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**ATTACK ON THE CHILD'S RIGHT TO EDUCATION:  
REINFORCING RESILIENCE USING THE HUMAN  
RIGHTS-BASED APPROACH IN CAMEROON**

*A thesis submitted in partial fulfillment for the academic requirements for  
the award of a European Master's Degree in Human Rights and Democratization*

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## LIST OF ACRONYMS

ACHPR	AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS
ACC	AFRICAN CHILDREN’S CHARTER
ACRWC	AFRICAN CONVENTION ON THE RIGHTS AND WELFARE OF THE CHILD
ACERWC	THE AFRICAN COMMITTEE OF EXPERTS ON THE FIGHTS AND WELFARE OF THE CHILD
AYC	AFRICAN YOUTH CHARTER
CAT	CONVENTION AGAINST TORTURE
CESCR	COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
CERD	CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION
CRC	CONVENTION ON THE RIGHTS OF THE CHILD
CPR	CIVIC AND POLITICAL RIGHTS
ESCR	ECONOMIC, SOCIAL AND CULTURAL RIGHTS
GESP	GROWTH AND EMPLOYMENT STRATEGY PAPER
HRC	HUMAN RIGHTS COUNCIL
HRBA	HUMAN RIGHTS-BASED APPROACH
IGO	INTERGOVERNMENTAL ORGANISATIOIS
ICCPR	INTERNATIONAL COVENANT ON CIVIC AND POLITICAL RIGHTS
ICESCR	INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
IDP	INTERNALLY DISPLACED PERSONS
ILO	INTERNATIONAL LABOUR ORGANISATION
NHRI	NATIONAL HUMAN RIGHTS INSTITUTION
NGO	NON-GOVERNMENTAL ORGANISATIONS
NCHRF	NATIONAL COMMISSION ON HUMAN RIGHTS AND FREEDOMS
NSAG	NON-STATE ARMED GROUPS
OHCHR	OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PRC	PRESIDENCY OF THE REPUBLIC OF CAMEROON
RTE	RIGHT TO EDUCATION

SDG	SUSTAINABLE DEVELOPMENT GOALS
SWAP	SECTORIAL WIDE APPROACH TO EDUCATION DRAFT DOCUMENT
UNDHR	UNITED NATIONS DECLARATION OF HUMAN RIGHTS
UNICEF	UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND
UNESCO	UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL ORGANISATION

## ABSTRACT

This work demonstrates how states such as the Republic of Cameroon can use the HRBA to realise the child's right to education. Cameroon is party to many conventions that protect the right to education as is outlined in human rights instruments and explicitly so in Articles 13 and 14 of the 1966 ICESCR. The country has undertaken to provide quality education in a non-discriminatory manner but is experiencing challenges that restrain the progressive realisation of this right. Our research sought to find out how international law protects the child's right to education, to what extent this right is justiciable in Cameroon and how to use the HRBA to provide education for every child. The legal methodology is used to answer these questions exploiting human rights and humanitarian laws, to obtain primary sources of data from the African regional and from international treaties, national legislations, judicial decisions and policy papers. We also use secondary sources such as books, the most recent cycle reports on Cameroon prepared by committees of different UN treaty bodies and other reports. It is verified and affirmed that reinforcing the HRBA would be the most effective method of realising the child's right to education in Cameroon.

*Keywords: The child, Right to education, Justiciability, Human rights-based approach, Equality and non-discrimination, Cameroon*

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## GENERAL INTRODUCTION

This research is based on children's right to education in the Republic of Cameroon whose government has set a social and political agenda of becoming an emerging country by 2035. The work evaluates not just the state's ongoing efforts to make the right to education a reality but it also analyses the socio-political tensions in the English-speaking regions of the country and serial attacks orchestrated by the Islamist sect Boko Haram in the septentrional parts that are enflaming consequential violations of the child's right to education in Cameroon.

The preamble of the national constitution of 18 January 1996, guarantees state protection of the children's right to quality education without discrimination. Law No 98/4 of 14 April 1998, the main law that accomodates education in Cameroon reveals to what breadth the state is committed to fulfilling this right. In the context of our study, the child's right to education refers to those undertakings made by state parties under Articles 13 and 14 of the 1966 International Covenant of Economic, Social and Cultural Rights. It refers to the duty to provide education at the primary, secondary, vocational and technical and at higher levels with the aim of making children to fully develop their human personalities and sense of dignity irrespective of sex, religion, ethnicity, language, political or sexual orientation.

The most relevant of the numerous strategy documents that snugly englobes the country's blueprint on education is the *Document de Stratégie du Secteur de l'Education et de la Formation 2013-2020*, (Strategic Document for the Education and Training Sector 2013-202). The document systematically outlines how government intends to ameliorate the educational sector through good governance, implementation of recommendations of needs-based assessments and application of existing national laws on education. Unfortunately, stakeholder reports and concluding observations of the different UN treaty bodies that protect the child's right to education reveal tremendous gaps that exist between government policies and levels of implementation.

This research seeks to show how international law protects child's right to education and how this right can be fully enjoyed using the human right-based approach. The first chapter describes the attacks on the education sector by Boko Haram incursions in the Far North Region of Cameroon and by socio-political tensions in the Anglophone regions. The second chapter is informative, throwing light on who the child is, what the *child's best interest* and other relative concepts are and why the human right-based approach is most appropriate in realising the child's right to education. The third chapter is analytical. It presents Cameroon's laws and policies that protect education and then evokes the debate about the extent to which the right to education is justiciable in the Cameroon. The fourth and last chapter analyses the *is* and the *ought to be* of the conditions of children's right to education in the country. Using different reports, concluding observations of the different committees of the UN Treaty Bodies and human rights and humanitarian manuals, the chapter makes a synthesis of the observed gaps and prescriptions of the treaties protecting the child's right to education to prescribe the Human Right-Based Approach.



## CHAPTER ONE

### QUAGMIRE IN THE EDUCATION SECTOR IN CAMEROON

This first chapter makes an overview of the critical situation of education in Cameroon. It presents the problem statement of this research paper, the context under which it is carried out and then ushers in the research questions.

#### *1.1. Children's Right to Education Under Attack*

Islamic sect incursions in the Far North Region of Cameroon and socio-political unrests in the North West and South West Regions that has degenerated into an armed conflict between non-state armed groups and government troops are creating catastrophic effects on the education sector in Cameroon. Other issues raised by law and policy implementation are another bone of contention as to why state of Cameroon is not effectively meeting up with international obligations towards promoting, protecting and fulfilling children's Right to Education (hereafter, RTE) (Yufanyi, 2010). Although Lejeune Mbella Mbella<sup>1</sup> pointed out that Cameroon ranked first in Africa in the provision of primary education, adding that primary education was free of charge, the Committee of the International Covenant on Economic, Social and Cultural Rights<sup>2</sup> reports a decline in primary school enrolment and limited access for children at all levels of education. The report further noted low enrolment rates for girls, with plummeting rates as they moved up the education ladder.<sup>3</sup>

#### **1.1.1. Terrorism and Education in the Far North Region**

In June 2014, Boko Haram<sup>4</sup> was changing tactic. Abubakr Shekau its leader, mimicking the Daesh Islamic State rhetoric and *modus operandi*, announced that the terrorist organisation was creating an Islamic State. It was moving from simply carrying out terrorist attacks, to the holding of territories in north-eastern Nigeria and around, which included the Far North Region of Cameroon. That year, Boko Haram also introduced a new way of spreading terror. It adopted female-suicide terrorism, a form of terrorism whereby women and young girls are used as bombers (Pearson, 2018). Groups use this tactic not only to draw media attention onto themselves but also because girls easily bypass security measures more than boys do. Sherrie Russell-Brown (2020), a researcher on armed conflicts and specialist in Sub-Saharan Africa studies highlights the plight of women and the girl-child in the Boko Haram terrorist attacks. She draws attention the fact that boys and girls alike are

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<sup>1</sup> Lejeune Mbella Mbella is minister of external relations who represented Cameroon in the 2018 CESCR Review see more in <https://reliefweb.int/report/cameroon/committee-economic-social-and-cultural-rights-reviews-cameroon-s-report> (accessed 30 June 2020)

<sup>2</sup> Concluding Observations of the Committee on Economic, Social and Cultural rights on the fourth periodic report of Cameroon, document No E/C/12/CMR/CO/4 of 25 March 2019, paragraph 4

<sup>3</sup> Ibid, paragraph 9

<sup>4</sup> BBC News says *Boko Haram* loosely translated from Arabic as “*Western Education is sin*” is an organisation which promotes ‘*haram*’ or forbidden version of Islam. Founded in 2002 in north eastern Nigeria, it started military operations in 2009 and was thus labelled a terrorist group by states it operated on their territories see more <https://www.bbc.com/news/world-africa-13809501>(accessed 4 August 2020)

recruited by the group as suicide bombers but that girls are increasingly becoming targets for recruitment than boys due to ideological and fundamentalist thinking which are highly male chauvinistic. The group focuses on recruiting children of school-going age to prevent them from seeking education. They know that quality education leads to freedom and so they are struggling vigorously to keep enlightenment far from people and especially the girl-child (Signe, 2018). By late 2015 the scale of Boko Haram female-suicide attacks was already globally unprecedented (Pearson 2018). From 2014 when the group deployed its first female suicide bomber, the figures in 2018 had risen to about four hundred and sixty-eight girls who had been used as suicide bombers in over two hundred and forty attacks. This is the highest recorded use of female-suicide bombers by any terrorist movement (Council on Foreign Relations Report, 2018). These attacks have killed about one thousand two hundred persons, injuring about three thousand others. The one thousand six hundred kilometres borderline separating Nigeria from Cameroon is characterised by a lot of exchanges between people living on both sides of the divide. Official distinction as to whether a victim of Boko Haram carnage is Nigerian or Cameroonian is most often than not unclear. Pearson (2015) says 48.2% of these attacks occurred in the Far North Region of Cameroon. In addition to using women and girl-children as suicide bombers, Boko Haram uses them as ‘wives’ for its fighters who are often incapable of paying bride prize, or as domestic or sexual slaves. All greatly affect the education of the girl-child in the northern parts of Cameroon.

Ever since the government of Cameroon declared war on Boko Haram in 2014, the extremist group has increased forays into the Far North region of the country. Six years on, most of the primary schools have been damaged completely<sup>5</sup>, a significant number of them in the region have been forced to close down and just a few operate intermittently as a result of the constant raids perpetuated by the extremists (The New Humanitarian, December, 2014). For the most part, schools attacked have been those at the primary level of education. According to the 2015 UNICEF Report on Cameroon<sup>6</sup>, thirty-three thousand one hundred and sixty-three children were out of school or had to seek education outside their communities as a result of attacks on schools between 2014 and 2015. Amnesty International (2015) documented the destruction of schools mentioning an archetypal case in Greya, in the Far North Region of Cameroon, where a school was burnt down to ashes by Boko Haram extremists, on 8 August 2015 with learners inside. Boko Haram’s extremely violent raids and retaliations from government troops have created such insecurities, preventing thousands of children from receiving education in the Far North Region of Cameroon. This far, about twenty-three thousand children of school-going age have not been receiving primary education alone (the Norwegian Refugee Council Report, 2020). The report further states that ninety-two pre-school and primary schools remain closed in the Far North Region of Cameroon today and that teachers who fled from the affected areas have not yet returned.

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<sup>5</sup> Burnt down by Hoko Haram insurgency who think Western education is bad

<sup>6</sup> Report was consecrated on the impact of Boko Haram on Cameroon

### 1.1.2. School Boycott in the North West and South West Regions

Shortly after independence, tension started piling up between the English-speaking minority group and the Francophone-led governments of Cameroon<sup>7</sup>. After World War I, the League of Nations divided German colonies among European victor countries. Cameroon was divided between the British and the French with the former getting just one-fifth of the territory and the rest going to the latter. The French administered Cameroon as a separate entity from its other colonies while the British administered their own part of Cameroon as part of Nigeria. In 1960, the French occupied part of Cameroon and Nigeria achieved political independence, prompting a plebiscite on 11 February 1961 in which the British section of Cameroon had to decide whether to accede to independence by joining the Federal Republic of Nigeria or by joining La République du Cameroun. The northern part of British Cameroons opted to join Nigeria while the southern part decided to join Cameroun. The 1 September 1961 Federal Constitution of Cameroon was replaced with a Unitary System in 1972<sup>8</sup>. All services thus became centralised. The public services in charge of implementing educational policies in the two federal states were merged to under the Ministry of National education with siege in Yaounde, the political capital of Cameroon.

Ever since 2016, separatists of the English-speaking parts have imposed school boycotts in the anglophone regions as a means of pressurising the central government to meet their demands for equal treatment (Kindzeka, 2017). This boycott of schools at all educational levels has been a major cause of abuses on children's right to education in Cameroon. In October 2016, lawyers and teachers from the anglophone regions went out on a peaceful protest-march in response to a perceived marginalisation including; the lack of English language legal resources and the use of discriminatory methods in the recruitment of teachers and other professionals into the public service (Amnesty International Report 2016/17). Journalists and some civil society groups expanded the scope of the protests by calling for peaceful marches as demonstration of discontent against a wide range of government policies. The national defence forces responded violently, beating up and arbitrarily arresting lawyers and teachers and killing four people. This led to the beginning of yet another episode of acute crisis in the educational sector in Cameroon.

The beginning of the 2017 academic year saw yet another wave of attacks on educational institutions in the anglophone areas. This was characterised by numerous calls for mass boycott of schools by anglophone separatist leaders, threats on the lives of students, parents and teachers and arson on school buildings by separatist fighters who had gradually been organising themselves into non-state armed groups<sup>9</sup> (hereafter, NSAG). The International Crisis Group Report (December 2017) states that '*armed self-defence groups*' had begun burning down schools, shops and markets. Between January and September of 2017, there was a turn for the worse on human rights violations especially on the right to education with at least thirty schools in the anglophone regions of the

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<sup>7</sup> Cameroon has had two presidents since independence; Ahmadou Ahidjo (1960-1982 in office) and Paul Biya (1982 to present)

<sup>8</sup> The federal structure of the state was dismantled in favour of a more centralised system of government

<sup>9</sup> The ICRC in "*IHL and Non-State Armed Groups*" considers NSAG as a significant number of armed groups exercising *de facto* control over a territory and persons living therein, while state may continue to provide health, education or public welfare. In certain conditions, NSAG could oust government from the territory they control and develop state-like capacities and provide services for the population

country severely or completely damaged according to Amnesty International reporting<sup>10</sup>. These onslaughts meted out on schools took a heavy toll on school attendance and implementation of government policies in the education sector. In some localities, children attended classes in make-shift buildings as an emergency response. But threats continuously loomed in the air on those who ventured to go to school. Speaking to journalists at the UN Office in Geneva, Toby Fricker<sup>11</sup> revealed that more than eighty percent of schools in the North-West and South-West Regions of Cameroon were closed. Mr Fricker qualified the situation, “...as the future of an entire generation, at risk”. More than six hundred thousand children have been affected, with at least seventy-four schools destroyed. Parents, students, teachers and other educational personnel have been exposed to violence, abductions and intimidations<sup>12</sup>. In the face of all these, government seems to be helpless and the realisation of children’s RTE just like many other, ESCR is suffering from the most severe setbacks.

In Cameroon, the child’s right to education is a travesty. Teachers have reportedly abandoned duty posts in schools on pretext that they are too dangerous for them to work in, as the violence continues. The number of internally displaced persons is skyrocketing and schools in the calmer regions of Cameroon, especially in the Littoral and West Regions are feeling the pressure of an incessant demand for additional educational services and infrastructure. There has been instances of military use of schools for operations due to the twin crisis in Cameroon, both by government troops and armed groups. Access to education is greatly stifled not just in the crisis regions but also in other areas that are feeling the secondary effects of the crisis. Vulnerable groups like persons with disabilities, the girl-child and young children as a whole are more exposed to dangers. Between 2014 and 2017, armed groups in the Far North region used about a dozen schools as torture centres.<sup>13</sup> Out of a hundred and ten schools that were surveyed during a need’s assessment in the Far North Region of Cameroon in 2015, nine of them were reported as being occupied by armed groups<sup>14</sup>. In certain cases, even when the school reopened, school children were forced to share space with state troops<sup>15</sup>. The occupation of schools since 2014 has denied approximately about eight thousand children access to education in the region<sup>16</sup>. These make the school environments not only unhealthy for learning but expose learners to threats on their physical persons.

### ***1.2. Justification of Choice of Subject***

The goal being to present how a HRBA will secure the RTE for all children, our study on Cameroon is justifiable from different angles. Obtaining quality education is a basic human right for

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<sup>10</sup> See more in <https://www.amnesty.org/en/documents/afr17/8481/2018/en/> (accessed in 23 June 2020)

<sup>11</sup> UNICEF spokesperson was talking to UN News about the Crisis in the English-speaking parts of Cameroon. Retrieved 23 July from <https://news.un.org/en/story/2019/06/1041071>

<sup>12</sup> Ibid, paragraph 4

<sup>13</sup> The Global Coalition to protect Education from attack has been reporting on the military’s use of schools as operation bases in the far north of the country.

<sup>14</sup> UNICEF Annual Report, 2017 on Cameroon p. 3

<sup>15</sup> Amnesty International reported cases where primary schools operate in two capacities: as learning centres and a military base, simultaneously.

<sup>16</sup> Education Under Attack 2018 - Cameroon,

all children which helps them to have access to other human rights<sup>17</sup>. Education is a tool to tackle poverty and to help improve on chances in life. In Cameroon, twenty percent of children aged three to five attend pre-schools in rural areas and fifty-five percent, in urban areas (UNICEF 2020). The parities on education enrolments observed between the rural and the urban areas and a significant twenty percent of children who do not attend school at all raise questions on how much developing countries such as the Republic of Cameroon, are committed towards meeting their international obligations to making the child's RTE a reality through progressive realisation. For all children to realise their full intellectual, physical, civic and moral potentials and to harmoniously insert themselves into society<sup>18</sup>, the government's policies must be efficient in making the RTE a reality in the country.

Apart from the fact that the child's RTE in the context of contemporary Cameroon is a worthy choice of study, government's obligation towards the fulfilment of this right is of interest as well. This obligation to make education available, accessible, acceptable and adaptable by the government on standards they have committed themselves to uphold<sup>19</sup>, is an important justification for this academic exercise. The result-based approach is the current choice to achieve educational objectives. This approach is good in that it improves educational results by linking input to results (Holzapfel and Janus, 2015). However, a Human Rights-Based Approach (hereafter, HRBA) would add value to the needs-based and results-based approaches to education in Cameroon because it will introduce access, quality and environment concerns to other wise, strictly qualitative approaches used this far (Persaud, 2017). The HRBA promotes social cohesion, integration and stability by encouraging coexistence between different cultures. When the learning environment eliminates all forms of physical, gender and community barriers, suppresses corporal punishment of students, a culture of non-violence is established which in turn contributes to positive social transformation. Working on a rights-based approach to education is justified when we have the will to see through it that capacities are built, not just that of learners but also of governments and of other stakeholders in the educational sector.

### ***1.3. Context of the Study***

This research project is delimited taking space, time and subject matter into consideration.

