despite these efforts to harmonise existing legislation, the UN Committee on the Rights of the Child has reported concerns about the domestic legislation, including customary law, which is very fragmented, outdated and not in conformity with the CRC.¹²

D. Can the CRC be directly enforced in the courts?

The CRC can be directly enforced in Cameroon's courts.¹³ Citizens can directly invoke the CRC and ask a national judge to apply it as they would any domestic law.¹⁴ As treaty provisions prevail over national laws, a Cameroonian judge could declare any national law as invalid if such national law is in conflict with the CRC.¹⁵

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

Domestic case law is not readily available online and, as such, it was not possible to determine whether the CRC or other relevant international instruments had been applied in the courts.

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Under the Constitution of Cameroon, every citizen has a right to access justice and defend their rights in court.¹⁶ Child and adult victims are treated the same by Cameroonian law since there are very few specific laws providing special procedures for child victims of rights infringement. A few crimes entail more severe penalty when the victim is a child (for instance rape, immoral earnings), while other offences specifically target genital mutilations and other harmful traditional practices.¹⁷

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the

CRC/C/CMR/3-5, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/CMR/3-5&Lang=en.

¹² *ibid*, para 69.

¹³ Nkumbe, N. 'The effectiveness of domestic complaint mechanisms in the protection of human rights in Cameroon,' *Cameroon Journal on Democracy and Human Rights*, Vol 5, No 2, December 2011, page 29, available at:

<http://web.archive.org/web/20150412004408/http://www.cjdh.org:80/2011-12/Ndode-Ngube-Nkumbe.pdf>.

¹⁴ *ibid*.

¹⁵ *ibid*.

¹⁶ Constitution of Cameroon, Preamble.

¹⁷ See Law No. 2016/007 of July 12, 2016, relating to the Penal Code (the "Penal Code"), available at: <http://www.wipo.int/wipolex/en/details.jsp?id=16366>. Article 277-3 prohibits torture, and Title III spell out other forms of torture and violence and prescribes the penalty for such offences.

assistance of a representative?

Under Cameroonian law, there is no uniform overarching definition of a child, as there are different ages scattered in different pieces of legislation. The situation is further compounded by the fact that there are differences in definition under the French civil law and the English common law both applicable in Cameroon. As a result, there is no uniform legal age of majority applicable to the whole country. In civil matters, under the French Civil Code of 1804 (which is applicable in Francophone Cameroon), the age of majority is 21 years, so a minor is defined as anyone below the age of 21 years.¹⁸ However, under the common law applicable to the two regions that comprise Anglophone Cameroon¹⁹, a minor is anyone below 18, whilst the draft Child Protection Code defines a child as everyone below the age of 18.²⁰

In line with the provisions of the French Civil Code, a child does not have legal capacity to bring a case alone, but can do so with the assistance of their parents, legal representative, or court-appointed guardian.²¹

Under the common law applicable in Cameroon, it appears that a child can only bring a case with the assistance of a representative.²²

C. In the case of infants and young children, how would cases typically be brought?

As explained above, minors do not have the right to initiate legal proceedings in courts and therefore any kind of court action to challenge violations of children's rights must be brought by their legal representative (i.e., either the parent or the guardian).

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

According to a report by UNICEF, children in Cameroon rarely have access to any legal representation or assistance, and almost never in the pre-trial stage.²³

¹⁸ Article 388 of the French Civil Code.

¹⁹ The law applicable in Anglophone Cameroon is the English common law, doctrines of equity and statutes of general application, as applicable in Anglophone Cameroon, which were in force in England on 1 January, 1900. See: Fombad, Charles Manga. 'Researching Cameroonian Law', 2007, available at: <http://www.nyulawglobal.org/globalex/Cameroon.htm>.

²⁰ *Combined third to fifth periodic reports of States parties due in 2015, Cameroon*, 5 September 2016, CRC/C/CMR/3-5, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCMR%2f3-5&Lang=en.

