

## **The Impact of Anti-Terrorism Laws on Religious Freedom: Cameroon's Approach in Combating Terrorism and the Role of the Church**

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**ABSTRACT:** Recent developments in international human rights law have revealed that humanity is at great risk of instability and a likely effect of World War III, which may result from Terrorism; the world's most challenging problem and the biggest threat to international peace and security. The world at large and Cameroon in particular, has suffered from great atrocities caused by terrorist groups. One of such groups is Boko Haram in the Northern part of Nigeria. In a similar vein as Nigeria, Kenya, Chad, United States of America, Belgium, France, Turkey, Britain, Germany and just to name a few, have also been affected by militant groups such as Alshabab, al-Qaeda and ISIS. The devastating effects now echo negatively on fundamental human rights and freedoms, most especially on religious freedom and migration-related issues. Cognizant of its impact and with the aftermath of the 11 September 2001 terrorist attack in the United States, several States, if not all, in an attempt to protect national security, have developed measures to fight against this outrageous act-terrorism. In an attempt to protect national security and curtail terrorism, states have gone beyond their obligations to take steps in line with their constitutional processes by intruding in some basic freedoms. What remains questionable is whether counter-terrorism laws adopted by states are applied for the purpose for which they are intended. The significance of this paper is to critically analyze and assess the impact of anti-terrorism measures on religious freedom (human rights) with Cameroon's approach in a comparative perspective and the role of the church in peace building and policy making for a better world and development.

**KEY WORDS:** religion, terrorism, countering terrorism, human rights, church, politics.

## 1. Introduction

Although the issue of human rights protection is a product of long history of the struggle for peace and the rule of law, serious efforts to legally recognize and protect human rights against terrorism in the world is very much a recent phenomenon. Terrorism as the term connotes, is the worst form of threat to the long lasting peace humans have suffered for since the aftermath of World War II and the September 11 terrorist attack in the United States.<sup>1</sup> A day characterized by an unprecedented shock and sufferings in the history of mankind and the United States in particular. Since then and in 2013 the world at large and Cameroon in particular, have suffered great atrocities caused by terrorist groups. One of such groups is Boko Haram in the Northern part of Nigeria.<sup>2</sup> In a similar vein as Nigeria, Kenya, Chad, United States of America, Belgium, France, Turkey, Britain, Germany and just to name a few, have also been seriously affected by militant groups such as Alshabab, al-qaeda and ISIS. The devastating effects left behind far reaching consequences on human rights and fundamental freedoms, most especially on religion and migration related issues. This may have resulted from religious diversity, the quest or desire for power or continuous stay in power and economic interests. As a consequence, several attempts have so far been made by states in general and Cameroon in particular in countering terrorism and violent extremism or radicalization through the adoption of Anti-terrorism laws or legislation, the establishment of border control and restrictions.<sup>3</sup> Whether these measures are in line with their human rights obligations and in respect for fundamental freedoms (freedom of religion) and provides sufficient guidance to those charged with their execution to enable them to ascertain what sorts of freedoms are properly restricted and what sorts are not, when and how, is a matter of great attention. Although the ultimate aim of every state is to protect national security, anti-terrorism measures are more often than not, misused by states at the detriment of fundamental liberties. This paper examines the impact of anti-terrorism laws on religious freedom as a fundamental human right with case study on Cameroon to ascertain the extent to which anti-terrorism laws may help to promote respect for peace, human rights and fundamental freedoms.

This paper starts by considering the scope of freedom of religion as a fundamental human right, its global and regional legal framework for protection under international law and the national legal framework for protection in Cameroon. The Obligations of states will be given due consideration. It will further address Terrorism and the impact of Cameroon's anti-terror law on religious freedom as a framework for the protection of national security and peace. A comparative analysis of the compatibility of national

counter-terrorism measures adopted by states will be taken into consideration to demonstrate how other states address this problem and the significant role of the church in peace building, countering terrorism and the promotion of religion or human rights. The paper concludes that despite the absence of a fixed and global or unified definition of terrorism, such studies show that there is no perfect anti-terrorism law in Cameroon and that Cameroon should review its anti-terrorism law and learn from the experiences of other nations in a globalised and increasingly interdependent world.

## 2. Freedom of religion as a fundamental human right

One of the most fundamental freedoms and liberties inherent to everyone from birth is the right to freedom of religion. The term religion or freedom of religion literally means the right to adhere to any form of religion or none, to practice or abstain from practicing religious beliefs, and to be free from governmental interference.<sup>4</sup> The right to freedom of thought, conscience, religion or belief (hereinafter freedom of religion) is intrinsically linked to other fundamental freedoms such as freedom of expression, association and assembly. It is commonly described as an indispensable right of man and a foundation for democratic society.<sup>5</sup> It is also one of the most vital elements that make up the identity of believers and their conception of life. Religious freedom is primarily a matter of individual thought and conscience, which is absolute and unqualified but its manifestation may have an impact on others. Freedom of Religion has gained international recognition thereby making it a very significant element of the modern perception of human rights. Before the development of international law, freedom of religion had gain considerable recognition in domestic laws of some states.