#### **1.3.1. Spatial Context: Republic Cameroon**

This work is based on a contextual study of the Republic of Cameroon, which is an economically less developed country but with a strong commitment to meeting the Sustainable Development Goals. The spatial context of the work presents the jurisdiction under which national and international laws are applicable. This means the 475, 442 km<sup>2</sup> of land that constitute the territory of

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<sup>17</sup> Children's right to education for example is a human right but also integrates others such as rights to health, sanitation or participation, identity or safe environment even.

<sup>18</sup> General mission of education per law N° 98/004 of 4 April of the Orientation of Education in Cameroon

<sup>19</sup> Through the signing of international treaties that protect the RTE for children.



the State of Cameroon<sup>20</sup> within which there is a population and within which there is political authority incarnated through government.

As concerns justice, Cameroon has three sources of law: local customary law, the French Civil Code and the English Law. Article 37 of the Constitution of Cameroon amongst other things states that justice shall be administered in the entire territory of the republic and that the president of the republic shall be the guarantor of the independence of the judiciary. The highest judicial instance is the Constitutional Council, which has jurisdiction in matters pertaining to the constitution. Below it, is the Supreme Court which is comprised of the Judicial, the Administrative and the Audit Benches and further below the hierarchy are the Courts of Appeal, the High Courts, and the courts of First Instance.<sup>21</sup>

The country is referred to as '*Africa in Miniature*' because of its physical and anthropological diversity that are representative of Africa. The total population of Cameroon is about 26,593,443 people<sup>22</sup> repartitioned into about two hundred and fifty different ethnic groups and a corresponding number of native languages (Sawe, 2018). The different ethnicities are grouped into the four major cultural regions in Cameroon (Mohamad, 1999). These regions the;

- i. People of the West Plateau including the *Bamoun*, *Bamileke* and other groups in the North West Region
- ii. People of the forested tropical forested coast including the *Bassa*, *Douala* and other entities in the South West Region
- iii. People of the southern tropical forest including the *Beti*, *Bulu*, *Ewondo*, *Fang* and the *Baka Pygmies*
- iv. People of the semi-arid regions of the north including the *Fulbe* and the *Fulanis*.

The constitution of Cameroon in the preamble, divulges the state's commitment to protect *indigenous people*. The document does not give a definition of who minorities or indigenous people are. Nevertheless, *indigenous people* in this context within the spheres of international law, civil society and government is increasingly used to refer to the different ethnic groups in Cameroon. Some are more vulnerable than others in the enjoyment of human rights and are in need of special protection from the state<sup>23</sup>, including the protection of their right to education.

The Republic of Cameroon is made up of a French-speaking linguistic majority and an English-speaking linguistic minority. Of the ten administrative regions of the country, two of them the North West Region and the South West Regions are English-speaking while the other eight; the South, Centre, Littoral, West, East, Adamawa, North and the Extreme North Regions are French-speaking. The country is comprised of fifty-eight divisions, thirteen of which are in the anglophone regions of the country. Administrative regions are headed by governors and administrative divisions, by senior-divisional officers, all appointed by the head of state and empowered to implement government policies within their jurisdictions, including those in the educational sector.

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<sup>20</sup> According to World Statistics information retrieved 25 July 2020 from <http://en.worldstat.info/Africa/Cameroon/Land>

<sup>21</sup> Articles 37-50 of the Cameroon Constitution organises and outlines the function of the judiciary

<sup>22</sup> According to World Population Review, retrieved 28 July 2020 from <https://worldpopulationreview.com/countries/cameroon-population>

<sup>23</sup> Read further on <https://www.iwgia.org/en/cameroon/743-indigenous-peoples-in-cameroon.html> ((accessed on 23 June 2020)

The populations in the two anglophone administrative regions are considered a “*People*” with claims to People’s Rights under international law (Ebai, 2009). This implies that they enjoy the right to self-determination and the right to dispose of their wealth and natural resources as they see fit. Some researchers on the other hand think of anglophones in Cameroon as a minority group with claims to minority rights rather, as prescribed by international law (Dicklitch, 2011). It is of course a dilemma on what to make of these different views says Ateki<sup>24</sup> asserting that given their unique identity, anglophones in Cameroon nevertheless ought to be given a special protection status by the state of Cameroon.

### **1.3.2. Context in Time: From the Last Cycles of UN Treaty Body Reports to Present**

Our work explores the gaps observed through an analysis of the situation of the child’s right to education in Cameroon as was presented during the most recent cycle reviews of the different committees of the UN Treaty Bodies. The Republic of Cameroon adheres to numerous international instruments that bind the country to protect and promote children’s RTE. The last cycle report on education in Cameroon dates back to 2014<sup>25</sup>. It reviews progress made since the previous cycle reports of the country that date back to 2010.

Law Number 98/004 of 14<sup>th</sup> April 1998 (hereafter, the 1998 Education Law) was adopted by parliament to give vector to educational policies in the country. It provides statute on education matters which to some extent, protect the child’s right to education. And so, the work will consider in certain aspects, the period from which the 1998 Educational Law was enacted, upwards.

### **1.3.3. Object of the Study: Children’s Right to Education**

This research focuses on the HRBA in the realisation of children’s RTE by the government of Cameroon; that “... *every child be given the opportunity to acquire quality education that respects and promotes his or her rights to dignity and optimum development*” (UNESCO/UNICEF 2007). Practically this approach to promoting, protecting and fulfilling the RTE for children implies adopting provisions of ratified international treaties into national laws. The approach as well includes collaborating with other stakeholders such as the National Commission on Human Rights and Freedoms (hereafter, NCHRF) non-governmental organisations (hereafter known as NGOs) and inter-governmental organisations (hereafter, IGO’s), teachers, parents and communities towards making education available for all children. The approach also highlights the justiciability that is much needed to make claims in cases of violations on the RTE.

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<sup>24</sup> See more about conflict trends on <https://www.accord.org.za/conflict-trends/anglophone-dilemma-cameroon/> (accessed 27 June 2020)

<sup>25</sup> They include the Convention for the Elimination of Racial Discrimination’s 19th-21st periodic review of Cameroon on 18-19 of August 2014 and the Convention for the Elimination of Discrimination against Women’s 4th and 5th review on 12 February 2014. Other treaty body reviews came after these dates.

#### ***1.4. Statement of the Problem***

In Cameroon, claims to children's RTE just like other economic, social and cultural rights (hereafter, ESCR) are taken less seriously than those of civic and political rights (hereafter CPR) even though human rights are interrelated and indivisible<sup>26</sup>. In many African countries, just as in Cameroon, states prioritize the protection of CPR over ESCR. Such is the case of rights generated within the framework of the right to education where for example, corporal punishment and degrading treatment<sup>27</sup> in schools are strictly checked but the right to clean environment is not given as much attention. Generally speaking, ESCR are basic rights that need to be progressively realised by states given their available resources (Witte, 2005). However, there is very little to show in the constitution and legal fabric of Cameroon that social rights are state priority (Effiom 2013). Even if this was so due to the fact that resources are limited, the brow among the judiciary and other bodies on how to interpret these rights point to the need for help if the state of Cameroon is to fulfil its international obligations that membership to human rights treaties imposes. ESCR including the right to education are far from being equally justiciable like CPR are in Cameroon and they are not properly interpreted and applied to include provisions carried by international instruments (Atangcho, 2016). Given this situation, national laws and government policy towards fulfilling the RTE for the child fall short of meeting minimum standards as prescribed by international human rights conventions that Cameroon is party to.

There is a fundamental problem of access to education for every child in the country. There are continuous efforts to innovate education in Cameroon so that every child benefits from free education and universal access (Nkamnji, 1989). The existence of provisions in the preamble of the national constitution and in Article 7 of the 1998 Education Law that guarantee equality of treatment for every individual and of non-discrimination provide grounds on which discrimination and inaccessibility to educational services are challengeable. The use of the wordings '*without discrimination*' in the Constitution in relation to state responsibility is referral to all ESCR. However, the body of the constitution does not make mention of any of these rights, such as the right to education. In 2010, the UN Convention on the Rights of the Child of 1989 (hereafter, CRC) stated that it was "...*deeply concerned at the persistence of de facto discrimination among children...that girls, indigenous children, children with disabilities, refugee children, children from poor rural areas, and children in street situations suffer particular disadvantages with regard to education...*"<sup>28</sup>. The situation of vulnerability of certain groups as to their enjoyment of the right to education has further been exacerbated by the armed conflict in the anglophone regions of Cameroon and the Boko Haram Islamist incursions in the northern part of the country. These situations raise concerns on how to provide education in emergency situations and of state obligations towards realising ESCR in general. Security Council resolution 1261 of 25 August 1999 condemned "*attacks on objects protected under international law, including places that usually have a significant presence of children such as schools...*". Education is the right of every child,

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<sup>26</sup> This is response to one of frequently asked questions on priority of state obligations on which rights to protect more. See more on this in in <https://www.ohchr.org/EN/Issues/ESCR/Pages/ESCRIndex.aspx> (accessed 2 July, 2020)

<sup>27</sup> A provision of Article 37(a) of the CRC and also Articles 132 and 133 of Law No. 97/009 of 10 January 1997 that amend certain provisions of the Cameroon Penal Code ban torture and degrading treatment

<sup>28</sup> Report submitted by State party in 2010 under Article 44 of the Convention, [UN CRC-C-CMR-CO-2](#),



even in the most difficult of situations (Roger, 2002). Governments have the obligation to address the degrading situation of civic and political rights without which other social rights will remain unprotected, unpromoted and unfulfilled. Violating civic and political rights have social and economic implications (Gardner, 2003). Once more, the interdependence and indivisibility of ESCR and CPR<sup>29</sup> is brought to light with the need for government to act in all the spheres if the right to education is to be enjoyed.

In addition to access, there is a problem of the quality. Education needs to be flexible so that it changes according to the needs of societies and communities<sup>30</sup>. During times of peace as in times of conflict, the right to education of children ought to be protected. The content of education as well has to be tailored to fit the needs of the immediate community. The 1998 Education Law applies to the entire territory although educational policy is implemented in two different sub-systems; the Anglophone and the Francophone Sub-Systems. The overall goals of education are the same in the two sub-systems nevertheless.<sup>31</sup> There is however, a remarkable rigidity and inflexibility creating dysfunctionality of education in the crisis zones of Cameroon. As spelled out in the preamble of the constitution, in the laws guiding education and in the different strategy papers on education in Cameroon, these goals aim at creating universal access for children and equality at all levels of education. They aim at providing quality and relevance of education which comports improving learning, paying attention to the socio-economic environment and improving the governance and management of the educational sector. One of the driving forces of this research is to present how state laws and policies need to give education the quality and inclusion which will meet the diverse needs of all children so that the right to education is progressively realised. By quality and inclusion, we mean;

*“a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, with a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the regular system to educate all children.” (UNESCO 2005, p. 13).*

Over eighty percent of schools have shut down as a result of the worsening conflict in the anglophone region of Cameroon (UN News 2019)<sup>32</sup>. With UNICEF placing the figures at more than eight hundred and fifty-five thousand children out of school, the intergovernmental organisation cautions on a severe risk in the future of these children if the different parties of the conflict do not agree on a cease fire. When children are out of schools, they are exposed to a plethora of risks, including recruitment into armed groups, physical violence, all forms of child abuse and exploitation. Two months into the 2019/20 academic year, about ninety percent of public primary schools (more than four thousand one hundred schools) and seventy-seven percent of public

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<sup>29</sup> Human rights principles, see more on <https://www.unfpa.org/resources/human-rights-principles> (accessed 24 June 2020)

<sup>30</sup> CESCR General Comment No 13: The Right to Education, paragraph 6 (d) contained in document E/C.12/1999/10 of 8 December 1999

<sup>31</sup> Article 4 of Law N°98/004 of 4 April 1998 guiding education in Cameroon

<sup>32</sup> A good number of school buildings have been completely destroyed

secondary schools (seven hundred and forty-four schools) remained closed or non-operational in the English-speaking parts of Cameroon<sup>33</sup>. The situation of Boko Haram incursions in the Far North Region is a typical one depicting the plight of children in conflict zones. If not killed, they are used as human shields, abducted to be enlisted to fight as child soldiers or suicide bombers, forced into marriages, held for ransom and denied humanitarian aid<sup>34</sup>. The situation of children in conflicts poses grave consequences on the education of children.

The need to apply human rights-based approaches is urgent in Cameroon, especially in the areas where the state has the positive obligations to protect, promote and fulfil rights. There is a growing concern that if advocacy is not engaged on for the promotion of human rights, they will completely be sidelined in government policies. (Effiom 2013). The UN Commissioner for Human Rights in 2004 emphasised the mainstreaming<sup>35</sup> of human rights as an approach to decision-making since; putting everyone in the centre stage of government action, *'leaving no one behind'*. This approach is as well a necessary component of the operational link between respect for human rights and attainment of Goal 4 of the Sustainable Development Goals (hereafter known as SDGs) which is the Right to Education.

### ***1.5. The Research Question***

It is glaring that the child's RTE is suffering not only from a stagnation in its realisation and limited justiciability in the courts but also from sector-wide violations. By ratifying international human rights treaties, states assume obligations to protect human rights and RTE as enshrined in these instruments. This academic research will be analysing to what extent Cameroon is fulfilling its obligations towards realising the child's RTE in a HRBA. The principal objective is to elucidate how adopting certain international standards to achieving this right would make educational policies to be *"... directed towards the full development of the human personality and the sense of its dignity ... strengthen the respect for human rights and fundamental freedoms."*<sup>36</sup>. The work verifies to what extent Cameroon's laws and educational policy are human rights-based in approach. The thesis therefore aims at answering the following questions;

1. How does international law protect the child's right to education?
2. To what extent is this right justiciable in Cameroon?
3. Is the state of Cameroon progressively realizing the right effectively?

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<sup>33</sup> UNICEF for every child, 05 November 2019, p 1 <https://www.unicef.org/press-releases/more-855000-children-remain-out-school-north-west-and-south-west-cameroon> (accessed 10 June 2020)

<sup>34</sup> Save the Children International report on effects of war on children

<sup>35</sup> See <https://www.ohchr.org/EN/NewYork/Pages/MainstreamingHR.aspx> (accessed 23 June 2020)

<sup>36</sup> International Covenant on Economic, Social and Cultural Rights which entered into force in 3 January 1976, in Article 13(1)

To answer these questions, this academic work is divided into four chapters:

- Chapter One will discuss the general framework of the study and the socio-political contexts under which the research is carried out. The chapter describes in detail, the area under studies. It announces the problems facing the education sector in Cameroon and then it presents the methodology adopted for the work.
- The Second Chapter answers the first of our research questions. It proposes an explanation as to what human rights law considers to be the child's right to education. It then wraps up by presenting the obligations of duty bearers towards fulfilling the child's right to education in a HRBA.
- The Third Chapter answers the second research question, giving a brief overview of how education laws and policies have evolved ever since the introduction of formal education in Cameroon. Then it presents the legislative framework that protects the RTE and how justiciable these rights are in Cameroon.
- Chapter Four closes up the thesis by responding to the last research question. It presents the gaps that exist between the government's duty to promote the child's RTE and state practices that violate this right. Using international law, the chapter builds a strong case against state practices that fail to protect, promote and fulfil the child's right to education.

### ***1.6. Research Methodology and Material***

The issue of using the HRBA to create resilience on the RTE of the child that is under attack in Cameroon will be analysed from the point of view of the interplay between the State's legal dispositions and policy papers on education on one hand and its obligations via partisanship to numerous international and regional instruments that protect the RTE on the other hand.

For the purpose of this research, we will be using hard law; the different legal frameworks in Cameroon that carry state obligations towards promoting, protecting and fulfilling the RTE such as the 18<sup>th</sup> January 1996 Constitution of the Republic of Cameroon, Law No N°98/004 of April 4<sup>th</sup>, 1998 on the Orientation of Education in Cameroon and other complementary laws.

Also, this academic work will be exploiting other legally binding instruments on human rights law. The main, international and regional instruments used are the 1948 Universal Declaration of Human Rights (hereafter, UDHR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), the 1989 Convention on the Rights of the Child (hereafter, CRC) and its additional protocols, the 1986 African Charter on Human and People's Rights (hereafter ACHPR). However, these are not the only ones used. A full list of all the treaties used is found at the appendix. Attention will be given to International Humanitarian Law (hereafter, IHL) as well, mainly the 1949 Four Geneva Conventions and the Hague Conventions.

We will as well use soft law; policy papers on education such as Cameroon's Growth and Employment Strategy Paper (GESP)<sup>37</sup> and the Sectorial Wide Approach to Education Draft

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<sup>37</sup> IMF Country Report No 10/257 of August 2010, which is a reference framework for action by the Government of Cameroon over the period 2010/2020

Document (hereafter SWAP)<sup>38</sup> policy papers to match their content with different regional and international instruments that promote the child's (Placeholder2) RTE. We will use reports of the Special Rapporteurs on the RTE, General Comments (1999) of the ICESCR No 11 on the Plan of Action for Primary Education and No 13 on the Right to Education, General Comments of the CRC No 12 of 2009 on the right of the child to be heard and No 14 of 2013 on the right of the child to have his or her best interest taken as primary consideration. The work also exploits IHL law handbooks. Relevant academic works, online articles and policy papers will be used to illustrate evoked debates. We will also use Periodic Review Reports and the Concluding Observations Committees of the UN Treaty Bodies on Cameroon to illustrate gaps. To the extent allowed by the scope of this study, responses to needs by some humanitarian organisations will be considered

### ***1.7. Theoretical framework: The Social Contract Theory***

This research draws inspiration from the Social Contract Theory as postulated differently by Thomas Hobbes, John Locke and Jean Jacques Rousseau. The central theme in their analysis is the existence of a central authority which may be a state or a ruler, to which the citizens have ceded some of their liberties in return for protection of clearly outlined individual and collective rights. This theory postulates that in the beginning when man lived in the state of nature, there were no governments, no laws to regulate interactions. There was hardship and oppression. To overcome these, people entered into two agreements; *Pactum Unionis* and *Pactum Subjectionis*<sup>39</sup>. In the former, people came together and pledged to respect one another in order protect their lives and property. And in the latter pact, people united and pledged to obey an authority and surrender part of their freedom and right to that authority in exchange for protection of their lives, property and certain liberties. Thus, the authority or the state or the government came into being because of those two agreements<sup>40</sup>.