²¹ Articles 389-406 of the French Civil Code, available at: http://www.napoleon-series.org/research/government/c_code.html.

²² Anglophone Cameroon follows the English common law system applicable in neighbouring Nigeria, under which a child can bring a case with the assistance of a representative or guardian. See: Child Rights Act 2003, Nigeria, Available at: <http://www.law.yale.edu/rew/rew/jurisdictions/afw/nigeria/frontpage.htm>.

²³ Dankoff, J and UNICEF, 'An assessment of Cameroon's Justice System for Children: Formal and Traditional Responses to Children in Conflict with the law and Child Victims', January 2007, page 8, available at: http://www.unicef.org/wcaro/english/Cameroon_Final_Justice_for_Children_Assessment_17.1.11.pdf.

In April 2009, the Cameroonian President Paul Biya enacted a new law on legal aid, which stipulates the conditions under which legal aid may be provided.²⁴ It also establishes commissions with a mandate to examine and process legal aid applications.²⁵ The law allows individuals who cannot afford to appear before a court to have their rights enforced and those who have already obtained a writ or judgment in their favour but are unable to follow through to the enforcement stage for want of resources to make an application for legal aid.²⁶ Legal aid commissions have the task of examining and approving applications for legal aid at all levels of the courts. Under the new law, an application for legal aid may be made to the secretary of the legal aid commission in the appropriate court either orally or in writing. The secretary then forwards the petition to the chairperson of the legal aid commission, who in turn, in consultation with counsel, makes a determination on whether an applicant qualifies for aid. The law gives the commission the discretionary power to determine the extent of the legal aid to be provided to an applicant, be it in terms of proceedings or cost.²⁷

Unfortunately, it has been reported that these state-controlled legal aid commission scarcely meet because of a lack of quorum and a discouragingly low remuneration for lawyers, and are fraught with delays.²⁸ Many of the most vulnerable citizens are also unaware of the legal aid commissions, meaning that they do not always provide efficient and timely access to justice.²⁹

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

No further conditions or limits were identified.

III. How can children's rights violations be challenged before national courts?

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

In Cameroon, the courts are the principal complaint avenue from which victims of rights violations are able to seek remedies. All courts and complaints mechanisms are available to challenge children's rights violations.

²⁴ Law no 2009/004 of 14 April 2009. See: Annex to the *Fourth and fifth reports of Cameroon to the Committee on Elimination of all forms of Discrimination Against Women*, CEDAW/C/CMR/4-5/ADD, 2012, available (in French) at: tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/ADD/CMR/13389&Lang=fr.

²⁵ Vubem, F. 'Law on Legal Aid Provisions,' *Cameroon Tribune*, April 21, 2009, available at: <http://allafrica.com/stories/200904210248.html>.

²⁶ *ibid.*

²⁷ *ibid.*

²⁸ Penal Reform International and Bluhm Legal Clinic of the Northwestern School of law, 'Access to Justice in Africa and Beyond;', 2007, page 157, available at: https://books.google.co.uk/books?id=u_i6PDL3vIoC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

²⁹ *ibid.*

Prior to 2012, the Administrative Bench of the Supreme Court had the exclusive competence to hear and determine cases of administrative disputes against the state, public authorities, and public corporations, at both first and last instances.

³⁰ In 2006, a law³¹ created administrative courts to hear matters against public authorities. Administrative courts started functioning in 2012. The Administrative bench of the Supreme Court remains competent in *cassation* (judicial review).³²

Although courts of ordinary jurisdiction are not competent to hear administrative matters, they can entertain cases involving administrative officials which they consider ‘non-administrative’.³³

In 1996, a Constitutional Council was created to assess the constitutionality of laws, treaties, and international agreements.³⁴ However, matters are referred by the President of the Republic for review, rather than individuals seeking redress.³⁵

In 2004, the National Commission on Human Rights and Freedoms (NCHRF) was created with the limited mandate to make recommendations in respect of investigated cases of human rights violations to the President of the Republic.³⁶ More precisely, the NCHRF has power to ‘receive all denunciations relating to violations of human rights and freedoms’ and ‘conduct all enquiries and carry out all the necessary investigations on violations of human rights and freedoms...’.³⁷ Unfortunately the NCHRF has not - but for its 2013 activity report³⁸ - published reports on interventions to protect children’s rights, or instances where it has granted children access to justice, thus making it difficult to evaluate the extent to which it has assisted children to challenge their rights before national courts or given them the platform to be heard.