Three prominent thinkers postulated the Social Contract Theory. The first, Thomas Hobbes (1588-1679), made an analysis of Social Contract that supports absolute sovereignty without giving much value to the concerns of individuals. According to Llyod (2018), the authority in Hobbe's analysis<sup>41</sup> commanded absolute obedience although they were bound by moral obligations and natural law, to take care of individuals. John Locke (1632-1704) on his part, did not see Man in the state of Nature as a miserable being, as the Hobbesian theory sees it (Tuckness, 2005). To him, back then, man enjoyed all the rights that nature offered although due to the absence of law, impartial judges and of natural power to execute natural laws. Property though, was not secured. According to John Locke, "*the purpose of the Government and law is to uphold and protect the natural rights of men. So long as the Government fulfils this purpose, the laws given by it are valid and binding but when it ceases to fulfil it, then the laws would have no validity and the Government can be thrown out of power*".<sup>42</sup>

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<sup>38</sup> Document No SOP/CM/2006/ED/PR/1, produced by the Presidency of the Republic of Cameroon that elaborates on the country's educational policy

<sup>39</sup> See more on

[https://www.researchgate.net/publication/261181816\\_Summary\\_of\\_Social\\_Contract\\_Theory\\_by\\_Hobbes\\_Locke\\_and\\_Rousseau](https://www.researchgate.net/publication/261181816_Summary_of_Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau) (accessed 29 June 2020)

<sup>40</sup> Ibid, page. 1

<sup>41</sup> According to Hobbes, the authority was either a chosen ruler or the monarch

<sup>42</sup> Ibid. page. 4

Jean Jacques Rousseau (1712-1778) on his part revelled at the happiness and equality of Man during the state of Nature (Bertram, 2010). But as population increased and communities were formed, insecurities developed. A new form of social organisation was formed; the state. According to Rousseau, the state was formed to assure and guarantee rights, liberties, freedom and equality.

This theory is relevant to our work because it reflects the what the people of Cameroon and what international law expect of the state. Cameroon is a republic, a democracy. The people have chosen their leader and representatives and they expect that their rights be realised in such a manner as the state has committed itself to do.



Figure 1: Map of Cameroon showing the ten administrative regions



## CHAPTER TWO

### THE CHILD'S RIGHT TO EDUCATION UNDER INTERNATIONAL LAW

The second chapter discusses who *'The Child'* is. It demonstrates how Human Rights Law and International Humanitarian Laws uphold the right to education<sup>43</sup> and additionally introduces contemporary debates that surround the realisation of children's RTE.

#### 2.1. *The Child*

The question of "*who is a child?*" or "*what is childhood?*" in the sociological sense has been answered by Qvortrup, J. (1996) who sees childhood as a notion catalysed by successive generations that blend tradition, social interactions and technological developments to give identity to those in between infancy and adolescence. At law, figures are added to this qualitative definition to cluster children into a group, whose common needs can be met and rights, protected. Article 1 of the CRC defines a child as someone under the age of eighteen<sup>44</sup>. In *APDF and IDRDA V Mali 2018*<sup>45</sup>, the African Court on Human and People's Rights decided that Mali had violated Article 6(b) of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2006 (hereafter, The Maputo Protocol) by enacting a Family Code in 2011, which set the minimum age of marriage rather at sixteen years in Mali.

##### 2.1.1. The Child's Best Interest

Article 3(1) of the CRC evokes the concept of the "*Child's best interest*" (hereafter, CBI) which gives children the right for their best interest to be assessed and considered on all decisions that affect them. Article 12 of the same convention generates a general comment on the state's obligation to give the child the opportunity to express him or herself in all matters of concern. This clause is applicable in all the different rights enjoyed by the child in the CRC, including the RTE. To fully apply the "*child's best interest*" demands the adoption of a HRBA<sup>46</sup>. The Committee of the CRC draws three emanating concepts from the CBI; firstly, the CBI generates a substantive right which involves fully taking into consideration, the concerns and needs of children. Secondly, the committee considers that the CBI generates a "*fundamental, interpretative legal principle*" where in situations with more than one interpretation, the one that favours the child would prevail. The last concept is that the CBI creates a rule of procedure. Here whenever a decision is to be taken concerning a child or groups of children, it must be proven that a needs and impact assessment must

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<sup>43</sup> See more in <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijnpl15&div=16&id=&page=> (accessed 30 June 2020)

<sup>44</sup> The article makes an exception: "...unless under the law applicable to the child, maturity is attained earlier."

<sup>45</sup> African Court on Human and People's Rights, application No 046/2016, Judgement, 11 May 2018

<sup>46</sup> General Comment No 14, UN doc CRC/C/GC/14 of 29 May 2013 paragraph 12

have been made, with the state explaining the procedures and considerations taken to arrive at decisions concerning children<sup>47</sup>.

### **2.1.2. Non-Discrimination**

The CBI is linked to other principles which guide the full realisation of CPR and ESCR of children; such as the right to life, the right to be heard, the right to non-discrimination. These rights must be fully protected if the right to education of children is to be achieved. Carried on Article 3 of the UDHR, the right to life is also protected in Article 6 of the CRC which adds that states shall ensure to the maximum, the protection of their survival and development. The right insinuates that even in times of war or conflict, children must be protected and that they ought to grow up in favourable conditions so that they benefit from appropriate healthcare and quality education<sup>48</sup>.

The right not to discriminate against children in Article 2 of the CRC is not a passive state obligation. It requires that states take measures to ensure that all children benefit equally from opportunities offered the regardless of their colour, sex, language, religion, social origin, political opinion, or family situation. On the right to be heard, Article 12 of the CRC prescribes that states see to it that children who are able to formulate opinions about issues that concern them ought to be heard out. The Committee on the CRC actually prescribes that the more the child knows, the more personal responsibility for children by parents transforms to guidance and advice and that on administrative and judicial matters, children capable of formulating opinions must be heard<sup>49</sup>.

## ***2.2. The Child's Right to Education as Protected by International Law***

The RTE is protected both by Human Rights law and by IHL

### **2.2.1. Protection under Human Rights Law**

This englobes international and regional human rights instruments that protect the RTE. Under human rights law, the status of protection of this right is officiated once the state becomes party to a treaty. It then becomes incumbent upon it to implement the provisions that protect this right of children.

#### **2.2.1.1. Implementation of the Right to Education**

The Office of the United Nations High Commissioner for Human Rights (hereafter, OHCHR) has proposed comprehensive guidelines to measure obligations towards fulfilling the RTE<sup>50</sup>. The scope as identified by the OHCHR Report is smaller than what the Committee on Economic, Social and

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<sup>47</sup> Ibid. paragraph 6(a)(b)(c)

<sup>48</sup> See more in <https://www.humanium.org/en/life/> (accessed 1 July, 2020)

<sup>49</sup> See General Comments No 14, 46 supra, paragraph 44 and 45

<sup>50</sup> Report on Indicators for Promoting and Monitoring the Implementation of Human Rights, U.N. Doc. HRI/MC/2008/3 (2008)



Cultural Rights (hereafter, CESCR) proposes as an interpretation of the International Covenant on Economic, Social and Cultural Rights (hereafter, ICESCR) provision on the RTE. The CESCR has delimited the scope and attributes of government obligation towards fulfilling the right to education. The Special Rapporteur on the RTE in her preliminary report to the Human Rights Commission set out the four characteristics that primary schools should exhibit; making education available, accessible, adaptable and acceptable<sup>51</sup>. The 4-A Framework on the RTE has increasingly expanded its scope from being applied only to primary education, to education at all levels (Tomasevski, 2001). Following the HRBA, governments are expected to make education available.

Making education available embodies two separate duties. Firstly, the RTE as a civil and political right requires that governments grant permits for non-state actors to contribute in the provision of educational services. Education being an economic and social right, the government is required to open and run schools. State parties that recognize the right to education shall particularly make primary education compulsory, available and free for all, while secondary and tertiary education shall be progressively so. Availability also means that education shall be provided to minorities and other vulnerable groups on equal basis with other students<sup>52</sup>. To show how this can be transposed in a national law, the Right to Education Act<sup>53</sup>, attuning itself with Article 13((2)(e) of the ICESCR<sup>54</sup> provides norms and standards for a school highlighting key elements such as;

- The ideal pupil teacher ratio,
- Guidelines relating to school buildings,
- Minimum number of workers per day,
- Minimum number of working hours for teachers per day,
- Instructional hours in an academic year
- And guidelines on teaching or playing material (Singh 2019 p 5)

The Committee on ESCR notes as well that states must respect the availability of education by not closing down private schools that meet minimum standards and must fulfil the availability of education by developing school systems<sup>55</sup>.

On second count, education needs to be accessible. Accessibility means that education be open to everyone<sup>56</sup>. The committee points out three issues<sup>56</sup> emanating from this obligation. Firstly, education must be made accessible to all, without discrimination. Articles 2(2) and 3 of ICESCR particularly recognise the state's role in making education non-discriminatory. The committee obliges states to make sure that all girls attend school<sup>57</sup>. This means creating incentives for girls to woo them to attend school such as financial incentives for parents, increasing child marriage age or adopting policies that align with household schedules. Article 13(e) of the ICESCR requires that states set up

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<sup>51</sup> Council of Human Rights, 55th session of 13/01/1999, Document No E/CN.4/1999/49 paragraph 49

<sup>52</sup> Recommendations of the Forum on Minority Issues, Report of the Independent Expert on Minority Issues, Gay McDougall, U.N. GAOR, HRC 10th Session, Agenda Item 3, 28, U.N. Doc. A/HRC/10/11/Add.1 (2009).

<sup>53</sup> India's law on education enacted in 2009 that prescribes the core elements of the 4As: Accessibility, Availability, Adaptability and Acceptability

<sup>54</sup> States must develop education at all levels.

<sup>55</sup> See General Comments No 13, 30, supra, paragraph 16(a)

<sup>56</sup> Ms. Katarina Tomaševski, on a Preliminary Report of the Special Rapporteur on the Right to Education, U.N. ESCOR, 55th session 50–74, UN. Doc. E/CN.4/1999/49 (1999).

<sup>57</sup> See General Comments No 13, 30, supra paragraph 16(e)

a follow-up system on this. A second angle to view accessibility is physical. This means that schools should be located in areas that are physically close to the learners, vulnerable populations and other groups. This means spreading schools evenly on geographic space, providing transportation means for certain groups and using technology or other means of instruction in acceptable format. Finally, education must be economically accessible (Beco, 2008). While economic accessibility is a requirement, precisions are spelt out. At the primary level, government is obliged to make education compulsory and free for all children in the age-range but this does not apply for secondary and university levels (Tomasevski 2001). Compulsory education ought to be free of charge while at higher levels, tuition could be levied<sup>58</sup>. Accessibility of education also means making educational services reachable for disadvantaged groups, such as persons with disabilities, the girl-child and minority groups in all fairness and equality.

That education be considered acceptable would refer to the quality and appropriateness of its content<sup>59</sup>. In acceptability lies the true reason and test of policies and programming<sup>60</sup>. The ken of acceptability has been defined by international human rights law. Article 13(2) of the ICESCR addresses acceptability by stating that the material conditions of teachers shall be continuously improved. It involves the development of national curriculum usually under state guidance. Censorship of school text books is abuse when this occurs in a rights-discriminatory manner. In situations where the language of instruction is foreign, policy has to attune learning to the language that indigenous or minority populations are most comfortable with<sup>61</sup>. Use of a particular language provides a measure of minimum standards for the respect of diversity. The prohibition of holding back, or expulsion<sup>62</sup>, corporal punishment or mental harassments are aspects of acceptability. This does not only set health and safety standards in the learning environment but also exposes the rights to education and the rights in education that learners would vindicate in case of abuse.

And lastly, adaptability addresses the need for education to be flexible and to be able to meet the expectations of learners even within a myriad of cultural plurality<sup>63</sup>. To achieve adaptability goals, governments are obliged to create contents in learning that are oriented towards solving the immediate problems of the local communities. This includes individualisation of education, customization of curricula, monitoring the performance of teachers and students, adjusting whenever deemed necessary to do so. Education that is not adaptable, experiences high school dropout rates for vulnerable groups, such as pregnant girls, of learners with disabilities. Article 13(1) of the ICESCR states that:

*“Education shall be directed to the full development of the human personality and the sense of its dignity...strengthen respect for human rights and fundamental freedoms... enable all persons to*

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<sup>58</sup> International law has varied provisions. The ICESCR of 1976 requires free of charge studies to the highest level. But the 1989 Convention on the Rights of the Child advocates free of charge education only at the primary level.

<sup>59</sup> See General Comments No 13, 30, supra paragraph 6(c)

<sup>60</sup> Assertion by blogger Rosa Maria Torres in <https://otra-educacion.blogspot.com/2011/10/4-as-as-criteria-to-identify-good.html?m=1> (accessed 12 June 2020)

<sup>61</sup> Report on Indicators for Promoting and Monitoring the Implementation of Human Rights, U.N. Doc. HRI/MC/2008/3 (2008), Agenda Item 3

<sup>62</sup> The Right to Education Act 2009 of India interprets this as that no child admitted in a class will be held back from moving to the next class or be expelled from school

<sup>63</sup> General Comments No 13, 30 supra, paragraph 6(d)

*participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups”.*

To achieve these goals, education must be adaptable. The CESCR also understands that with changing societies and evolution in social structures, education ought to be adaptable and flexible<sup>64</sup>. Additionally, governments must allow for “*free choice of education without interference from the State or third parties, subject to conformity with ‘minimum educational standards.*”<sup>65</sup>”

### **2.2.1.2. Legal Framework on the Right to Education**

The right to education is conveyed by almost all the regional and international human rights instruments. Article 17(7) of the ACHPR states that everyone has the right to education with Article 11 of the African Charter on the Rights and Welfare of the Child (hereafter, ACRWC) adding that this education ought to include aspects that preserve and strengthen African values, morals, traditions and customs. Article 13 of the ICESCR and Article 28 of the CRC clearly outline the contents of this right which should to be enjoyed at all levels of education through progressive realisation. Article 28(3) of the CRC highlights the need for support to developing countries in eliminating ignorance and illiteracy and in facilitating access to scientific and technical knowledge and modern teaching methods. Content of the RTE include a couple elements.

Firstly, it includes primary and fundamental education. Article 13(2)(a) of the ICESCR posits that states that are party to the Covenant shall see to it that “*primary education shall be compulsory and available free for all*”. And Article 28(1)(b) adds to this, “*the offering of financial assistance in case of need...*” The proper interpretation of ‘*primary education*’ is obtained from the World Declaration on Education for All which states that “*The main delivery system for the basic education of children outside the family is primary schooling*”. Primary education is not basic education. UNICEF makes the distinction by saying “*primary education is the most important component of basic education*”<sup>66</sup>. The element of compulsion in this right is that none of the duty bearers are entitled to treat it as optional whether a child should acquire primary education or not. This requirement also prohibits gender discrimination in access to education as provided by Article 3 of the covenant. That primary education be made free of charge is unequivocal. It means that the state shall ensure the availability of primary education without any fees levied on the child, parents or guardians<sup>67</sup>. Other indirect costs may be permissible. This provision however does not conflict in any way with the right of parents and guardians to chose their children’s schools as is provided in Article 13(3) of the covenant.

Fundamental education on its part refers to basic education as set out in the World Declaration on Education for All. It refers to the right held by individuals who have not received or completed primary education, to acquire some level of education so as to satisfy their basic learning needs. The enjoyment of this right is not limited by age or gender but rather, it is a package of adult education and life-long learning.

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<sup>64</sup> See more on <https://web.whatsapp.com/3ea619aa-30c9-44fa-b734-0f10e50ae09b> (accessed 17 June 2020)

<sup>65</sup> General Comment No 13, citing Article 13(3)(4) of ICESER

<sup>66</sup> Advocacy Kit, Basic Education 1999 (UNICEF), section 1, page 1.

<sup>67</sup> General Comment No 11, E/C.12/1999/4 Article 14(7)

The content of protection of the RTE also includes secondary education. Statured by Article 13(2)(b) of the ICESCR, secondary education implies a completion of basic education and consolidation of the foundation for a life-long learning and human development, preparing students for vocational training and higher education<sup>68</sup>. The article recognises that secondary education exists in different forms and has a wide range of delivery systems to respond to the needs of students in different social and cultural settings. The article states that secondary education “*shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education*”. To be ‘generally available’ means that the student’s ability is not a prerequisite to obtain secondary education and that secondary education be distributed throughout the state such that it is available for all on equal basis. The phrase ‘*every appropriate means*’ emphasises the point that states need to use a variety of innovative methods of delivering secondary education depending on the socio-cultural context. The covenant as well makes free secondary education, one for progressive realisation.

Another aspect of secondary education is that of technical and vocational education (hereafter, TVE), which bears not only the right to education but the right to work as well. Though Article 13(2)(b) of the ICESCR refers to TVE as secondary education, article 6(2) of the covenant does not consider it a specific level of education. Rather, it notes it as education “*to achieve steady economic, social and cultural development and full and productive employment*”. The UNESCO Convention on Technical and Vocational Education (1999) groups TVE into all forms and levels of education, the study of technologies and the acquisition of practical know-how and attitude and understanding that are related to the different sectors of economic and social life. This view is also reflected in certain ILO Conventions. Simply put, TVE includes amongst other aspects, “*programmes which promote the TVE of women, girls, out-of-school youth, unemployed youth, the children of migrant workers, refugees, persons with disabilities and other disadvantaged group*”<sup>69</sup>

Higher education is also taken into consideration. The right to secondary education in Article 13(2)(c) is essentially different from the right to higher education as enshrined in Article 13(2)(b) of the ICESCR in three aspects. The right to higher education does not allude to ‘*education in different forms*’ nor does it refer of TVE. However, if higher education is to respond to the contextual needs of students, then it has to be tailored and be given a ‘*form*’ such as; full-time, part-time or distance learning. As to lack of reference of TVE in the right to higher education, given Articles 6(2) of The covenant and 26(1) of the Universal Declaration, TVE is an integral component of all education levels, including higher education. Lastly, while secondary education shall be ‘*generally made available and accessible*’, higher education shall on the other hand be made ‘*equally accessible to all, on the basis of capacity*’. Here, ‘*capacity*’ shall refer to the relevant expertise and experience of individuals<sup>70</sup>.

When assessing the CBI, the CRC prescribes conditions that will guarantee full protection of the RTE for the child. They include; taking into consideration the child’s viewpoint, identity, preserving the serene environment the child grows up in, providing care protection and safety,

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<sup>68</sup> Read more on International Standard Classification of Education 1997, UNESCO, paragraph. 52.

<sup>69</sup> General Comment No 13, 1 30 supra, paragraph 6(e)

<sup>70</sup> Ibid, paragraph 19

accessing the child's vulnerability and health. All these elements sum up the Child-Right Impact Assessment which are conditions *sinon qua non* for the full enjoyment of the RTE<sup>71</sup>.

## **2.2.2. Protection under International Humanitarian Law**

Armed conflicts are one of the most disruptive factors to the realisation of “*Education for All*” goals set by the international community in Jomtien, Thailand in 1990. The disruption of academic calendar, destruction of schools, threats on the lives of teachers, parents and children, massive displacement of populations are amongst the adverse consequences that inhibit stakeholders to pursue educational policies and programmes. The involvement of children in war creates huge challenges in the protection of children's RTE<sup>72</sup>. IHL or the *Law of War* regulates relations between belligerents of armed conflicts<sup>73</sup> so as to solve humanitarian issues arising from combat. For these, the Four Geneva Conventions, 1949 and the Hague Conventions provide bodies of rules to provide victims of armed conflicts, children inclusive and establish rules on the conduct of war. Relative to our context, we will see how IHL protects children firstly and then we will see how it protects the RTE.

### **2.2.2.1. Protection of Children in Conflict Zones**

In armed conflicts, be they international or non-international, children who do not participate directly in the hostilities are covered by the general protection. The Fourth Geneva Convention however includes special protection for children with Article 77 stating that “*Children shall be the object of special respect and shall be protected against any form of indecent assault...*”. Article 38(1) of the CRC reminds state parties in conflicts to respect IHL by prohibiting the recruitment of those less than fifteen years of age and giving priority to older persons during drafting.<sup>74</sup> In the event of a non-international armed conflict, Article 13(2) of the Additional Protocol II accords children the protection as civilians who shall not be objects of attack. In addition to the protection that Article 38 of the CRC gives to children, its Optional Protocol adopted in 25 May 2000, reinforces the protection of children in conflict situations obliging states not to recruit under the age of fifteen and armed groups, eighteen in Article 4.

### **2.2.2.2. Protection of the Right to Education in Times of Conflict**

The 25 August 1999 UN Security Council Resolution 1261 castigates attacks on objects protected under international law, including areas generally associated with the presence of children such as schools, calling on governments to protect ‘peace corridors’ where children could be shielded from conflicts ravaging their countries. IHL protects the RTE in armed conflict situations (Doswald-

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<sup>71</sup> General Comment No 14 para 98 (b)

<sup>72</sup> 12 February 2002 the Protocol to the CRC on the Involvement of Children in Armed Conflict entered into force with the aim of protecting children more from being recruited as child soldiers.

<sup>73</sup> Armed conflict could be International or a Non-International Armed Conflict, for more see ICRC, IHL, Handbook for parliamentarians No 25, 2016

<sup>74</sup> Four Geneva Conventions (1949), Article 77 of Additional Protocol I of 1977



Beck, 1989). Article 24 of the Fourth Geneva Convention makes provisions for the education of orphans and unaccompanied children. In addition, Additional Protocol II of the Four Geneva Conventions relating to the Protection of Victims in Non-International Armed Conflicts provides for continuous protection of the RTE of children during non-international armed conflicts in Articles 3(a) and 4. IHL also has clear cut provisions for the provision of education to children under emergency situations (Education in Situations of Emergency and Crisis, 1999). The RTE is thus seen as protected in all circumstances, whether in times of peace or in times of war.

It is important that education be protected in times of armed conflict (Tutu, 2009). When teachers and students are shot, schools burnt down and minors recruited as child soldiers, then some one or some people have to be held accountable. Accountability or a rigid penal response is aimed at shifting the burden and harm to the perpetrator. Individual criminal responsibilities for violation of the right to education exist not only to protect the right but also to deter any repetition of violations. The mechanisms to pursue accountability could be national criminal courts and military tribunals, the International Criminal Court (hereafter, The ICC) or national truth commissions. In the International Criminal Tribunal for the former Yugoslavia, three prominent cases were brought up against perpetrators of violence against education amongst them, *Prosecutor V Pavlov Strugar (IT-01-42)* in which the accused was condemned to seven and a half years of imprisonment for wilfully damaging public and private property including educational institutions. In *Prosecutor v Slobodan Milosevic, (IT-02-54)*, charges against the accused included destruction and wilful damage to institutions dedicated to education and using school buildings for torture although proceedings were terminated following Milosevic's death. These instances attest to the seriousness that international criminal law accords to the protection of the RTE of children.

### **2.3. Duty Bearers of the Right to Education**

They include the State and other stakeholders such as schools, teachers and the national human rights institutions.

#### **2.3.1. The State**

Generally speaking, every state is mandated to respect and implement the rights of the child. Article 3 of the CRC accords states with three different obligations; 3(1) the obligation that the child's best interests are appropriately integrated, applied and implemented in every public action, 3(2) the obligation for the administrative and judicial decisions to reflect the child's best interest and 3(3) the obligation institutions responsible for child protection do conform with international standards. On the right to education, Article 13(2) of the ICESCR identifies states as the first duty bearers to oversee its full realisation. The RTE is not only an economic, social and cultural right *per se*. It generates civil and political rights that straddle individual and collective rights which all need State Protection (Tomasevski, 2001). Government obligations to respect parental freedoms of choice or the freedom of non-state actors in promoting education<sup>75</sup> are all civic and political contents of the

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<sup>75</sup> Article 13(3) of ICESCR

right to education. To better illustrate this, we will talk about states' positive and negative obligations towards the protection of human rights.

The separation of negative and positive state obligations mirrors the distinctions made between civic and political rights on one hand and economic, social and cultural rights on the other. In the former case, states have the negative duties to restrain interventions while in the former they have the positive duty to act, for the realisation of rights (Fredman 2006). There are three main angles of viewing state obligations towards providing positive rights. The first one is that human rights are about unjustified state intervention in the enjoyment of liberties and freedoms. This paradigm hovers around the state and duties of refrain that it must exercise for individuals to enjoy certain rights. The second angle is a more pragmatic one. It is approached from the view point that unlike civic and political rights, economic, social and cultural ones imply the use of more resources and therefore claims to these rights are not appropriate in judicial resolutions (Effiom, 2013). However, beyond the issue of resources, courts are not the best means of claiming certain rights and thus arises the need for state institutions that would create awareness, monitor operations and enhance progressive realisation of economic, social and cultural rights (McCrudden, 2005).

The view that human rights means limiting state intervention in order to permit citizens to enjoy more liberties is narrow and restrictive of state obligations as duty bearers. The state also has to act to provide its citizens with freedom from poverty, substantive equality, distributive justice and human dignity (McColgan 2003). The traditional paradigm of human rights does not consider social interactions and collective rights. Thus, disability and gender inequalities which affect individuals are most often not viewed as collective concerns even when violations of their rights are sometimes institutionalised by society. This traditional paradigm on restrain insinuates that the state is a potential threat to freedom rather than an agent to enhance freedoms. As part of enhancing human rights, the State has a fundamental role to play in the fight against poverty and underdevelopment (Pogge, 2002). As Shue (1996) puts it, states have three different but interrelated obligations arising in human rights context: the duty to respect human rights, the duty to protect human rights and the duty to fulfil human rights. The obligation to respect requires that States refrain from intervening through their actions in ways that may infringe on human rights. To protect, states are bound to prevent the commission of actions that may infringe on human rights, by non-state actors. On the other hand, fulfilling human rights requires that states facilitate access to these rights through the use of state power. Whatever the case, it is crucial to underscore that both freedom from state interference and freedom from poverty and deprivation are inextricably intertwined.

When the state parties, through their mandate as prescribed in Article 13(1) of the ICESCR <sup>76</sup> pledge to meet the general and specific objectives of education as prescribed in Article 13(2) of the covenant, then a dynamic process is set in motion which permits violations of the right to education to be easily identified. Violations may be through acts of commission or omission. General Comment No 13 paragraph 59 illustrates how state parties could violate article 13 of the ICESCR;

- i. The first of these being government's failure to address factors which create educational discrimination against any individual or groups.

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<sup>76</sup> In the article, States parties to the ICESCR assume general and specific obligations to promote, protect and fulfil the right to education.

- ii. The failure to maintain an effective and a transparent system to monitor conformity between national policies and Article 13(1) of the covenant
- iii. Violations occur as well where the state fails to create policies that gear towards compulsory and free-for-all primary education and failure to guarantee measures towards progressive realisation of secondary and higher and fundamental education in accordance with Article 13(2)(b)-(d).
- iv. Prohibition of private education or failure to make private institutions to meet with the minimum educational standards required by Article 13 (3) and (4) of the Covenant
- v. The denial of academic freedom of staff and students
- vi. The closure of educational institutions in times of political tension in non-conformity with Article 4 of the ICESCR.

### 2.3.2. National Human Rights Institutions

Although states ratify treaties committing themselves to fully realise human rights including the RTE, there are always observable gaps when it comes to the implementation of provisions contained in these instruments<sup>77</sup>. On several occasions, the UN Economic and Social Council called on governments to establish NHRI's that will accompany them in promoting the respect for human rights.<sup>78</sup> These are independent state bodies created by law, a decree or a constitution dedicated to promoting and protecting human rights. The functions attributed to them and the regions they fare in, determine name these institutions operate under. These could be Civil Rights protector, Human Rights Commission, or Institute, Ombudsman, Public Defender or Parliamentary Advocate.

Between the 7 to 9 October 1991, the first international workshop on national institutions and the promotion and protection was held in Paris. This was the first step towards developing internationally accepted minimum standards on which NHRI's could operate. Subsequent consultations culminated on a set of agreed principles called The Paris Principles<sup>79</sup>. It gives NHRI's quasi-judicial status, a broad mandate, pluralism of membership adequate resources and power and leverage to cooperate with other national institutions and international bodies. To promote and protect human rights, Section 3 of the principle identifies a series of functions:

- To submit to government, parliament and any other body, comments on existing or draft laws and recommendations
- Publicize human rights and Monitor domestic human rights situation with the aim to combat all forms of discrimination
- Monitor and advice state on compliance with international standards and encourage ratification of different human rights instruments
- Assist in the formulation of programmes for the teaching of or research on human rights in schools and professional circles
- To cooperate with the UN and any other organisations in the UN System, regional institutions and any other institutions that are competent in the areas of protection and

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<sup>77</sup> Further information on <https://www.ciel.org/reports/a-human-rights-based-approach-to-climate-change-the-human-rights-based-approach-a-field-of-action-for-human-rights-education-orellana-2012-3/>

<sup>78</sup> The Council in 1946 conceived the idea of national Institutions. Today, there are over 100 NHRI's all over the world

<sup>79</sup> The Paris Principles are international minimum standards for effective, credible NHRIs, adopted by UN general Assembly Res 48/134 of 20 December 1993



promotion of human rights.

Discourse on human rights in Cameroon was perceived as an international affair. It is only after political upheavals in the 1990s<sup>80</sup> that human rights began being considered as a domestic affair thus resulting in the creation of a national human rights commission called the National Commission on Human Rights and Freedoms (hereafter, NCHRF).

### 2.3.3. Other Duty Bearers

Apart from states, other duty holders include, parents, communities and teachers. States can not by themselves fulfil the right to education without the active support and engagement of civil society organisations (hereafter, CSO's). Article 22 of the ICESCR mandates other organs of the United Nations to engage themselves in the process or realisation of ESCR. It is expressly mentioned that:

*“UNESCO, UNDP, UNICEF, ILO, the World Bank, the regional development banks, the IMF and other relevant bodies within the United Nations system should enhance their cooperation for the implementation of the right to education...”* (General Comment No 13, paragraph 60).

The comment enjoins financial institutions to *‘pay attention’* to the RTE in their lending and credit policies as well as in their structural adjustment programmes. The Comments note that the adoption of HRA to development by the different UN agencies will catalyse states' efforts to realise the RTE, especially among economically less developed countries.

It is important to make two caveats. The first one is that of the variety of stakeholders in the implementation of the RTE. While governments are duty bearers bound by international treaties to make education a right enjoyed, following certain standards, NGO's and IGO's traditionally work more in the areas of advocacy and in subtle ways, lending support to their efforts. Increasingly a legitimate question being raised is about the responsibilities of NGO's to make the RTE come to fruition in countries, under international law. Griffin (2013) makes a clarification of human rights NGO's as those whose *“primary self-declared mission is the protection and promotion of international human rights”*. Debates of the 1990s hovered around the degree of responsibility that NGO's bore to protect and promote, following failure of humanitarian NGOs to create positive impact during and after the Rwandan Genocide. Today, questions have moved from that and NGOs though not formally bound by international law are increasingly coming under the radar of the law as to liabilities they should incur for failure to prevent violations of rights they are funded to protect<sup>81</sup>. Second caveat is the importance of understanding the nature of Cameroon's political regime as well as the cultural and institutional frameworks so as to know how the HRBA would bear on right-holders, duty-bearers and supporting actors. This second caveat is an eyebrow raiser on the grip that the constitution of the republic accords the executive over the judiciary and the legislative arms of

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<sup>80</sup> Advent of multiparty politics in Cameroon with first multiparty presidential and legislative elections held in 1992

<sup>81</sup> Expert Council on NGO law, third Annual Report, January 2011 OING Conf/Exp (2011)1 on the sanctions and liabilities in Respect of NGOs

Cameroon and how justiciable the right to education is. In what follows, we will explain the present socio-political context under which we propose a right based approach to education

Away from states and CSO's, parents too have stakes in the fulfillment of educating children in a right-based manner. The burden that these different stakeholders bear is asymmetrical. States bear the main responsibility and until they provide schools and the economic environment to support attendance, the parents can not prepare the children to attend school (UNESCO/UNICEF, 2007). Though parents are partially responsible to create access to education, they themselves also have a right to education. The CRC highlights the details of parenting in early childhood education. Article 5 of the CRC says that parents are expected to give children the guidance and direction needed for the exercise of their rights (including the right to education) in an environment that is convivial and based on respect and understanding. The Committee of the CRC invites state parties to the convention to assist parents in planning for early child education in two respects; firstly, as per Article 18(2) of the CRC, which refers to the provision of state assistance in child-upbringing, state parties shall take appropriate measures to enhance the understanding of parents on early childhood education of their children<sup>82</sup>. Secondly, in planning early childhood, state parties at all times shall aim to make available programmes that will compliment parents' role, including cooperation between parents and other stakeholders in developing "*the child's personality, talents and mental and physical abilities to their fullest potential*"<sup>83</sup>. It often is difficult for parents to accompany the state in the provision of education for children if parents themselves are not educated. An important latitude of the rights-based approach to education is the provision of adult education through community learning centres and constant capacity building sessions for parents by local authorities and national governments.

UNESCO's release on the right to education and the teaching profession<sup>84</sup> gives an overview of measures supporting rights, the status and working conditions of teachers but its overall aim was to use it as a practical tool for advocacy and monitoring<sup>85</sup>. Schools have a key role in translating policies within the day to day practices. They are mandated with establishing practical measures of inclusion. Schools should be non-discriminatory be it as to gender, ethnic origin or abilities. The main goal should be equality among all the learners and it is for the school to let parents, teachers and learners know how to table complaints if there is a violation of a right. Schools need to establish measures that promote respect for the environment. In collaboration with other stakeholders, teachers are expected to promote a non-violent approach to conflict resolutions in the school milieu. Providing inclusive education is entrusted to the school administration for implementation. Some classes for example may need to be accommodated on lower floors to serve wheelchair users. Teaching students about their rights requires that they know what their responsibilities are. As a practical example, while a child has the right to be listened to, he or she has the duty to listen to others as well. Learning can take place only in an environment in which mutual respect for persons, religions and cultures are upheld.

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<sup>82</sup> General Comment No 11 of the CRC 29(a)

<sup>83</sup> Article 29(1)(a) of the CRC

<sup>84</sup> UNESCO document published in 2015 on the rights to education and the teaching profession Document NoED.2015/WS/28[http://unesdoc.unesco.org/in/rest/annotationSVC/DownloadWatermarkedAttachment/attach\\_imp\\_or\\_0b4eca68-7ccd-458a-ad1e-5d6d77a15da5?\\_=234820eng.pdf&to=149&from=1](http://unesdoc.unesco.org/in/rest/annotationSVC/DownloadWatermarkedAttachment/attach_imp_or_0b4eca68-7ccd-458a-ad1e-5d6d77a15da5?_=234820eng.pdf&to=149&from=1) (accessed on 17 June 2020)

<sup>85</sup> Ibid p 8

Children live with their families in communities that have come to bear duties of education since their values, cultures and environments have a significant impact on the day-to-day life of the child. In collaboration with other educational stakeholders, community leaders such as traditional rulers, mayors and local administrative authorities have the duty to promote awareness on education and encourage the initiative of ‘education for all’. It is for members of the communities to identify the barriers and gaps that exist in the realisation of the RTE and actions that can be taken to bridge these gaps. Local communities may take actions such as raising awareness on the right to education, promoting education of the girl-child, listening to children and engaging them in the learning process or even providing scholarships for less privilege children. In certain communities, locals take upon themselves to improve on access to schools or upgrade school facilities. This is done through financial contributions, local fund-raising operations, support for community-based curricula or in joining the administrative armature of schools. When the community is involved, education is taken as a priority by all and sundry and its value is protected for all children.

The above chapter explored the contours of human rights, using specific aspects of the international laws that protect the RTE of children. The chapter discussed the themes in a general way, not alluding to the situation of Cameroon in particular. However, the spirit behind it was animated by the particular challenges that the state of Cameroon is facing when it comes to protecting the RTE. The subsequent chapter will be the national laws and policies on the right to education and how enforceable these laws are, in the court of law.

## CHAPTER THREE

### THE RIGHT TO EDUCATION IN CAMEROON

When an issue is justiciable, it means it has “*the ability to claim remedy before an independent and impartial body when the violation of a right has occurred or is likely to occur*” (International Commission of Jurists, 2008). This part of our work presents facts to show that the RTE in Cameroon is justiciable although in practice, this hardly happens. But before this legal analysis, we will take a short look at how educational laws and policies have evolved in Cameroon since 1884, when Cameroon was colonised by the Germans and what this meant from the lens of a human rights-based approach

#### *3.1. Brief Evolution of Educational System*

The first part of this chapter traces the origin of formal education in the country. It shows how evangelization and imperialism influenced the development, structure and content of the educational policies as we have them today.

##### **3.1.1. Education under the Germans (1886 - 1916)**

On 12 July 1884, Kings Akwa and Bell signed the Germano-Douala Treaty with the German merchants Eduard Schmidt and Johannes Voss who represented the Woermann, and Jantzen and Thormanlhem Firms respectively. Following the signing of this treaty, the Douala kings abandoned their rights to sovereignty, legislation and the administration of their territories to the above-mentioned firms making Cameroon, a German Protectorate (Fanso, 1975). The Germans then proceeded with imposing their rule on all sectors in the society including that of education. A few years after the territory became a German protectorate, an educational system was set up geared towards attaining certain objectives. The objectives of the German educational policy were to expand German colonial authority in the territory with the use of missionary influence and to spread of the German language. (Eyongetah and Brian 1974)

The conference in 1907 presided over by Governor Seitz<sup>86</sup> marked the beginning of the actual concern of German education in Kamerun (Gwanfogbe, 1995). The resolutions were carried in an Education Ordinance of 25 April, 1910. Section II stipulated that apart from German, no other language was to be used as the language of instruction in schools. They created school curricula for the missionary schools, providing these schools with subventions<sup>87</sup> (Ngoh, 1987). However, Section III of the law stipulated that a native language, called Duala<sup>88</sup> could be used as a means of instruction in some specific localities such as Rio del Ray, Victoria, Edea, Buea and Yabassi. The Germans viewed this article as a barrier to attaining their goal of *germanizing* the population and so

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<sup>86</sup> Governor of Kamerun from 1907-1910

<sup>87</sup> Initial subsidy for the missionary schools amounted to 20,000 marks a year and was increased as years went by

<sup>88</sup> Douala the population settlement is not to be confused with Duala, the local language used in the area.

decided to limit the development of the Duala Language<sup>89</sup> into a full blown one, usable as a language of instruction in schools.

In public schools, the percentage of girl-child attendance was never more than twenty. Out of the twenty two thousand, one hundred and fifty-one students in mission schools between 1909-1910, there were two thousand six hundred and twenty-eight girls, which placed the rate of women in private education at 10.2 percent. The low female enrolment was a result of the local cultural dynamics. Most girls were given out in marriage at very early ages and parents just did not see the worth of sending their girl-children to school. Technical education was also an aspect that was high on the agenda during the German colonial era. In 1910, a school for agriculture was opened up in Victoria and a technical school was as well created in Buea under the sponsorship of the German government. Missionary schools provided vocational training. (Mveng, 1984). The Germans faced a lot of physical and cultural barriers in implementing their educational policy in Kamerun. They however had to leave when their colonial ambitions were halted with the out break of the First World War in 1914.