Outside of these domestic mechanisms, there are several available regional mechanisms:

³⁰ Section 9(1) of Ordinance No. 72/6 of 26 August 1972 fixing the organization of the Supreme Court, as amended by Law No 2006/015 of 26 December 2006 and most recently Law No 211/027 of 14 December 2011.

³¹ Law n°2006/022 of 29 December 2006, establishing the organization and functioning of the administrative courts.

³² See: 10th congress of the IASAJ (International Association of Supreme Administrative Jurisdictions), *Report of the Administrative Bench of the Supreme Court of Cameroon*, March 2010, available at:

<https://www.aihja.org/images/users/1/files/cameroon.en.pdf>.

³³ Nkumbe, N. ‘The effectiveness of domestic complaint mechanisms in the protection of human rights in Cameroon,’ *Cameroon Journal on Democracy and Human Rights*, Vol 5, No 2, December 2011, page 32, available at:

[http://web.archive.org/web/20150412004408/http://www.cidhr.org:80/2011-12/Ndode-Ngube-Nkumbe.p](http://web.archive.org/web/20150412004408/http://www.cidhr.org:80/2011-12/Ndode-Ngube-Nkumbe.pdf)
[df](http://web.archive.org/web/20150412004408/http://www.cidhr.org:80/2011-12/Ndode-Ngube-Nkumbe.pdf).

³⁴ Law N° 96 /06 of 18th January 1996, as described in the Republic of Cameroon site, available at: <https://www.prc.cm/en/cameroon/institutions/171-constitutional-council>.

³⁵ Constitution of Cameroon, Article 8(6).

³⁶ See article 2 of Law No 2004/016 of 22 July 2004 to set up organization and functioning of the National Commission on Human Rights and Freedoms that repeals Decree No 90/1459 of 8 November 1990 to set up the National Commission on Human Rights and Freedoms.

³⁷ Id. at article 2.

³⁸ NCHRF’s 2013 activity report, available at:

<http://www.cndhl.cm/index.php/rapports-edh-et-rapports-d-activites>, see also, <http://www.cndhl.cm/index.php/protection-et-promotion-des-droits-des-enfants>.

1. African Committee of Experts on the Rights and Welfare of the Child

Individuals, including child victims, their parents or legal representatives, groups, or NGOs recognised by the African Union may submit complaints (known as “communications”) to the African Committee of Experts on the Rights and Welfare of the Child (“African Committee”) about violations of the African Charter on the Rights and Welfare of the Child (“African Children’s Charter”).³⁹ All available domestic remedies must have been exhausted before bringing a case to the African Committee.⁴⁰ The complaint must include, amongst other things, the name of the person filing it or, in the case of an NGO, the name of the legal representative, and whether or not the complainant wishes to remain anonymous and the reasons for this.⁴¹ The African Committee will investigate the complaint and decide on the merits of the case, and make recommendations to the State, which may include compensation to the victim(s) and measures to prevent recurrence of the violation.⁴²

2. African Commission on Human and Peoples’ Rights

Individuals, groups or NGOs may submit complaints (known as “communications”) to the African Commission on Human and Peoples’ Rights (“African Commission”) about violations of the African Charter on Human and Peoples’ Rights (“African Charter”).⁴³ All available domestic remedies must have been exhausted before bringing a case to the African Commission.⁴⁴ The complaint must include, amongst other things: the name of the person filing it or, in the case of an NGO, the name of the legal representative; whether or not the complainant wishes to remain anonymous and the reasons for this; and the name of the victim, in a case where he/she is not the complainant.⁴⁵ The African Commission will investigate the complaint and decide on the merits of the case, and make recommendations to the State, which may include compensation to the victim(s) and measures to prevent recurrence of the violation.⁴⁶ If the case

³⁹ African Charter on the Rights and Welfare of the Child (“African Children’s Charter”), Article 44, available at:

<http://acerwc.org/the-african-charter-on-the-rights-and-welfare-of-the-child-acerwc/acerwc-charter-full-text/>

. For more information about communications, see:

<http://acerwc.org/the-committees-work/communications/>.

⁴⁰ African Committee of Experts on the Rights and Welfare of the Child, ‘Communications’, available at:

<http://acerwc.org/the-committees-work/communications/>.

⁴¹ War Resisters' International, Quaker United Nations Office Geneva, Conscience and Peace Tax International and the CCPR Centre, ‘African Committee of Experts on the Rights and Welfare of the Child: communication procedure’, 2012, available at:

<http://co-guide.org/mechanism/african-committee-experts-rights-and-welfare-child-communication-procedure>.

⁴² Ibid.

⁴³ African Charter on Human and Peoples’ Rights (“African Charter”), Article 55, available at:

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

⁴⁴ Ibid., Article 56(5).

⁴⁵ Rules of Procedure of the African Commission on Human and Peoples’ Rights of 2010, Rule 93, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010/>.

⁴⁶ War Resisters' International, Quaker United Nations Office Geneva, Conscience and Peace Tax International and the CCPR Centre, ‘African Commission on Human and Peoples' Rights: communication procedure’, 2012, available at:

<http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-communication-procedure>.

relates to serious or massive human rights violations or if the Commission considers that the State is unwilling to comply with its recommendations in the case, the Commission may refer the complaint to the African Court on Human and Peoples' Rights.⁴⁷

B. What powers would courts have to review these violations, and what remedies could they offer?

In theory, ordinary and administrative courts, as well as the Supreme Court have the powers to make relevant orders for restitution, reparations and compensation; stop the violation and prohibit their recurrence in the future.⁴⁸

The NCHRF may take a variety of actions aimed at finding a satisfactory solution to rights violations. The 2004 Law founding the Commission empowers it to summon any party and/or witness for a hearing in accordance with the conditions defined by its rules of procedure.⁴⁹ It is an offence under Section R 370 of the Penal Code to fail to appear before the NCHRF when duly served with a summons. However, the Commission still does not have the competence to initiate proceedings against persons not respecting its summons. It relies on the prosecutorial discretion of the competent Legal Departments to which it may make a complaint to enforce the provision.

The remedial powers of the NCHRF are weak. It can make recommendations to the competent authorities, but these are not binding.⁵⁰ The Commission is also hampered in its ability to provide effective remedies because it is not endowed with the competence to take investigated cases to court directly.

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

Research did not reveal any such possibilities.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Class actions and *actio popularis* are not admissible before administrative courts.⁵¹ In front of all jurisdictions, a claimant needs to demonstrate personal

⁴⁷ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, Article 5, available at:

<http://www.achpr.org/instruments/court-establishment>; Rules of Procedure of the African Commission on Human and Peoples' Rights of 2010, Rules 84(2) and 118, available at:

<http://www.achpr.org/instruments/rules-of-procedure-2010>.

⁴⁸ Nkumbe, N. 'The effectiveness of domestic complaint mechanisms in the protection of human rights in Cameroon,' *Cameroon Journal on Democracy and Human Rights*, Vol 5, No 2, December 2011, page 30.

⁴⁹ Law no. 2004/016 of 22 July 2004 to set up the Organisation and Functioning of the National Commission on Human Rights and Freedoms, article 3, available at:

<http://www.ccdhr.org/cameroon-laws/Law%20on%20the%20Organization%20and%20Functioning%20of%20the%20Human%20Rights%20Commission%20in%20Cameroon.pdf>.