### 3.1.2. Education under the French (1916 – 1960)

Following Article 22(5) of the Covenant League of Nations Cameroon was categorised as a Mandate B territory<sup>90</sup>. Between 1914 and 1916, the territory was jointly administered by the British and the French as a Condominium<sup>91</sup> and later on was divided between Britain and France. Both powers declared their intention to be responsible for "...the promotion of the material and moral wellbeing and the social progress of their inhabitants" (Fanso, 1989). After World War II, both European powers continued administering the territory as a trusteeship territory under the United Nations Organisation. The French colonial policy was that of Assimilation<sup>92</sup> in Cameroon and this favoured a tight and centralised administration. In 1903, the governor-general for French West Africa had explained the twofold objectives of French education in Africa; Train elites who were to become auxiliaries of the administration in every area and educating the masses thereby assimilating them into the French way of life.

The first major policy statement on education was the *Arrêté* of 1 October 1920<sup>93</sup> regulating mission schools. It created space for individuals to open schools on condition that they received official authorisation. The second important regulation was the *Arrêté* of 25 July 1921 organising government schools. It treated different aspects of public education and classified government schools into three types: *Ecole du Village* (Village Schools) located in villages, offering four-year courses. Only pupils below twelve years of age were admitted. *The Ecole Regionale* (Regional School) was located in the administrative headquarters. Admission was selective, prioritizing children in the headquarters who usually were children of government workers, traditional rulers and business people. From 1927, vocational schools were established in regional schools. In 1921,

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<sup>89</sup> Then, one of the most widely spoken native languages in the coastal areas of the territory

<sup>90</sup> Legal status of territories transferred from vanquished to victor powers during World War I

<sup>91</sup> In April 20 1946, the League of Nations ceased operations and was replaced by the UNO

<sup>92</sup> Assimilation was one of France's colonial policy in which they took upon themselves to 'civilize' its colonies by absorbing them administratively and culturally.

<sup>93</sup> NAY, Official Journal 1920

the *Ecole Supérieure de Yaounde* (Yaounde Higher School) was established. It was the highest institution of learning during the inter-war period. Beside disequilibrium in the training between boys and girls, government policy created regional imbalances. Majority of the schools were in the Southern parts of the country while the northern parts lagged behind. In general, most pupils limited their education to the primary level. Even the League of Nations failed to guide educational development as was required by the terms of the mandate (Rubin 1971). Education was provided discriminatorily and it was an affair for the children of the elite class.

### 3.1.3. Education under the British (1916-1961)

British educational policy was Adaptationist<sup>94</sup> in which education policies were implemented indirectly through Missionary Societies and Native Authorities. Based on the recommendations of the Phelps-Stokes Commission<sup>95</sup> and the British Advisory Committee on Education in British Tropical Dependencies, a memorandum of education was published in 1925 spelling out the education policy in British Tropical Africa. This policy seemingly favoured a system of adapting education to the local context. As time passed, the educated class of Africans felt that the adaptationist policy aimed at maintaining Africans in their perceived primitiveness. With pressure, local boards of education were set up. Members were made up of representatives of the government in the area, the Native Authority concerned and members of the area branch of the Nigerian Union of Teachers (Nforgwei, 1975).

The Richards Constitution of 1946<sup>96</sup> re-structured Nigeria administratively and the British Southern Cameroon fell under the Eastern Region of Nigeria. It was then divided into Bamenda and Cameroon Provinces. A Provincial Board and a Chief Education Officer were established at Buea for the two provinces with each province having an education officer. Neither did the Richard's nor the Macpherson's Constitution of 1951 give British Southern Cameroons full autonomy over educational matters. After World War II, following subsequent constitutional changes, and after educational policy revision in 1952 and 1954, the British government's objective in policy changed.

The adaptation policy aimed at bringing basic primary education within the reach of every child, although school fees were mandatory. It aimed at making secondary, post-primary vocational training and higher education serve in the interest of the economic and social development of the country. From 1953 to 1959 female enrolment grew from six thousand seven hundred and eighty-nine to 15,834 while male enrolment increased from 27,189 to forty eight thousand two hundred and forty-two. In comparative terms, education was more developed in French Cameroon than it was in British Cameroon (Ndile 2018).

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<sup>94</sup> Advisory Committee on Education in Colonies, Memorandum on the Education of African Colonies 1925 p.4

<sup>95</sup> A missionary inspired commission set up to study educational needs of Black Africans and making recommendations for improving access and quality

<sup>96</sup> Richard Constitution of 1946 aimed at promoting unity in Nigeria and ensure greater participation of natives



### 3.2. Legal Framework and Justiciability

In 1962 the Federal Republic of Cameroon acceded the UNESCO Convention and created a National Commission for UNESCO which focused mostly on the harmonisation of the educational systems of the two states of Cameroon. This was a challenge. The final outcome was that the Federal Republic of Cameroon adopted an educational policy with two sub-systems; The Anglophone Sub-System which was practiced in the former British sphere of Cameroon and the Francophone Sub-System which was adopted in the Former French sphere. As time went by and the Federal Republic of Cameroon ratified international conventions, another challenge that sprung up was that of adapting national laws to meet international obligations and making them justiciable in the local courts. The Federal government developed Harmonisation, Bilingualism and Ruralisation as basis of its national education policy (Ndile, 2018). Harmonisation aimed at establishing a synchronised system as strategy to strengthen the capacity of educational institutions to meet the exigencies of the new state. Law No. 63/COE/13 of 19 June 1963 of the federal government, complimenting No. 64/CE/II of 26 June 1964 took measures to unify the educational systems in East and West Cameroon. The law organised secondary and technical schools, dividing them into junior and senior levels (UNESCO, 2018). As was reiterated in a joint UNICEF-UNESCO publication on '*A Human Rights Based Approach to Education for All*' in September 2007, the current thinking and practice in the education sector are presented along with a framework for rights-based policy and programme development. This too is true for the partnership with Cameroon in which a major breakthrough is sought from a 'rights to education rhetoric' to accelerated interventions for attaining Education for All (EFA) and the Sustainable Development Goals 4.

#### 3.2.1. Laws Guiding Education

As concerns legislation, the 18 January 1996 Constitution in its Preamble, firmly attaches the State's commitment towards the protection of human rights and particularly, the right to education stating that "*the state shall guarantee the child's right to education*". It affirms the state's attachment towards protecting the freedoms enshrined in the Universal Declaration of Human Rights. Article 45 of the Constitution states that "*duly approved or ratified treaties and international agreements shall override national laws...*" This means, the Charter of the United Nations and the African Charter on Human and People's Rights, the ICESCR, the CRC and all duly ratified international conventions related to the RTE,<sup>97</sup> apply to Cameroon when it comes to implementing policies or protecting children's right to education. In express terms, the state guarantees the child's RTE as well as other rights that directly impact the peaceful enjoyment of it. The state pledges to do this without distinction of gender, political opinion, philosophy, or religious persuasion and of religious, social or geographical origin<sup>98</sup>. The government actions in the educational sector are determined by

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<sup>97</sup>Natural Rights as ruled out in the constitution are those not dependent on law such as treatment of persons without distinction as to right to life race, religion, sex or belief while legal rights are those prescribed and protected by law

<sup>98</sup>Article 6 of Law No 98/004 of 14 April 1998 on guidelines for education in Cameroon

laws which themselves ought to be inspired by conventions and declarations amongst others. These laws ought to be justiciable.

The Law on the Orientation of Education in Cameroon Law N° 98/004 of 14 April 1998, is the parent hard law on education, vocational guidance and training. It applies to the nursery, primary, secondary and high school levels in the general and technical sections. Being a national law, its application covers both the Anglophone and the Francophone Sub-Systems. The law has five sections. Section I deals with General dispositions. It refers to education as a national priority, confirming the bilingual nature of education in the country. Article 4 spells out the general mission of education “...*the intellectual, physical, civic and moral bloom of the child and his or her harmonious insertion into society taking into account economic, socio-cultural, political and moral factors.*” Worthy of note among the nine objectives of education that the law establishes is:

*“To initiate the child in the culture and the practice of democracy, the respect for human rights and liberties, justice and tolerance, in the fight against all forms of discrimination, for the love of peace and dialogue, for civic responsibility and the of regional and sub-regional integration.”* Article 5(5)

The law clearly states that the education of the child is assured by the state of Cameroon which ought to provide guarantees on equality of access to education; irrespective of sex, political opinion, philosophies and religions, social, cultural, geographical and linguistic origins. Article 9 states that ‘*Primary Education is Obligatory*’. Section II of the law contains three articles that talk about the elaboration and implementation of policies and the financing of Education in the country. The third section<sup>99</sup> is divided into two chapters with the first touching on the organisation of the educational system. Noteworthy here is Article 15(1) that divides national educational system into two sub-systems: the Anglophone Sub-system and the Francophone Sub-system, a reflection of the national option of bi-culturalism. The second chapter of this section lays down substantive provisions on evaluations in the educational system<sup>100</sup> by the state and on research on education matters. Section IV talks about the education community, which it defines as the sum total of all those physical and moral persons who participate in the functioning, development and performance of schools<sup>101</sup>. Chapter II of this section focuses on students within the school environment. Article 35 calls to attention, non-discrimination and protection of the physical and moral integrity of the student and protection from corporal punishment, or any other forms of violence. The last section proposes the final and transitional dispositions if the law, promising the progressive implementation of the provisions of the law. Another, Law n° 005 of 16th April, 2001, gives orientation to higher education in Cameroon. It sets forth grounds for the organisation, financing, and control of higher education in the public and private sectors. A third relevant legislation is Law n° 2004/022 of 22<sup>nd</sup> July 2004 which contains the regulation on the organization and functioning of private education in Cameroon. The law has generated a fundamental reform of private education in the nursery, primary, secondary and post-secondary levels, both in the general and technical fields. Among other regulations that are related to education, the following can be cited:

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<sup>99</sup>Articles 14 to 31 of the 1998 Education Law

<sup>100</sup> Ibid. Article 30

<sup>101</sup> Ibid. Article 32



- a) The Decree of 5th December 2000 on the status of teachers.
- b) The Presidential Decree of 19<sup>th</sup> of February 2001 that organises public and private school establishments and that determines the responsibilities of the educational administration.
- c) The Decree n° 20041340 of the 8th of December 2004 that divides the Ministry of Education into two departments; one minister for Basic Education and another for Secondary Education.
- d) The Order n° 201/PM of the 8th November, 2007 that establishes how the program “Education for All” should be executed in Cameroon. The principal objective is to implement the program as it is defined in the Dakar Framework for Action which emerged from the World Education Forum held in 2000.

These different national laws aim at ensuring and enforcing the state obligations towards realising the child’s RTE in the country. They regulate the educational sector, define the roles of stakeholders, and create national institutions to regulate this sector and to promote the right to education. About 22.2 percent of Cameroonians under twenty years live with one or more disabilities<sup>102</sup>. As of right they have to go to school. The government of Cameroon has thus embarked on a series of measures to create access to education for persons with disabilities such as the establishment of Rehabilitation Institute for the Blind in Buea (founded in 1988), the Rehabilitation Centre for Deaf Children and the Rehabilitation of Persons with disabilities in Yaounde. However, this poses a problem because the creation of these establishments is in contrast to interpretation<sup>103</sup> of the provisions on Article 11 of the African Convention on the Rights and Welfare of the Child (hereafter ACRWC) which recommends that children with disabilities should not be separated from other children or from their parents. This is a random illustration of the fact that human rights provisions need to be transposed in national laws. Another salient problem is that of justiciability of the existing laws that prescribe RTE.

### **3.2.2. Bases for the Justiciability of the Right to Education in Cameroon**

There are two clusters of legislatures that more or less make the right to education justiciable in Cameroon. The first is the national Constitution of Cameroon, which also make international obligations to be justiciable and the second are the group of laws on educational.

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<sup>102</sup> See more on [https://www.researchgate.net/figure/Demographic-characteristics-of-participants\\_tbl1\\_302978914](https://www.researchgate.net/figure/Demographic-characteristics-of-participants_tbl1_302978914) (Accessed 29 May 2020)

<sup>103</sup> Concept Note, RTE Initiative, 2018 read more on <https://www.right-to-education.org/news/unesco-publishes-concept-note-world-teachers-day-2018> (accessed 9 August 2020)

### 3.2.3. The Constitution and Justiciability

A portion of the Preamble of the Constitution of Cameroon states that “*The state shall guarantee the child’s right to education. Primary education shall be compulsory. The organisation and supervision of the education shall be the bounded duty of the state*”. The Child’s right to education is affirmed in this provision. The state of Cameroon must take all necessary measures to meet its obligations towards securing education for every child. However, the Preamble expressly mentions only the right to primary education, leaving the right to education at other levels, unattended to. Article 45 of the constitution prescribes that all international treaties duly ratified and published, shall over ride national laws in Cameroon. This implies that being a member to the ICESCR, the CRC and other international instruments that protect children’s RTE, the state of Cameroon has the positive duty to fulfil this right, not only to primary education but the right to secondary, TVE or higher education. According to this article, any treaty that the state of Cameroon accedes to becomes self-executory and so no additional procedure is required for its implementation (Denza, 2006). Therefore, provisions of all the international human rights treaties that protect the right to education, duly ratified by Cameroon are directly applicable and self-executing in the Cameroon domestic laws. This makes them justiciable. The Cameroonian Supreme Court<sup>104</sup> however, does not give equal weight to the Preamble of the Constitution emphasising that it contains mere principles that provide guidance and therefore its provisions are not justiciable (Atangcho, 2016). Mindful of Article 65 of the Constitution of Cameroon stating that the “*Preamble is part and parcel of the constitution*”, all provisions in the constitution, including the preamble, ought to be justiciable.

### 3.2.4. Education Laws and Justiciability

The preamble of the constitution of Cameroon makes pledges on the state’s willingness to uphold human rights standards in the country including the right to education. The main law guiding education of children in Cameroon, as previously mentioned, is Law N° 98/004 of 14 April 1998. Other complementary laws are; Law n° 005 of 16th April, 2001 that gives orientation to higher education in Cameroon. It sets forth grounds for the organisation, financing, and control of higher education in the public and private sectors. A third relevant legislation is the Law n° 2004/022 of 22<sup>nd</sup> July 2004 which contains the regulation on the organization and functioning of private education in Cameroon. The law has generated a fundamental reform of private education in the nursery, primary, secondary and post secondary levels, both in the general and technical fields.

The mere fact that these laws were enacted by parliament makes them justiciable. A further point of concern is whether national laws on education contain elements of the minimum standards that international instruments protecting the right to education and which Cameroon is a party to, prescribe. Article 26(2) of the UN Declaration of Human Rights (hereafter referred to as UNDHR) gives everyone the RTE, stating that education shall be free at least in the elementary and fundamental stages. Article 13(2)(a) of the ICESCR in parallel says “*primary education shall be compulsory and available free for all*”. Article 9 of the 1998 law in Cameroon merely states that

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<sup>104</sup> Law No 96/06 of 18 January 1996 creating the Constitutional Council which was eventually put in place on 7/02/2018 to replace the Supreme Court as the highest court of the Land

*“Primary education is compulsory”*. It completely misses out on its availability and free of charges borne by the learners or their parents. This provision in the national law falls short of completing the 4-A framework on education which we earlier discussed in Chapter Two.

General Comment No 13 of the ICESCR uses the 4-A framework of availability, adaptability, accessibility and acceptability to interpret provisions of article 13(2) that prescribes state responsibility towards providing education for all at all levels. While the 1998 Education law does not include higher education, its Article 6 puts it simply that *“the state ensures the education of the child”*, without mentioning *“how”* this is supposed to be done. This provision creates a void in interpretation of the non-discriminatory sense and motive that the RTE conveys. However, Article 7 of the 1998 Law mentions *“access”* alone on the guarantees that the state offers towards making education non-discriminatory. Law n° 005 of 16th April, 2001 that organises higher education in Cameroon on the other hand does not make mention of any of the 4-A framework on education and does not make mention of the word *“non-discrimination”* in its entire 54 articles. Article 19(2) of the law provides that one of the sources of state financing for universities shall be *“university registration fees paid by students”*. The state of affairs at this level does not at all reflect provisions made by Article 14 of the ICESCR in which states are asked to work out a detailed plan for *“...progressive implementation within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all”*, at all levels. As a general comment, though there are some lapses in transposing provisions of international treaties into national laws, the right to education is well established in this cluster and it is justiciable.

### **3.3. Difficulties in Justiciability**

Currently, there are serious violations of the RTE in the Far North Region and in the North west and South West Regions of Cameroon. It is practice that whenever rights are violated there must be a dispassionate institution ready to entertain complaints in a manner provided by law. However, there are a number of hurdles encountered by individuals or groups of individuals seeking to claim their RTE in court, including the silence of the Law as to remedies in case of violations of the RTE, the interference between judicial and executive powers, the inability of the National Commission on Human Rights and Freedoms (hereafter known as NCHRF) to push for justice in case of violations.

#### **3.3.1. Silence of the Law in Case of Violations**

The Constitution of Cameroon is silent as to remedies in case of violations of RTE. The country has been reticent in enacting needed measures that would enforce the respect for human rights, in general. Tomasevski,<sup>105</sup> in the report rightfully observed that Cameroonian laws avoided the use of human rights terminologies like *“equality in access to education”*. Earlier on, the ESCR Committee had raised concerns as to the legal status of the covenant viz Cameroon’s legal system<sup>106</sup>. The committee regretted that Cameroon had not been able to make its position clear as to the

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<sup>105</sup> Tomasevski, on a preliminary report of the Special Rapporteur on the Right to Education, see 56, supra, pages 192-193.

<sup>106</sup> During the 1998 examination of Cameroon’s report to the committee

justiciability of ESCR within the Cameroon legal armature.<sup>107</sup> This long-standing remark had much earlier drawn a remark from Chofor (2008) who had stated that “*Cameroon should clearly and unequivocally integrate socio-economic and political rights in its Constitution, as well as adopt definite measures for their enforcement by state organs.*”

### 3.3.2. Intertwine Between Executive and Judiciary Powers

The constitution of Cameroon gives the executive lording powers over the judiciary. The president of the republic is the guarantor of the independence of judicial power<sup>108</sup> and shall be assisted in this task by the Higher Judicial Council which “*shall give him its opinion...*”. This grip on members of the bench and the legal department whom he appoints does not make it any easy for the courts to hold the state whose head is the president, liable for violations of human rights. Article 51(2) gives the president the power to appoint the 11 judges of the Constitutional Council, the highest judicial instance of the republic, for a non-renewable term of nine years. This nine-year term ensures the independence of the judiciary (Abanda, 1998). But according to Fombad (1998), Cameroon’s “*... Constitutional Council is an obsolete and discredited body that is likely to remain under the control of the President of the Republic.*” With this observation that the justiciability of the RTE is hindered by the powerful presence of the executive on the judiciary arm of government in Cameroon we will proceed to the next hinderance which is the ineffectiveness of the NCHRL to push for justiciability of the right to education in the country.