⁵⁰ *ibid.*

⁵¹ XIII^e Congress of IASAJ, report of the Supreme Court of Cameroon, *Le juge administratif et le droit de l'environnement*, 2013, p.6. Available (in French) at:

prejudice and interest to file a complaint.⁵²

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

Human rights associations and non-governmental organisations (NGOs) play a leading role in the promotion and protection of children's rights and human rights.⁵³ However, to file a complaint, NGOs are subject to the rule set out above in III.D: they would need to demonstrate they suffered a prejudice and that they have an interest to bring an action.⁵⁴ Research did not identify any caselaw that would clarify how his requirement is interpreted by courts.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

The courts system falls under two categories: courts of ordinary jurisdiction and courts with special jurisdiction. The ordinary courts are: Customary Courts, Magistrates Courts, High Courts, Courts of Appeal and the Supreme Court.⁵⁵ As explained above in III.A, since 2012, Cameroon has instated administrative tribunals ruling over disputes involving a public body. In each case, the territorial jurisdiction of the court, save for the Supreme Court whose jurisdiction covers the entire national territory, is local.⁵⁶ The courts with special jurisdiction include the Military Court, the State Security Court, the Court of Impeachment, and the Constitutional Council. There is no specialised children's court within Cameroon's court structure.

There is a unity of civil and criminal cases, meaning that both are heard in the same courts and judges do not specialise in either.⁵⁷ Depending on the nature of the challenge, a case is filed in the courts of ordinary jurisdiction for civil or criminal matters, or in administrative courts.

https://www.aihja.org/images/users/114/files/Congres_de_Carthagene_-_Rapport_du_Cameroun_2013-CAMEROUN-FR.pdf.

⁵² Ibid. See also: Law n°2005/007 of 27 July 2005 relating to the Code of Criminal Procedure ("Code of criminal procedure"), section 71, available at:

http://www.icla.up.ac.za/images/un/use-of-force/africa/Cameroon/Criminal_Procedure_Code_Cameroon_2005.pdf.

⁵³ N R Tanto "Civil Society and the Promotion of Human Rights and Democracy in Cameroon" – World Alliance for citizen Protection, available at:

<http://www.civicus.org/pg/world-democracy-day/1143-civil-society-and-the-promotion-of-human-rights-and-democracy-in-cameroon>.

⁵⁴ XIII^e Congress of IASAJ, report of the Supreme Court of Cameroon, *Le juge administratif et le droit de l'environnement*, 2013, p.7.

⁵⁵ N R Tanto "Civil Society and the Promotion of Human Rights and Democracy in Cameroon" – World Alliance for citizen Protection.

⁵⁶ *ibid.*

⁵⁷ Samuelson, Henry. 'The force of the Cameroon Legal System,' *HG Legal Resources*, available at: <http://www.hg.org/article.asp?id=7156>.

Where children have been accused of a crime, the Court of First Instance has jurisdiction to try all felonies, misdemeanours, and simple offences committed by children aged 10 or older.⁵⁸ However, if a child is accused of a crime with an adult accomplice or co-offender, ordinary law courts have jurisdiction.⁵⁹

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

The 2009 Law that regulates legal aid states that it shall be provided on request to those with limited means, upon authorisation by a commission.⁶⁰ The commission includes the president of the tribunal/court where the matter is pending, magistrates and representatives of the legal profession.⁶¹ The law lists several categories of individuals entitled to legal aid, including spouse without resources, caring for children and in the process of divorcing.⁶² Children are not specifically mentioned.⁶³ People outside these categories can nonetheless apply if they lack sufficient resources.

Any person applying for legal aid may do so either orally or in writing to the secretary of the appropriate commission. Legal aid covers legal fees both to courts (registration, caution, signature fees, and stamps) and to lawyers.⁶⁴

There are no provisions that provide exemption from payment of court cost for children outside of this legal aid system. As such, those who do not manage to obtain legal aid may face debilitating boundaries when filing a case. As explained in part II.D, the legal aid commissions are critically lacking in resources and rarely convene.

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practising lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

Some voluntary organisations such as the Cameroonian Association of Female Jurists and Lawyers without Borders offer free assistance in some cases.⁶⁵ The

⁵⁸ Code of Criminal Procedure, section 713.

⁵⁹ *ibid.*

⁶⁰ Law no 2009/004 of 14 April 2009.

⁶¹ *ibid.*

⁶² Annex to the *Fourth and fifth reports of Cameroon to the Committee on Elimination of all forms of Discrimination Against Women*, CEDAW/C/CMR/4-5/ADD, 2012, available (in French) at: tbinetnet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/ADD/CMR/13389&Lang=fr.

⁶³ However, it seems that children, when they are defendants, are automatically appointed a lawyer. See *Combined third to fifth periodic reports of States parties due in 2015, Cameroon*, 5 September 2016, CRC/C/CMR/3-5, para. 66.

⁶⁴ *Ibid.*

⁶⁵ See “Country Reports on Human Rights Practices for 2013 – Cameroon, United States Department of State – Bureau of Democracy, Human Rights and Labor”, available at: <http://www.state.gov/documents/organization/220302.pdf>.

Cameroonian Bar Association, which is an independent organisation, also plays an active role in attempting to provide access to justice for all. They have set up legal aid centres in various courts to help guide citizens through the judicial process, inform them of their entitlement to legal aid, and provide legal consultation.⁶⁶

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

In criminal matters, limitation periods apply, which bar prosecution following the failure to commence action. In the case of a felony, criminal proceedings are barred after ten years from the day following the day of commission of the felony, unless measures (such as investigation measures, filing of a complaint...) are taken within that period, in which case the limitation period starts again. For most misdemeanours, the limitation period is of three years. For lesser offences, prosecution is barred after one year.⁶⁷ Research did not find any provision allowing adults to file complaints for violation that occurred during childhood.

- E. Evidence. What sort of evidence is admissible / required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

Under section 183 of the Evidence Act, children may give evidence only in the judges' chambers, but not in open court, if the court is satisfied that the child understands the questions put to him and can answer.⁶⁸ However, the evidence of the child, by reason of their young age, usually requires corroboration (as in sexual offences)⁶⁹ in both civil and criminal cases.

Cameroon has put in place mechanisms to ensure that children are heard in both civil and criminal proceedings, including the ability to give evidence in court. The State Report to the CRC in 2001 explained that the views of children are taken into account either directly or through a parent, guardian, or legal representative in legal and administrative proceedings.⁷⁰

In criminal matters, any matter involving a juvenile is heard in camera. The only persons entitled to attend the hearing are the parents, the infant's custodian or guardian as well as the witnesses, counsel, the representatives of services or institutions dealing with problems relating to children and probation officers. However, the judge may allow the presence of the representatives of organizations responsible for the protection of human rights and the right of the

⁶⁶ Njupouen, I. B. R., dissertation under the supervision of Dr. George Larbi, 'Access to Justice for the poor: what role for Bar Associations? The case of Cameroon.', 2005, page 53, available at:

<http://www.ibanet.org/Document/Default.aspx?DocumentUid=8F020FA1-D13A-4429-BF51-F9C08672D255>.

⁶⁷ Code of criminal procedure, section 65.

⁶⁸ As set out in "In the Best Interests of the Child – Harmonising Laws on Children in West and Central Africa". Addis Ababa: The African Child Policy Forum. (ACPF Report) (2011) p. 44.