### 3.3.3. The National Commission on Human Rights and Freedoms, a Toothless Bulldog

The human rights commission in Cameroon is known as the National Commission on Human Rights and Freedoms (hereafter known as NCHRF). It was created by parliament in 2004 by Law No. 2004/016 of 22 July 2004. Its role to promote and protect human rights is acknowledged in article 1(2) of its enabling status<sup>109</sup>. A general misguiding conception is that civic and political rights are more important and that the NCHRF ought to focus on the protection of these particular ones. This creates considerable neglect of ESCR, protected by regional and international instruments duly ratified Cameroon (Effiom 2013).

In order to reinforce the possibility of claims on ESCR, the government shall amongst others, empower NCHRF with a “*quasi-jurisdictional competence*”<sup>110</sup> so that it can hear complaints and petitions from individuals or their representatives or any other stakeholders in the sector. This far, the mandate is limited only to reporting, promoting and making recommendations to government, parliament or any other competent bodies on matters of human rights<sup>111</sup>. In addition, the commission owes no accountability to the parliament. The president and the vice-president of the commission are appointed by the president of the republic with the executive, controlling its

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<sup>107</sup> Concluding Observations of the CESCR, see 2 supra, paragraph 6

<sup>108</sup> Article 37(3)

<sup>109</sup> Article 1(2) stipulates that the Commission is an independent body charged with the promotion, evaluation and protection of human rights in Cameroon

<sup>110</sup> A prescription from the Paris Principles

<sup>111</sup> Article 7 of Law No. 2004/016 of 22 July 2004 that created the NCHRL

resources<sup>112</sup>. The question is how to capacitate the commission to become amenable to just claims being made for the advancement of the right to education which in itself is a right and a generator of other human rights.

Having seen amongst other things laws that protect the right to education and to what limits these laws are enforceable in the court of law, we will like to close the chapter with a fundamental question in mind; whether away from justiciability, the child's RTE can not be achieved by fully implementing provisions of regional and international human rights instruments and taking into recommendation proposals for their progressive realisation.

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<sup>112</sup> The Commission is funded as a part of the state budget and from donations from both local and international partners; see Art. 20 of law No. 2004/016 of 22 July 2004.

## CHAPTER FOUR

### REALISING CHILDREN'S RIGHT TO EDUCATION USING THE HUMAN RIGHTS-BASED APPROACH

Cameroon has a total population of over twenty-six million<sup>113</sup> with young people represent more than fifty percent<sup>114</sup> of this. The median age population (fourteen to twenty-five) is 18.7<sup>115</sup> years and the country have an annual population growth of 2.9 percent<sup>116</sup>. There is therefore, an ever-increasing demand for education. Basic, secondary and higher education have separate government ministerial departments in charge of their affairs. There is a fourth ministry on education which is more preoccupied with physical education. This last chapter aims at highlighting the state's efforts towards achieving goals of education in a rights-based manner. It assesses and analyses children's claims to the RTE as is imbued in Cameroon's national laws and in state obligations viz their partisanship to international instruments that protect these rights. The chapter identifies the causes stagnation as to the realisation of these rights in Cameroon. Three main aspects will be dwelled on; the right to access to education, the right to quality education and finally, the right to respect for the learning environment.

#### 4.1. Realising Access

The right to access to education is regulated by three elements which are; providing educational services at all stages of childhood consistent with education for all goals, creating sufficient learning opportunities and providing equal opportunity for all children to attend school (UNESCO/UNICEF, 2007). Article 7 of the 1998 Education Law bears the state's duty in providing; *"equal chances of access to education without discrimination as to sex, political opinion, philosophy and religion, social, cultural, geographic or linguistic origin."* One of government's objective is to *"...increase access to education to all children of school age and to maintain them in the system till the end of the cycle..."* with emphasis on reinforcing education of boys and girls in *"priority education zones."*<sup>117</sup> (Presidency of the Republic of Cameroon (hereafter PRC) Report, 2005). To make education accessible, the state focuses at encouraging the training of children and getting them complete primary schools, increasing access to secondary education and professional training and significantly reducing dropouts in secondary and higher education levels.

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<sup>113</sup> The World Bank Report 2020 mid-year estimates obtained from various sources, Retrieved 23 June 2020 from <https://data.worldbank.org/country/CM>

<sup>114</sup> *Ibid*, page 2

<sup>115</sup> *Ibid*, page 2

<sup>116</sup> *Ibid*, page 3

<sup>117</sup> The priority zones mentioned are the three northern-most administrative zones, one of which is suffering from Boko Haram incursions and the two Anglophone regions both plunged in armed conflict. It is noteworthy that this document was produced before either of the crisis began in Cameroon.



#### 4.1.1. For the Girl-child.

Cameroon has steadily earned global plaudits for its incessant efforts to make the right to education at primary level, a right enjoyed by every child. Total youth literacy rate is 85.8 percent. Even though the country is this committed, for the girl-child the reality is different. According to the World Bank<sup>118</sup>, 87.72 percent of young males and 82.41 percent of young females in Cameroon are literates. However, the devil is in the details. The northern parts of the country present high figures of girl-child illiteracy. One million girls between six to nineteen years of age representing 31.9 percent of the female population are illiterate<sup>119</sup> to mean they are unable “... to read easily or to read with difficulty, a letter of a newspaper.”<sup>120</sup>

Gender disparities between boys and girls are caused firstly by traditions and customs. In Cameroon, eleven percent of adult women get married before fifteen years of age. In the Far North Region, the percentage is twenty-four (Humanium, 2017). The situation of the girl-child in the Muslim-dominated north and in polygamy-friendly communities of Cameroon is even more preoccupying because of deeply rooted customs that create discriminations against the girl-child. Public perception that education is not economically beneficial creates disadvantages for girls' sponsorship in schools, where parents and guardians prefer marrying them off, to sending them to school. When girls get pregnant while in school, their parents interpret this as a wish to discontinue school even if this was not the case and they withdraw support. This accounts for 23.4 percent of school drop-outs (Mutia, 2013.) In a number of identified cases, parents think it is sufficient for the girl-child to know how to read and write. Still in others, society thinks that an educated girl sooner becomes arrogant and disobedient towards a would-be husband (Humanium, 2017). Even when enrolled in schools, the girl-child faces certain obstacles. She faces discriminations emanating from teaching practices, and harassments from teachers particularly physical education instructors. There also sometimes is inadequate support from home. Parents are usually less concerned about the academic performance of the girl-child. Follow up is less and they are prone to being assigned more domestic chores which gives them less time to study. However, several studies show that educated girls can contribute more effectively in their family welfare (Nguimfack and Nguekeu, 2016). Applying the HRBA to child education is the best possible way to address under-scolarisation of the girl-child.

The CESCR<sup>121</sup> notes that although the provisions of Article 10 of the ICESCR were protected as well by Cameroonian law, young girls still suffer from child labour, early marriages and receive neither healthcare nor financial support from the state for needs specific to their gender. The Civil Society Report to the HRC in October 2017 notes that twenty percent of Cameroonian girls between fifteen to nineteen years are already married. Twenty five percent of registered maternal deaths are of girls of that same age bracket and that four teenage girls died every day due to health neglect.

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<sup>118</sup> The World Bank's collection of development indicators for 2019, See more in <https://tradingeconomics.com/cameroon/primary-school-starting-age-years-wb-data.html> (accessed 23 June 2020)

<sup>119</sup> UNESCO institute of Statistics, 2016, Cameroon's page on <http://data.uis.unesco.org/Index.aspx?queryid=172> (accessed 8 August 2020)

<sup>120</sup> Ibid, on Cameroon, page 2

<sup>121</sup> See Concluding observations of CESCR, 2 supra, paragraph 46

Under international law, Cameroon is supposed to give girls equal treatment as boys but even so, specific protection for them to enjoy equal to access education<sup>122</sup>. *In Seyma Turkan V Turkey, (2013)*<sup>123</sup>, a girl was refused admission into a university on grounds that she did not wearing the hijab. The Committee of the ICCPR decided that based on the principles of equal treatment between boys and girls, the state of Turkey had failed to protect the plaintiff from discrimination. Article 10 of the Convention on the Elimination of All forms of Discrimination Against Women, 1979 (hereafter, CEDAW) which Cameroon ratified in 26 August 1994 enumerates a few appropriate measures that states ought to take to reduce the gap observed between the boy and the girl in relation to access to education. The article stipulates *inter alia* that there should be same opportunities to benefit from scholarships and other study grants, to access to programmes of continuing education and even specifies that there should be specific educational information on health and family wellbeing to break ignorance and stereotypical ideas. Article 6(b) of the Maputo Protocol fixes the minimum age of marriage for women at 18years and Article 12(2)(c) enjoins states to promote the enrolment and retention of girls in schools.

#### 4.1.2. For Children with Disabilities

In addition to the generic protection against discrimination offered by the constitution and the 1998 Educational Law, Law N°2010/002 was voted by parliament in April 13, 2010 to “*protect and promote persons with disabilities.*<sup>124</sup>” Section 2 of the law defines ‘disabilities’ as “*limitations of opportunities of a person with impairment to fully take part in the activities of an environment*”. This definition falls short of meeting up with international standards because it sees disability only as impairments and does not take into account environmental constrains which could restrict certain persons from carrying out normal activities. As to this, General Comment No 4, 4(a) states that “*the failure to understand or implement the human right model of disability, according to which barriers within the community and society rather than personal impairments, exclude persons with disabilities*<sup>125</sup>.” This short-sightedness as to the meaning of disability is the first cause of impediment of access to education that persons and *de facto*, children with disabilities face. Cameroon signed the International Convention on the Rights of Persons with Disabilities (hereafter, CRPD) on 1<sup>st</sup> October 2008 and the next year, the government upgraded an institution, in Yaounde, for disabled persons to a public administrative establishment<sup>126</sup>. Ever since then, the state has been creating institutions for persons with disabilities in towns like Buea and Maroua and thereby isolating children with disabilities from other children. The short-sightedness on matters of disabilities can partly be explained in the fact that though the country has signed the CRPD, it has not yet ratified the convention and so lacks advice and technical support on issues touching

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<sup>122</sup> General Comments 13 paragraph 32 explains how more what equality in access to education for both genders means

<sup>123</sup> Case No (CCPR/C/123/D2274/2013/REV.1 is relevant to this work because in some parts of Cameroon, especially in the north, the girl-child is deprived from school for religious reasons.

<sup>124</sup> Notice the law does not mention the word “right”

<sup>125</sup> See *lulliaa Domina and Max Bendsten V Denmark*, 8.3 CRPD/C/20/D/39/2017 on the Committee of the CRPD’s decision on state’s responsibility to provide reasonable accommodation for persons with disabilities

<sup>126</sup> Decree N°2009/096 of March 15, 2009 an institution hosting persons with disabilities (*it was called Centre d’Handicape*) into a government-run structure called ‘Cardinal Paul Emile LEGER National Rehabilitation Centre for Persons with Disabilities’ in Public Administrative Establishment by

disabilities. However, the committee of the CRC<sup>127</sup> welcomed Article 242 of the amended penal code of Cameroon prohibiting discrimination on the grounds of disabilities.

An estimated three million people<sup>128</sup> live with disabilities in Cameroon (Kindzeka, 2020). On 27 April 2020, hundreds of persons with disabilities organised a public manifestation in Yaounde, the political capital of Cameroon, visiting markets, churches, public buildings reminding people not to further ignore them during the COVID 19 crisis period. They decried their abandonment in institutions and lack of information on readable format on how to avoid contracting the virus. On matters of education, the Committee of the CRC recommends that the state of Cameroon refers itself to General Comments No 9 on the rights of children with disabilities<sup>129</sup>. The committee objects to the institutionalisation of children with disabilities since this does not go in resonance with them fully enjoying their right to education. The committee regrets the lack of measures to properly make education inclusive for children with disabilities. The 2017 Civil Society Report to the HRC reveals very few young Cameroonians possess a Disability Card and even fewer of them are aware of the advantages that these cards provide.

Article 8 on the Right to Life, of the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa obliges states to provide access to services for persons with disabilities. Linking the right to access services with the right to life is perhaps a non-derogatory quality attributed to the former. Article 16 of the protocol provides that measures ought to be taken other persons with disabilities to fully enjoy the right to education. This includes provisions that states shall ensure that children with disabilities enjoy the right to education on equal basis as everyone. The protocol also prescribes "*reasonable accommodation*"<sup>130</sup> as a pathway towards inclusive education. Article 24 of the CRPD then spells out the details on how states can promote inclusive education "*...for persons with disabilities with a view to realise these rights without discrimination and on the basis of equal opportunity...*".

#### 4.1.3. For Children of Minority and Indigenous Groups

The preamble of the Constitution of Cameroon says the state "*...shall ensure the protection of minorities and preserve the right of Indigenous Peoples in accordance with the law*". However, no legal text carried the definition of 'indigenous people' in Cameroon. In *African Commission on Human and Peoples' Rights V Kenya* (app No 006/2012), the African Court on Human and Peoples' Rights, drawing from different sources of law establishes that three factors determined who indigenous people were: *time* with respect to *use of territory* and having a *distinctive social*

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<sup>127</sup> Concluding observation on the third to fifth periodic reports of Cameroon, CRC/C/CMR/CO/35 of 6 July, 2017

<sup>128</sup> For desegregated data on this in the South West Region of Cameroon, see [https://www.researchgate.net/publication/302978914\\_Lives\\_of\\_persons\\_with\\_disabilities\\_in\\_Cameroon\\_after\\_CRPD\\_Voices\\_of\\_persons\\_with\\_disabilities\\_in\\_the\\_Buea\\_Municipality\\_in\\_Cameroon](https://www.researchgate.net/publication/302978914_Lives_of_persons_with_disabilities_in_Cameroon_after_CRPD_Voices_of_persons_with_disabilities_in_the_Buea_Municipality_in_Cameroon) (accessed 10 July 2020)

<sup>129</sup> Ibid, paragraph 38

<sup>130</sup> Article 2 of the CRPD also mentions "reasonable accommodation" which means necessary and appropriate modifications and adjustments to cater for needs of Persons with Disabilities. the article also mentions "Universal design", to mean the design of products, environment, programmes and services to be usable by everyone to the greatest extent possible.

organisation from other groups. Stavenhagen<sup>131</sup> reports that in the African context, indigenous people mean people:

*“with the special attachment to their traditional land whereby their ancestral lands have a fundamental importance for their collective physical and cultural survival as peoples: on an experience of subjugation, marginalisation, dispossession, exclusion or discrimination because these people have distinctive cultures, ways of life, nodes of production than the national hegemonic and dominant model people”*, (Stavenhagen, 1976)

In a 2018 joint submission<sup>132</sup> to the CESCR, the Forest People’s Programme and Association Ogoni, two NGOs working on indigenous rights in Cameroon identify the *Forest People* and the *Mbororos* as the two indigenous peoples of Cameroon. The International Work Group for Indigenous Affairs (2016) spots a third, the *Kirdis*. The hunter-gathering *Forest People*<sup>133</sup> representing 0.4 percent of the total population of Cameroon are made up of the *Bagyeli*, the *Baka* and the *Bedzan* people. The pastoral and non-sedentary *Mbororos* sub-divided into the *Wodaabe*, the *Jafun* and the *Galegi*, make up about twelve percent of the country’s total population. Little is known about the last group, the *Kirdi* mountain communities.

The Convention on the Elimination of Racial discrimination (CERD) raises concerns about the discrimination against and marginalisation of indigenous people in Cameroon<sup>134</sup>. The 2018 Report of the Pre-session Working Group of the CESCR notes certain problems that are specific to access to education for indigenous children in the country. The report notes the drastic long-term effects that lack of access to primary education such as the inability to achieve higher education and work and with adverse consequences on their participation in political life is causing among minority groups. In addition, the report while remarking on the lack of educational services in rural areas, noted the vulnerable situation of children of minority and indigenous communities who were unable to meet up with the unofficial costs of education, given their precarious financial situation. Children from these communities are obliged to study in the official languages and not their native ones thus depriving them from acquiring education in a receivable format. This concern has recently been echoed by the CESCR in the fourth periodic cycle report on Cameroon in 2019, stressing that it is culturally incorrect. On another note, the non-ownership of land by some minorities like the *Mbororos* produces adverse consequences on access to education for children in these communities, since they do not have customary land on which to set up educational infrastructure tailored to the needs of their community. It is also observed that on an average, about sixty percent of births among the minority groups go unregistered yearly. The absence of birth certificates means legal inexistence and this makes it difficult for public authorities to develop human rights-based policies in these areas<sup>135</sup>. All these state neglects are sharply against the human rights principles of equality and non-discrimination, enshrined in all of the human rights mechanisms. And as the Committee of

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<sup>131</sup> A former UN Special Rapporteur on human rights and freedom of indigenous people

<sup>132</sup> Pre-session report on Cameroon submitted to CESCR for the 62nd Session, 3-16, 2018, of the Committee

<sup>133</sup> They are often referred to as *Pygmies* by this appellation is often considered derogatory.

<sup>134</sup> Concluding observation of the committee paragraph 14, CERD/C/CMR/CO/19-21 of 26 September 2014

<sup>135</sup> Ibid 132, para 21

the CRC has prescribed, states shall ensure the access of education on equal footing between the indigenous and the non-indigenous children<sup>136</sup>.

#### 4.1.4. For Children in Conflict Zones

Children in Cameroon are caught up in conflict situations in the far north and in the anglophone regions of Cameroon. The former, is a fight against terrorism, and the latter is an armed conflict between government troops and separatist fighters, fractioned into NSAGs. In a letter dated 2 November 2018, to the minister of external relations of Cameroon after third cycle Universal Periodic Review of Cameroon, Michelle Bachelet, UN High Commissioner for Human Right decries specific situations that are unacceptable to the treatment of children in armed conflicts. She notably mentions the inappropriateness of enacting a law<sup>137</sup> that gives jurisdiction for military tribunals to prosecute children. She points out the absence of a national strategy to deal with the situations and the need to create rehabilitation centres for ex-child soldiers according to human rights norms.

Under Article 38 of the CRC and Article 22(2) of the ACHPR, states undertake to respect the rules of IHL with respect to children in armed conflicts. Cameroon declared war on Boko Haram in 2014 and has actively engaged the Islamic sect in military combat. However, in its periodic report to the UN Committee on the CRC, the state of Cameroon does not make any reference to child soldiers or the use of children and especially the girl-child and suicide bombings (Hobkins, 2015). According to Duvalier (2015), over one million three hundred thousand children have been abducted by Boko Haram in Chad, Niger, Cameroon and Nigeria, and increasingly used in suicide attacks especially in Cameroon. His report identifies Cameroon as having the highest number of children involved and notes that seventy five percent of all suicide bombings this far have been carried out by girls, sometimes as young as eight years of age. When the United States Military announced technical cooperation with Cameroon to help the country fight Boko Haram, this meant going against Boko Haram fighters. Most of the one thousand five hundred children kidnapped, were child soldiers and actively engaged in combat on the side of the Islamists (AFP, 2015). As per Article 8(2)(b)(xxvi) and (e)(vii) of the 1998 ICC Statute, using a child aged fifteen and below in warfare constitutes a war crime. Human Rights law considers eighteen years (CRC's Article 1, Article 2 of the African Children's Charter) as the minimum threshold for recruiting fighters. This discrepancy in laws as to which age should be the minimum for recruitment of fighters and the question of the status of protection of children actively engaged in warfare and terror, do little to protect children in armed conflict situation. This directly affects access to enjoyment of their right to education

Just like in the Far North Region, violence in the English-speaking regions of Cameroon exposes children to violations of fundamental rights that are protected by national law and international human rights instruments. The country recently pledged to protect students, teachers and schools during times of armed conflict by endorsing the Safe School Declaration on 10 September 2018. This meant it was committing itself to using the *'Guidelines for Protecting Schools and Universities*

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<sup>136</sup> Committee on the Rights of the Child, general recommendation No 11/CRC/C/GC/11, 12 February 2009

<sup>137</sup> Law No 2014/2028 of 23 December 2014 empowers the Military Tribunal of Cameroon to try persons, including children suspected of terrorism.



*from Military Use during Armed Conflicts*'. Article 27 of the CRC and Article 11 of the ICESCR talk about the rights to a decent standard of living, food, clothes and housing, adequate to the child's development. However, CESCR states that the country's anti-poverty programmes are largely insufficient. It notes that poverty rates remain very high and hits children the hardest in the crisis areas<sup>138</sup>. Articles 19(1) and 37 (a) of the CRC all oblige states to protect children from torture, cruel, inhumane and degrading treatment. Amnesty International however, has been documenting cases of the military in Cameroon arbitrarily arresting, torturing and killing children in the country<sup>139</sup>. Other rights that children should enjoy include the right to be protected from using narcotic drugs, provided by Article 33 of the CRC, or the right for children to be registered at birth as protected by Article 7 of the CRC. Violations of these rights sometimes directly affect the right for the child to receive education.

#### **4.1.5. For Internally Displaced Children**

Another preoccupying situation that children find themselves in is that of internal displacements caused by in internal tensions in the septentrional and the oriental parts of the country. There is no universal treaty that protects internally displaced persons (hereafter, IDP's). The 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (hereafter, the Kampala Convention) in Article 1 defines IDP's as "*Persons or group of persons who have been forced to...flee their homes...in order to avoid the effects of armed conflicts, situations of generalised violence or violations of human rights or natural disasters...who have not crossed an internationally recognised state border.*" Article 9(2)(b) stipulates that states shall provide IDP's, to the fullest extent practicable with food, water, shelter, health services and education.

In Cameroon, there were about four hundred and thirty-seven thousand internally displaced persons in October 2018 of which forty three percent of them were children (UNHCR, 2019). In the 2019 UNICEF report on Cameroon assessing a cluster-wide educational needs for Cameroon, ninety percent of primary and seventy-seven percent of secondary schools in anglophone Cameroon were closed or non-operational in October 2019/2020. In the Far North Region, in addition to Boko Haram attacks, natural disasters are causing people to displace themselves internally. An extended rainy season in 2016 led to significant flooding when the River Logone burst its banks affecting areas, about one hundred and fifty kilometres away from the river banks. This affected about forty thousand people, displacing twenty-nine thousand of these and destroying over ten schools<sup>140</sup>. This situation greatly limits access to education for children. Very little has been done by the government, to support these IDP. Salim Sango, a blogger in 2018 wrote that Cameroon simply, had abandoned its IDP's.<sup>141</sup>

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<sup>138</sup> See 53 supra, paragraph 48

<sup>139</sup> Retrieved 12 July 2020 from <https://www.amnesty.org/en/latest/campaigns/2017/07/cameroon-torture-chambers/>

<sup>140</sup> Ibid, paragraph 7

<sup>141</sup> Read more in <https://www.chrda.org/cameroons-abandoned-idps/> (accessed 28 July 2020)



#### 4.1.6. For Children, Victims of Child Labour

Article 36 of the CRC states that states shall protect children from all forms of exploitation prejudicial to their welfare. Cameroon has ratified a series of international treaties that protect children from exploitation. The 1999 Convention on the Worst Form of Child Labour (No 182), and the 1973 Minimum Age Convention are some. Child labour is defined as work that deprives children of their childhood, that is harmful to them and that interferes with their schooling. Article 5 of the Protocol<sup>142</sup> to the UN Convention Against Transnational Organised Crime, (2000 to which Cameroon is party, obliges states to adopt legislative and other measures as they may see fit, that criminalise the recruitment, transportation, transfer and harbouring of a child, for the purpose of exploiting him or her. Law number 92/007 of 14 August 1992, enacting the Labour Code in Cameroon carries a wide range of provisions that protect children from exploitation.

In 2016, Cameroon made some advancements at eliminating child labour by adopting a National Action Plan to Combat Child Labour and Trafficking in Children. The Plan expired in 2017 before its official adoption.<sup>143</sup> Paragraph 4 of the fourth cycle concluding observations of the CESCR denounced government's neglect of exploited children. Despite the plethora of cases of child trafficking reported by NGOs and individuals to the public authorities, the government has, hardly reported the issue in cycle reports (US Department of State, 2010)<sup>144</sup>. In 2017, Cameroon was categorised under the *Tier 2 Placement*<sup>145</sup> by the Office to Monitor and Combat the Trafficking of Persons.

There are three major types of economic exploitation of children in Cameroon; domestic labour, sexual exploitation and street hawking. Thousands of children in Cameroon between ages six and eleven are recruited as domestic servants every year, (Feujio, 2000). Some, especially girls are taken from rural areas to the cities to work in households, usually for no pay. Others are smuggled across borders and sold as commodities. When this happens, the most fundamental of their rights are violated such as the right to health and the right to education (Lovet, 2015). The common form of sexual abuse in Cameroon is child-prostitution<sup>146</sup>. Life expectancy at birth is 54.2 years in Cameroon (UNICEF 2013) and one out of every four children under the age of eight is orphaned with at least a parent and in addition to that, thirty percent of children born are not officially registered (ECPAT International, 2014). This makes children even more vulnerable to sexual abuse and exploitation especially by persons close to them. Article 19 of the CRC protects children against this. On the score of street hawking, children in both rural and urban areas engage in the selling of items in streets with others performing other services such as washing of cars and clothes,

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<sup>142</sup> Protocol to Prevent, Suppress and Punish Trafficking in persons Especially Women and Children

<sup>143</sup> This was the report of the Bureau of international Affairs on Cameroon see <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/cameroon> (accessed 23 July 2020)

<sup>144</sup> The web site information was edited in 2016, see [https://en.wikipedia.org/wiki/Human\\_trafficking\\_in\\_Cameroon](https://en.wikipedia.org/wiki/Human_trafficking_in_Cameroon) (accessed 23 July 2020)

<sup>145</sup> This is the category of countries whose governments do not meet the minimum standards to protect persons from human trafficking. See more on <https://web.archive.org/web/20170628043920/https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm> (accessed 23 July 2020)

<sup>146</sup> [https://en.wikipedia.org/wiki/Prostitution\\_of\\_children,visited,28/07/2015](https://en.wikipedia.org/wiki/Prostitution_of_children,visited,28/07/2015)(accessed 29 July 2020)

begging and polishing. Some of these children are runaway minors struggling to make a living on their own. But Nofuru (2012) argues that the bulk of them are usually children who work to raise money for schooling. Whatever the case the ILO Minimum Age Convention, 1973, to which Cameroon is party, sets the minimum age for children to work at fourteen and thirteen for light work if such work will not be prejudicial to their attendance at school, Article 6(b).

#### **4.2. Realising Effective and Quality Education**

Article 13(1) of the African Youth Charter accords young persons, the RTE ‘of good quality’. Article 26 of the UDHR adds to this right, certain qualities that education given to children, ought to contain. Then the qualities are echoed in Paragraph 4 of General Comment No 13 of the ICESCR, that education shall; be directed towards the human personality’s ‘sense of dignity’<sup>147</sup> enable all people participate effectively<sup>148</sup> in a free society and that it shall promote understanding among different ethnic, religious or linguistic groups<sup>149</sup>. According to the UNESCO/UNICEF 2017 guidelines, effective and quality education include aspects of the curriculum, methods of learning and assessment and a healthy environment. In the 1998 Education law, Article 14 gives the state, the “*imperial duty to organise and control education, at all levels.*” But in Article 37(1) the law says “*the teacher is the guarantor of quality education.*” This discrepancy noticed in the law makes us pose the question to know who bear the responsibility of providing quality education in Cameroon

##### **4.2.1. On the Broadness, Relevance and Inclusiveness of the Curriculum**

In Cameroon’s SWAP draft document<sup>150</sup>, the state recognizes a number of factors that prevent education from having the quality elaborated on the policy paper. At the managerial level, the paper decries mainly, the shortage of professional teaching personnel especially for French, English and Mathematics subjects and insufficient infrastructure. At the level of academic programmes, the document mentions “*...inadequacy between teaching programme and the needs of a productive system and maladjustments to scientific and technological evolutions.*” (Page 36) The teaching conditions of teachers are also mentioned and in the aspect of health, the document mentions the inability of the Cameroonian educational system to assume its double calling: to promote health through education and to ensure better health for the educational community (SWAP, 2006).

Twelve years after the SWAP document revealed challenges in the education sector, the List of Issues Report to the fourth periodic review of Cameroon<sup>151</sup>, presented by the CESCR questions Cameroon on the very same preoccupations. Paragraph 27 of the Report interrogates whether the construction of schools, the hiring of teachers and whether the responsibility of making sure that local communities have educational services has been transferred from the state to parents. This

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<sup>147</sup> Reiterated in Article 28(2) of the CRC

<sup>148</sup> Ibid article 13, 14 and 15 on freedom of expression, opinion and association for children

<sup>149</sup> Article 29(c) and (d) education shall prepare the children to properly integrate themselves in society

<sup>150</sup> IMF Country Report No 10/257 of August 2010, see 37 supra page 3

<sup>151</sup> List of Issues to the fourth periodic review of Cameroon, Doc No E/C.12/CMR/Q/4 of 25 April 2018

came up as a result of a couple of stakeholder's reports that pointed out that Parents Teachers Association (hereafter, PTA) funds were the main source of financing of school projects and these did not provide any quality guarantees. A report<sup>152</sup> describes the precarity of the health situation of indigenous children due to the lack of access to basic healthcare services and how this affects school turnout for children. Paragraph 28 of the above List of Issues on Cameroon invited the state to comment on the implementation of measures such as intercultural and multilingual strategies which would address the cultural appropriateness of the content of education. A report from Cultural Alternative pointed out the “*lack of adequate recognition of Indigenous People by the Cameroon government*” which poses barriers to the inclusion of proper content in school curricula<sup>153</sup>. Earlier on, Ngali (2014) had lambasted the total lack of harmonisation of curricula of the two education sub-systems and pointed this out as the root cause of the poor quality of education in the country which he blamed on the lack of political will, the desire for one sub-system to assimilate the other and the reigning intolerance of the two sub-systems against each other.

In all, the questions being asked are whether the quality of education in the two sub-systems in Cameroon are able to develop the cognitive life skills in learners and to meet the societal challenges that would permit children to make well balanced decisions, develop a healthy lifestyle, think critically and resolve conflicts in a non-violent manner.

#### **4.2.2. On the Approach to Learning and Assessment**

The way children are taught is as important as what they are taught. Cameroon's *Document de Stratégie du Secteur de l'Éducation et de la Formation (2013-2020)*<sup>154</sup> cautions that quality education emanates from a decent social and family environment. It elaborates on the “*approche par des moyens*” and “*approche-par des resultats*” as the chosen approaches<sup>155</sup> to achieving quality education in Cameroon. The Means-Based Approach refers to that one in which resources are mobilised to give education, quality. It includes, providing logistics in school compounds (such as the quality of buildings constructed, availability of potable water, electricity and latrines) and didactic materials used in teaching. It takes into consideration the working conditions of teachers and other factors of motivation and the number of students in a class. The document notes the existing parity between rural and urban areas in the domains of existing physical infrastructures and pedagogic material that are detrimental to learners in rural areas.

The result-based approach refers to the methods put in place to properly analyse the differences noticed in the overall performance of learners in the different parts of the country, and bridging the observed gaps. Some of the gaps noted are; differences in the quality of teachers, gaps between private and public schools, curricula of the different sub-systems, to name but a few. Other approaches to education such as the ones mentioned above;

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<sup>152</sup> Alternative report prepared for the 75th Session and submitted by” Cultural Survival” to the Committee of the CRC on 15 May to 02 June 2017

<sup>153</sup> See 151, paragraph III(a)

<sup>154</sup> More of this is found on the Strategic Document for the Education and Training Sector 2010-2020, <https://www.globalpartnership.org/fr/content/plan-sectoriel-education-cameroun> (accessed 6 August 2020)

<sup>155</sup> Translates as the “Means-based Approach” and the “Results-Based Approaches”

*“...have to date failed to achieve Education for All goals. Because it is inclusive and provides a common language for partnership, the rights-based approach... has the potential to the attainment of the goals of the government, parents and the children themselves.” (UNESCO/UNICEF, 2007)*

The rights-based approach to learning imposes respect of the right to children’s participation in the learning process. Article 29 of the CRC, in addition to prescribing the quality of learning methods to assume, insists upon the need for education to be child-centred, child friendly and empowering. For this to be achieved, Article 12(1) of the CRC gives the child the right to form his or her own views, express them on all matters affecting him or her. This is why the Committee recommends<sup>156</sup> that Cameroon organises regular sessions of Children’s Parliament for them to express their views on matters concerning them, in front of the legislator. Participation is important as it contributes to the personal development of children, protecting them, leading them to make wiser decisions and making them contribute in society’s development (Landsown, 2011).

The Committee also notes the very low level of funding and a insufficient pedagogic material in schools<sup>157</sup>. The Committee also notes the closure of schools in the Far North, North, East, Adamawa, North West and South West regions due to insecurity.<sup>158</sup> Juvenile Justice has a high impact on educational outcomes (Hirschfield, 2004). The Committee is seriously concerned about the weak protection of children by the justice system. The absence of juvenile courts, lengthy pretrial detentions, arbitrary detention of children by police and informal fees demands for their release as is noted<sup>159</sup>, greatly affect school performance, enrolments and dropouts.

#### **4.2.3. On the Child-friendliness, Safety and Healthiness of the Environment.**

The obligation to give primacy to the best interest of the child and to ensure access to quality education requires that the learning environment is child-friendly, healthy and safe. In Cameroon, this preoccupation is relevant in areas of calm as well as in areas of great insecurity and armed conflicts.

##### **4.2.3.1. In Times of Peace**

Children should never be expected to attend schools where the environment is detrimental to their health and wellbeing (UNESCO/UNICEF, 2007). Article 25 of the CRC stipulates that the state shall carry out periodic reviews on the physical and mental health of children who have been placed under competent authorities for care. This gives schools the obligation to provide medical care for students. Article 5(5) of the 1998 Education Law lists the promotion of hygiene and sanitation as one of the objectives of education. The HRBA to the RTE also prescribes policies that will promote health and safety for children as well as provide them environments that will stimulate play and recreation (Articles 26 and 31 of the CRC respectively). It also prescribes amenities and facilities in

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<sup>156</sup> CRC Committee’s Concluding Observation on combined third to fifth cycle review of Cameroon, CRC/C/CMR/CO/3-5, paragraph 17 of 6 July 2017

<sup>157</sup> Ibid, paragraph 38(a)

<sup>158</sup> Ibid, paragraph 38(d)

<sup>159</sup> Ibid, paragraph 46

the educational environment that will meet the particular needs of girls to make them be at par with boys.

In relation to standards of living of children which affect the quality of education, the Committee of the CRC notes<sup>160</sup> that children living in rural areas in Cameroon are greatly underprivileged and that government is yet to implement social protection systems and poverty reduction initiatives for children by establishing a universal childcare benefit. The committee also notes the low school enrolment of girls and a very high dropout rate at secondary school level, citing sexual harassment by teachers, child marriage and adolescent pregnancy as the main causes. The Committee also comments on the low funding for education which results in inadequate provision of safety measures in schools such as construction of enclosures which would otherwise protect the school compounds from external threats<sup>161</sup>. The HRC<sup>162</sup> notes the troubling reports of public officials in the education sector who are engaged in high level corruption practices thereby contributing to the non-realisation of the right to quality education. The CESCR<sup>163</sup> is greatly concerned with the restrictions of internet in the Anglophone area<sup>164</sup> as this makes the learning environment not healthy for research. While in areas of peace the situation is found wanting, in the Far North Region and in the anglophone areas plagued by insecurity and social unrest, it is even worse.

#### 4.2.3.2. Education in Emergencies

Being a fundamental human right, education is critical for children and must be guaranteed at all times and places, even in areas affected by armed conflicts, incessant terrorist attacks or natural disasters. Education in emergencies, comprises learning opportunities for all children and at all stages with such quality as to provide physical, psychosocial and cognitive protection that can sustain and save lives (INEE, 2012). Education can mitigate the psychosocial impacts of conflict on children by providing a sense of routine, stability, structure and hope. In the Far North Region of Cameroon, hit by incessant terrorist attacks since 2009, the population is terrorised. Children especially the girl-child are used in suicide attacks. In the North West and South West Regions of Cameroon where government troops battle NSAG for the fourth year running, the educational sector is at paralysis. The education cluster needs a humanitarian response the minimum standard of child education in an emergency situation is derived from provisions of human rights and humanitarian law regimes and from the Code of Conduct for the International Red Cross.

Article 19 of the CRC obliges state parties to take appropriate administrative, legislative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse and such protective measures should include social programmes to provide support for the child and caregivers. At the same time, the Optional Protocol to the CRC on the involvement of children in Armed Conflicts in Article 5, exalts IHL to prevail in situations where they become

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<sup>160</sup> Ibid, paragraph 37

<sup>161</sup> Ibid, paragraph 38(b)

<sup>162</sup> HRC in its fifth periodic report of Cameroon in 30 November 2017 CCPR/C/CMR/CO/5, paragraph 9

<sup>163</sup> Concluding Observations of the CESCR, see 2 supra, paragraph 64

<sup>164</sup> In 2017, government cut of internet in the anglophone regions for 150 days intermittently with a duration 93 days uninterrupted. The state said it was fighting fake news and false propaganda among the population



more conducive to the realisation of the right of the child. However, the CESCR<sup>165</sup> questions the state of Cameroon on the acts of violence directed towards students, teachers and parents in the crisis regions of Cameroon and specifically on the targeted violence against the girl-child, in the Far North Region of Cameroon. The Human Rights Committee while recognising the necessity for counter-terror measures, remains concerned about the 2014 anti-terrorism Act which prescribes death penalty if found guilty of acts of terrorism<sup>166</sup>. This law does not consider the principle of *the child's best interest* given that children directly involved in aggressions on the side of Boko Haram and NSAG in the anglophone regions are not given any protection by that law. The Norwegian Refugee Council (hereafter, NRC) in its 2019 report on Cameroon identified emergency needs in the region to be; the need to train teachers on psychosocial support, the need to rehabilitate classrooms destroyed during Boko Haram offensives against government troops and the distribution of learning materials to teachers and school kits to children<sup>167</sup>.