⁶⁹ *ibid.*

⁷⁰ Committee on the Rights of the Child, Initial Reports of States Parties Due in 1995, Addendum: Cameroon, 23, U.N. Doc CRC/C/28/Add. 16 (Mar. 26, 2001), available at: http://www.bayefsky.com/reports/cameroon_crc_c_28_add.16_2000.doc.

child.⁷¹

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

There are long delays in trial due to a lack of prioritisation of children's cases by states counsel and investigating magistrates, and a slow judicial system. The long delays lead to a lengthy pre-trial detention period for many children.⁷²

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

In Cameroon, the Courts of Appeal and the Supreme Court have appellate jurisdiction.⁷³

The Court of Appeal's jurisdiction is exclusively appellate.⁷⁴ It hears appeals on points of law, facts or mixed law and fact against judgments delivered by the lower courts, including appeals against the ruling of the investigating magistrates as well as appeals on matters such as bail and rehabilitation.⁷⁵

Technically speaking, the Supreme Court of Cameroon is not a court of ultimate appeal. It is primarily a court of cassation and only rarely does it decide a case on its merits. It reviews the decision, not the case itself, and hears petitions alleging an error of law in the judgment of a lower court. Its sole function is to ensure that judgments of lower courts are in consonance with the law. When the courts quashes a decision, it sends the case back to be retried (on facts and law) by a court of the same jurisdiction as the one whose judgment was set aside. When the court dismisses the appeal the previous judgments stands.

- H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

There is a strong possibility for backlash against a positive decision. There have been reports of violent backlash against rights activists. In 2011, a local human rights activist was killed after challenging the political appointment of two local traditional rulers.⁷⁶ It has been reported that the gendarmerie or authorities often manipulate the judicial system, carry out arbitrary arrests, and target the victim's family in order to lead the investigation away from the actual perpetrators.⁷⁷

⁷¹ Code of criminal procedure, article 720.

⁷² Dankoff, J and UNICEF, 'An assessment of Cameroon's Justice System for Children: Formal and Traditional Responses to Children in Conflict with the law and Child Victims', January 2007, page 8, available at:

http://www.unicef.org/wcaro/english/Cameroon_Final_Justice_for_Children_Assessment_17.1.11.pdf.

⁷³ Samuelson, Henry. 'The Force of the Cameroon Legal System'.

⁷⁴ *ibid.*

⁷⁵ *ibid.*

⁷⁶ United States Department of State, Bureau of Democracy, Human Rights, and Labour: 'Country Reports on Human Rights Practices for 2013: Cameroon', page 9, available at:

<http://www.state.gov/documents/organization/220302.pdf>.

⁷⁷ *ibid.*

- I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

Cameroon has a unique legal system, which is reminiscent of its colonial past. It is referred to as a bi-jural country, which alludes to the dual application of the French and English legal traditions.⁷⁸ While French-orientated civil law applies in eight provinces of the country, English common law applies in the remaining two English-speaking provinces.⁷⁹ Such duality may result in difficulties in enforcing a positive decision.

However, Section 8(1) of the judicial organisation ordinance of 1972 provides that judicial decisions and orders are enforceable throughout Cameroon, across the co-existing Anglophone and Francophone legal systems.⁸⁰ This provision explicitly provides that a judicial decision made in one district would still be enforceable in another.⁸¹

The organising and regulating the activities of bailiffs, the responsibility for enforcing court judgements, orders, etc, lies on bailiffs and process-servers and not on procureurs general and state counsels who are merely required “to lend them support”.⁸² Nevertheless S. 24 (1) of the 1972 judicial organisation ordinance empowers the legal department to ensure the enforcement of laws, regulations and judgement

- V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

Research did not reveal any additional factors.

This report is provided for educational and informational purposes only and should not be construed as legal advice.

⁷⁸ Nchunu Justice Sama, “Providing legal aid in criminal justice in Cameroon, the role of lawyers”, in National Institute for Trial Advocacy, *Access to Justice in Africa and Beyond: Making the rule of law a reality*, 2007, page 153, available at: https://books.google.co.uk/books?id=u_i6PDL3vIoC&pg=PA153&lpg=PA153.

⁷⁹ *ibid.*

⁸⁰ Samuelson, H. ‘The Force of the Cameroon Legal System’.

⁸¹ *ibid.*

⁸² S. 1 (1) (b) of decree n°79/448 of 5/11/79 modified by decree n°85/238 of 22/2/85, as set out in Samuelson, Henry. ‘The force of the Cameroon Legal System’.