In an Emergency Appeal<sup>168</sup>, the International Federation of the Red Cross in its assessments ranks educational needs of IDP's from the anglophone regions as the most important among all the clusters. That education needs be ranked on top of those of the health cluster in the middle of the COVID 19 pandemic, is news worth writing home about. The Appeal further reveals that education however, was not among the top three priorities of local authorities<sup>169</sup> although they kept recommending the improvement of school infrastructure and access. The appeal further notes that most IDP's of the anglophone regions are school aged children, many of whom are living without their parents and therefore are at risk of falling prey to several social ills including abuse, sexual exploitation, prostitution and enrolment in NSAGs.

#### 4.2.4. Financing Education

Article 14 of the ICESCR gives states the latitude to develop detailed plans of action on how to realise the child's RTE. UNESCO (1998) opines that decentralisation makes communities show greater responsibility towards the mobilization of resources to provide quality basic education. This is in line with Article VII of the 1990 Jomtien, Education for All Declaration which recommends a strengthening of partnerships at all levels in order to attain the Education for All goals. Jomtien 1990 prescribes that states do not only to decentralise educational services, but encourage sub-sectors within public structures to collaborate and other social actors and NGOs to be included in planning, financing, communicating and providing services in the education sector. Cameroon opted for decentralisation and for opening up the provision of education to private actors<sup>170</sup> so as to broaden the base of educational financing. Article 55 of the 1996 constitution of Cameroon says that regional and local authorities shall be public corporate bodies charged with promoting socio-economic development, including education.

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<sup>165</sup> Concluding Observations of the CESCR, see 2 supra, paragraph 60(d)

<sup>166</sup> Ibid, paragraph 11

<sup>167</sup> See more on <https://www.nrc.no/countries/africa/nrc-in-cameroon/> (accessed 17 July 2020)

<sup>168</sup> Emergency Appeal No. MDRCM/027 dated 20 May 2020

<sup>169</sup> Local authorities in the West and Littoral Regions which host the most of IDP's from Anglophone Cameroon.

<sup>170</sup> The 1996 constitution outlines decentralisation of services, including education and partnerships between public authorities and private stakeholders in development.



Cameroon's education strategy paper acknowledges the extremely low rate of financing of education by the state.<sup>171</sup> It reveals that due to the non-implementation of the policy of decentralisation, parents and teachers have been forced to bear the costs of financing education in areas and domains where the state is unable to intervene. The strategy paper reveals that the budget allocated for education is far below what education is allocated in other countries with the same level of development. Arguable, the state's budget for education should be ranked among the top five priorities but secondary education comes third, while primary and higher education come eight and fifteenth respectively (Nkoutchou, 2018). These observations and a lot others made by stakeholders of education on the ground, made the committee of the CRC to express regret on the low levels of funding of education and low levels of implementation of education strategy that are resulting in lack of pedagogic materials in schools, insufficient and inadequate school equipment and infrastructure, a high number of unqualified teachers especially in the private sector, and a significant absence of measures to facilitate transport of all children going to school<sup>172</sup>.

### ***4.3. Realising Respect for the Learning Environment***

The HRBA entails respect of the child, in his or her learning environment. This means the right to education incorporates aspects other than learning. These may include; the right of children to the respect of their views,<sup>173</sup> the respect for the child's identity and respect for their physical and personal integrity.

#### **4.3.1. Respect for the Child's Identity**

Article 7 of the CRC gives the child the right to be registered immediately after birth, be given a name and a nationality which will be recognised by law. By ratifying the CRC, state parties undertake in Article 8(1) to respect and preserve a child's identity including his or her family relations as recognized by law. The 1960 UNESCO Convention against Discrimination in Education protects the right to education for children of different identities within a state. Article 3 of the convention obliges states to undertake to abrogate any statutory provisions or administrative decisions encouraging discrimination in education and to put in place legislation that will protect the RTE for children of linguistic, ethnic minorities or others. In Cameroon, Article 3 of the 1998 Education Law officialises English and French as languages of instruction at all educational levels so as to foster national integration between the French Speaking majority and the English-Speaking minority of Cameroonians. Article 7 of the same law protects children from discrimination as to their sex, religion, social, cultural or geographic origin.

The CESCR notes<sup>174</sup> that although Cameroon has adopted a universal birth registration project, birth registration remains low, leading to a large number of children, not having birth certificates later on. This situation interferes with the enjoyment of certain rights, like the RTE. The committee

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<sup>171</sup> See 150 supra, page 48

<sup>172</sup> Concluding observations of the Committee of the CRC third to fifth report on Cameroon, doc: CRC/C/CMR/CO/3-5 of 6 July 2017, paragraph 38 (a, b, c)

<sup>173</sup> We have seen this already in Paragraph 4.2.2. of this work

<sup>174</sup> Concluding observations of the CESCR, see supra23, paragraph 44

notes that although the state has been making efforts in trying to promote national integration, much remains desired to enable the different linguistic and ethnic groups to fully assume their identities without being discriminated upon<sup>175</sup>. The Committee of the ICCPR notes that<sup>176</sup> there are systemic discriminations and penal code provisions<sup>177</sup> which criminalize certain sexual orientations and gender identities as well as Section 83 of Law No 2010/012 of 12 December 2010 on cybercrime and cybersecurity which criminalizes propositions of an adult of the same sex by means of electronic communication. The committee notes the discrimination against lesbians, gay, bisexuals, transgender in public establishments, their non-protection by security forces and acts of violence committed against them in places of detention by other detainees and prison staff. The impact of this can not be underestimated on the child's education as inclusive education absolutely necessitates that consideration be given to the sexual orientation and gender, in the learning environment of children (Ullman, 2014). On other issues of identity, the commission notes the acts of discrimination committed against the right to land ownership by minority groups like the Pygmies and the Mbororos and against freedoms of expression and of demonstrations of the English-speaking minority and that all these restrict the enjoyment of their ESCR,<sup>178</sup> including the RTE, especially for the children

#### 4.3.2. Respect for Integrity

The CRC in Article 19, prohibits any form of physical or mental violence against the child under anyone's care. Everyone enjoys rights protecting them from torture, cruel, inhuman or degrading treatment or punishment in Article 15 of the CRPD, but most especially, children (Article 37(a) of the CRC). Article 35 of the Education Law guarantees the child's physical and moral integrity within the school structure adding that corporal punishment and all other forms of violence and discrimination are prohibited, pursuant of Articles 132 and 133 of the Penal Code of Cameroon. Physical humiliation and abusive treatment are counterproductive for learning. And this is a significant factor contributing to school dropout (Save the Children, 2005). Respect for integrity also means respect for the environment. The 1998 Education Law in its Article 35 also protects the child from the sales and distribution of alcoholic drinks, tobacco and all other drugs pursuant of Article 33 of the CRC which enjoins states to protect children from the use, production or trafficking of narcotics and psychotropic substances as defined by relevant international treaties.

The Committee to the Convention Against Torture (CAT) in its most recent Concluding Observation on Cameroon<sup>179</sup>, while noting some improvement on the situation of detainees in prisons makes note of a number of cases of extrajudicial killings and enforced disappearances in the Far North Region, and citing crackdown by the state troops on children and caregivers, arresting, detaining and physically abusing them<sup>180</sup>. Although the committee welcomes national strategies to combat Gender-Based Violence (hereafter, GBV), it remains alarmed by the rate of rape, incest,

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<sup>175</sup> Ibid, paragraph 62

<sup>176</sup> Ibid, paragraph 13

<sup>177</sup> Section 347 Criminalizes sexual relations between consenting adults of the same sex.

<sup>178</sup> Concluding observations of the CESCR, see 2 supra, paragraph 45

<sup>179</sup> Fifth Periodic Report of Cameroon, doc, UNCAT/C/CMR/CO/5 of 10 December 2017

<sup>180</sup> Ibid, paragraphs 7,13 and 17

breast ironing of young girls and the lack of legal provisions that explicitly criminalises domestic violence and marital rape to protect care-givers. The CESCR notes the acts of violence<sup>181</sup> specifically directed towards students and teachers in violation of provisions of Article 13 and 14 of the ICESCR and reveals the absence of adequate health-care services and infrastructure, medical supplies and insufficient medical personnel to take care of persons in cases where violence caused serious physical or mental damage. It is worth mentioning that the Committee of the CRC applauds the adoption of Section 227-3 of the amended Penal Code prohibiting the use of torture. But it remains deeply concerned with reports about violence against children by the police, which sometimes amounts to torture, degrading treatment or punishment. The committee reminds Cameroon of General COMMENTS No 13 on the right to education free from all forms of violence and strongly prescribes the fulfilment of Target 16.2 of the SDGs on ending all violence against children so that they may fully enjoy their rights, including the right to education.

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<sup>181</sup> Concluding observations of the CESCR, see 2 supra, paragraph 60(f)

## GENERAL CONCLUSION

Children's rights to education in Cameroon are under serious attacks. In the general conclusion of the third cycle review of the country, the State noted that "*the mobilisation of various components of the civil society justify the hope that economic, social and cultural rights will adequately be implemented.*"<sup>182</sup> But the CESCR, in the prolegomenon of its concluding observation of the fourth cycle report on Cameroon, "...regrets however, that the answers to its questions, in particular those concerning labour, education and cultural rights have not been forthcoming...thus preventing a truly constructive dialogue."<sup>183</sup> Feedback from the penultimate cycles of review of the human rights situation in Cameroon by committees of the UN Treaty Bodies, the NCHRF, and Civil Society generally showed that the country was making slow but steady advances in the realisation of ESCR despite the resource and knowledge restraints. Ever since then, a lot has changed. Focusing on children's right to education in Cameroon was motivated by the incessant oral, media and official reports, sometimes conflicting and at other times at par with each other on the subject. The facts remain that the continuous terrorist attacks by Boko Haram on the Far North Region of Cameroon and the separatist uprising in the North West and South West Regions of Cameroon hit hard on the education sector thus depriving children of the right to education. This situation has come to compound on a series of insufficiencies that the state was recording in relation to meeting up with its obligations make education, a fully protected right, in all its facets as is provided by human rights and humanitarian law.

Reviewing the principles of the "*child's best interest*" and the overall components of what amounts to the right to education held by the child was an area of focus as well. A plethora of the African regional and international human rights instruments provide protection of child's right to education. Perhaps, Article 13 and 14 of the ICESCR furnish states with the most elaborate aspects worth taking into consideration for the progressive realisation of the RTE. General Comments on the different provisions on ESCR and especially comments No 11 on the plan of action for primary education and 13 on the right to education, of the ICESCR assist in the understanding of providing education to children in the HRBA. Implementing this approach means that there will be different stakeholders, playing different roles with the sole aim of converging towards a single finality that is directed towards the full development of the human personality of the child.<sup>184</sup>

Cameroon just like all other states who are party to human rights instruments that protect the right to education for the child has the duty to protect, promote and to fulfil this right through progressive realisation. Being legally bound means that in case of a violation of the child's right, the victim should be able to seek redress in the court of law in Cameroon and beyond. This work has presented the international human rights instruments and most important of the national laws that protect children's RTE. To what limits are ESCR and especially the right to education for children

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<sup>182</sup> UN E/C/12/CMR/2-3, combined second and third periodic report submitted by state parties to the CESCR on 26 November 2008 paragraph 668

<sup>183</sup> 3, supra Introduction

<sup>184</sup> Articles 26(2) of the UDHR and 13(1) of the ICESCR

justiciable has been seen with the aim of showing not only how ESCR are less justiciable than CPR, although all rights are interdependent and indivisible. We have seen the limits to which human rights practices are perceived in the national courts and perhaps thereby demonstrating how limited the HRBA has been cultured in the Cameroon judicial systems.

To improve on the knowledge of the human rights-based approach and to evaluate at what footing Cameroon stands, our work dug deep on case law, the provisions of national laws and human rights treaties, and reports of all the different stakeholders in the most recent reviews conducted on Cameroon by the UN Treaty Bodies that protect the right to education. The work also consulted international humanitarian law, to provide knowledge on how even in times of armed conflicts, as is currently the case in Cameroon, children's right to education ought to be protected. At the end of the work, the gaps between State obligation to protect this right and state practices are exposed for if the state of Cameroon guarantees for the child, "*equality of access to education without discrimination as to sex, political, philosophical or religious opinion, social, cultural, linguistic or geographical origin.*" (Article 7 of the 2013 Education Law), then it must fully embrace the Human Rights-Based Approach.

## RECOMMENDATIONS

The child's right to education in Cameroon is a major national priority. (Article 2(1) of the 1998 Education Law). For this right to be progressively realised, this work makes a couple of recommendations based on an inferred needs assessment. The recommendations are grouped into three categories; the ratification of human rights treaties that protect the child ((by extension, caregivers) and his or her right to education. the second set is on the state, adopting national laws that protect children and their right to education, and the third is on strengthening national institutions so that they place all human rights at equal levels of protection.

### **Ratification of International Human Rights Treaties**

- We recommend that the State of Cameroon ratifies the Optional Protocol to the ICESCR that came into force on 5 May, 2013. This instrument establishes complaint and inquiry mechanisms and procedures. Ratifying it will mean that the state is fully committing itself to making justiciable, the right to education for children in particular and in general, ESCR in Cameroon.
- The state should ratify the International Convention from the Protection of all Persons from Enforced Disappearances (ICPPED). This will protect children who are primary targets of kidnap and recruitment by Boko Haram Islamists in the Far North as suicide bombers. This will also protect children in the anglophone regions of Cameroon who have are fleeing from their towns and villages due to the ongoing armed conflict.
- The state of Cameroon should ratify the Second Optional Protocol to the International Covenant on Civic and Political Rights that aims at abolishing the death penalty, that entered into force on 11 January 1991. This will push for the laws be amended so that they comply with international human rights standards by revoking the death penalty.
- We recommend that the state ratifies the Optional Protocol to the Convention on the Rights of the Child on the Sales of Children, Child prostitution and child Pornography that entered into force on 18 January 2002. This will protect children in Cameroon from child trafficking, child labour and other degrading and exploitative use of children.
- That the state ratifies the Optional Protocol of the Convention against Torture and other Cruel, inhumane or degrading treatment or punishment that entered into force in 22 June 2006. This will protect children from police brutality and abusive detentions of and treatment under detention in the country. This will also protect the caregivers of children.

### **Adopting or Amending National Laws that Protect the Child's Right to Education**

- We recommend that the State of Cameroon establishes a regulatory framework to deal with the impact of businesses on children's rights. Due to the dangers that certain agricultural and mining activities pose to the environment, water, land and air are polluted and this constitutes serious danger to the health of children.



- That the state adopts and implements concrete laws that protect children born out of wedlock, so as to give them an identity. That children with disabilities, with albinism, street children, children associated with Boko haram are effectively protected from discrimination and social stigmatisation so that they can gain full and equal access to education.
- We recommend the state created an education anti-corruption board to look into the practice by which educational establishments mismanage and embezzle public funds destined to be invested in the education sector and that it looks into violations on the right to free primary education through the levy of indirect fees
- We recommend that the State removes administrative barriers in the school enrolment process especially in times where a significant number of children from the anglophone regions and from Far North Region have been internally displaced as a result of conflicts and insecurity.
- We recommend the decentralisation of the management of educational resources. If the laws on decentralisation are speedily implemented, different decentralised structures shall specialise on offering specific services to the sector. The administrative regions shall do the planning of educational resources, manage the teaching personnel. The administrative divisions shall be charged with financial administration of educational structure and maintenance and the sub-divisions, shall take care of pedagogic supervision.

### **Strengthening National Institutions that Protect the Child's Right to Education**

- We recommend that the State fully empowers the National Commission on Human Rights and Freedoms with sufficient human, technical and financial resources as well as a legal status, compliance with the Paris Principles. This will give the commission that status of a quasi-judicial body, *proprement-dit*, to effectively assist the government to protect and promote human rights, including the right to education for children, in the country.
- We recommend that the state allocates sufficient budget for the realisation of children's RTE by increasing the budget given to the ministries in charge of education, and child protection and welfare. This will help improve on the quality of education through increase spending on teacher training, and on school infrastructure.
- We recommend that the state creates vocational educational and training programmes for children who have dropped out of school and other children in vulnerable situations.

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- Law No. 84/04 of July 1983 on Protection of Orphans.
- Law No. 97/009 of 10 January 1997 against torture
- Law No. 98/004 of 14 April 1998 on education
- Law No. 2004/16 of 22 July 2004, on the establishment, organization and functioning of the National Commission on Human Rights and Freedoms
- Law No. 2005/007 of 27 July 2005 on the Cameroon Criminal Procedure Code
- Law No. 2005/015 of 29 December 2005 Against Child Trafficking and Slavery in Cameroon.
- Decree No. 2004/320 of 8 December 2004 on protection of children by Cameroonian ministerial departments
- The Decree of 5th December 2000 on the status of teachers
- The Presidential Decree of 19<sup>th</sup> of February, 2001 that organises public and private school establishments and that determines the responsibilities of the educational administration
- The ministerial order of 16th of February, 2001 on the organization of evaluative systems and examinations
- The Ministerial order on the reform of the First School-Leaving Certificate and the Ministerial order on the reform of the examination for the Certificate of elementary studies
- The Decree n° 20041340 of the 8th of December 2004 that divides the Ministry of Education into two departments; one minister for Basic Education and another for Secondary Education
- The Decree n° 20051140 of the 25th of April, 2005 on the Department of Basic Education
- The Order n° 201/PM of the 8th November, 2007 that establishes how the program “Education for All” should be executed in Cameroon. The principal objective is to implement the program as it is defined in the Dakar Framework for Action which emerged from the World Education Forum held in 2000

### 2. Africa: Regional Human Rights Instruments

- The African Charter on Human and People’s Rights adopted in 01 June 1981 and entered into force in 21 October 1986
- The African Charter on the Rights and Welfare of the Child adopted on 11 July 1990  
Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa also known as the Maputo Protocol adopted on 11 July 2003 and came into force 25 November 2005
- The African Youth Charter adopted in 02 July 2006 and came into force in 08 August 2008
- African Court on Human and Peoples’ Rights, adopted in June 1998 came into force in 25

- January, 2004
- Draft Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa, adopted 25 February 2016
- The Convention for the Protection and Assistance of Internally Displaced Persons in Africa

### *3. International Conventions*

- ❖ Minimum Age Convention, 1973 (No 138)
- ❖ UNESCO Convention Against Discrimination in Education, 1960
- ❖ Universal Declaration of Human Rights, adopted 10 December 1948
- ❖ The UN International Covenant on Civic and Political Rights, Treaty Series, Volume 999, p. 171 came into force on 23 March 1976
- ❖ The UN International Covenant on Economic Social and Cultural Rights, came into force in 3 January 1976
- ❖ The UN Convention on the Rights of the Child, E/CN.47RES/1990 and its Optional Protocols, came into force 20 November 1989
- ❖ Statutes of the International Committee of the Red Cross, came into force on 1 January 2018
- ❖ Geneva Conventions of 12 August 1949 and their Additional Protocols
- ❖ The UN Convention on the Rights of Persons with Disabilities, Treaty Series, 2515,3 came into force in 03 May 2008
- ❖ UN Convention Against Transnational Organised Crime