For instance, the First Amendment to the US Constitution points to the fact that, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.<sup>6</sup> The establishment of religion clause of the First Amendment, according to Black J in *Everson v Board of Education of the Township of Ewing*<sup>7</sup> means that, neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer some religion over other or can force nor influence a person to go or remain away from church against his will or force him to profess a belief or disbelief in any religion . . . In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and state'. In addition, in his second state of the Union address in 1941, Franklin D. Roosevelt's, pointed out that freedom of religion is the freedom of everyone to worship God in his own way . . . everywhere in the world.<sup>8</sup> This, however,

demonstrates the extent to which freedom of religion is fundamentally important to everyone and the extent of its absoluteness. In other words, every state must remain neutral and separate from religion.<sup>9</sup> The 1948 declaration did not only guarantee the right of citizens but also prevents governments from interfering with and unfairly discriminating practices on religious freedom. The scope of its protection seems very wide and covers diverse practices. According to *David Saperstein*, Ambassador at Large for International Religious Freedom (IRF) “there is an absolute and unequivocal need to give voice to the religiously oppressed in every land afraid to speak of what they believe in; who faced death and live in fear, who worship in underground churches, mosques or temples, who feel so desperate that they flee their homes to avoid killing and persecution simply because they love God in their own way or question the existence of God.”<sup>10</sup>

Though, not legally binding, the Universal Declaration of Human Rights (hereinafter UDHR),<sup>11</sup> in clear language proclaims that, “everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”<sup>12</sup> The scope of what constitute freedom of religion is guarantee to everyone and recognizes religion as a fundamental human right which must be given considerable respect by all states without interference most especially during their constitutional processes and in the realization of their respective human rights obligations.

This is also clearly affirmed in the EU guidelines on freedom of religion<sup>13</sup> which point to the fact that, freedom of thought, conscience, religion or belief, applies equally to all persons. It is a fundamental freedom that includes all religions or beliefs, including those that have not been traditionally practiced in a particular country, the beliefs of persons belonging to religious minorities, as well as non theistic and atheistic beliefs. The freedom also covers the right to adopt, change or abandon ones religion or belief, at one’s own free will. Like freedom of opinion, conscience and religion, freedom to change ones religion or belief is absolute and is not subject to any interference by the state.<sup>14</sup> The expression “right to freedom of thought and conscience” implies the right of everyone to develop an autonomously thoughts and a conscience free from limitations from external or state influence. It forbids a state from interference through brainwashing and indoctrination.<sup>15</sup> States are obliged to respect the individual’s freedom of conscience both positively and negatively by taking reasonable and appropriate measures to protect the rights of the conscientious objector and by refraining from actions which punish the objector or discriminate against him or her. The fundamental nature of freedom of religion proves beyond all

reasonable doubt that, freedom of religion is a non derogable right which deserves greater protection free from states interference or political influence. Its protection has gained far-reaching consequences both globally and regionally and in the domestic laws of every state or nation.

### 3. International Legal Framework For Protection

Since time immemorial, freedom of religion has gained considerable protection under international law and in the domestic laws of some civilized nations or states. Amongst which are global treaties, regional and the domestic constitutions of state parties. Notwithstanding the different levels of protection, the principles of universality, interdependence and indivisibility, equality and non-discrimination still play a very prominent role to enable individuals or states to invoke any of the frameworks when faced with issues on religion.

#### 3.1 Global Framework

The global framework for the protection of the right to freedom of religion sparked up just after the adoption of the UDHR which incorporated two sets of rights into a single document. It entrenched religion under part one as a fundamental and substantive right with great certainty. In spite of this, the declaration is a soft law which has no binding effect. Few years after, the International Covenant on Civil and Political rights (ICCPR) was adopted with one hundred and sixty eight states or parties.<sup>16</sup> Like article 18 of the UDHR; article 18 of the Covenant guarantees freedom of thought, conscience and religion to everyone with great certainty and clarity but religious manifestation is subject to restrictions.<sup>17</sup> What seems to have made article 18 of the covenant very special from article 18 of the UDHR is the fact that it contains a special provision which gives special powers to parents and legal guardians to ensure the religion and moral education for their children.<sup>18</sup> In addition, the Covenant prohibits discrimination based on religion.<sup>19</sup> In a similar vein, the United Nation Declaration on religious intolerance also guarantees freedom of religion and prohibits religious intolerance and discrimination.<sup>20</sup> The International Convention on the Elimination of all forms of Racial Discrimination also prohibits all forms of discrimination in the exercise of the right to freedom of thought conscience and religion.<sup>21</sup> It imposes an obligation on state parties to undertake measures to guarantee the enjoyment of religious freedom.<sup>22</sup>

The UN Convention on the rights of the child though made purposely for children also guarantees freedom of thought, conscience and religion and prohibits all forms of discrimination based on religion.<sup>23</sup> The Vienna Declaration and programme of Action<sup>24</sup> further added that, all human rights including religion, are universal, indivisible, interdependent and interrelated. It however emphasis that the international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis and, that the significance of national and regional particularities and various historical and religious backgrounds must be borne in mind and, to promote the right of persons belonging to religious minorities.

### 3.2 Regional Framework

In an attempt to promote human rights at the national level, states have also adopted regional treaties in addition to global conventions to enforce their human rights obligations. The impact of their commitments towards human rights saw light in African, Europe and America with the adoption of the African Charter on Human and People's Rights (AChPR),<sup>25</sup> the European Convention on human Rights (ECHR),<sup>26</sup> the American Convention on Human Rights (ACHR),<sup>27</sup> and the Arab Charter on Human Rights (ACHR).<sup>28</sup> The African Charter was adopted purposely for all African states including Cameroon.<sup>29</sup> It guarantees freedom of conscience, the profession and free practice of religion and prohibit discrimination based on religion.<sup>30</sup> Reaffirming the fundamental principles of non discrimination in article 2 of the Charter on Human Rights, the protocol to the African Charter on Human and Peoples rights on the rights of women in Africa in its preamble prohibits discrimination on the grounds of religion.<sup>31</sup> Similar to the Covenant, the ACHR also entrenched religious freedom and prohibits all forms of discrimination based on religion and other opinion.<sup>32</sup>

The ECHR which acted as a model to the two international Covenants obliges state parties to the Convention to protect religious freedom as a fundamental human right. Article 9 of the convention analogous to article 18 of the Covenant guarantees freedom of thought, conscience and religion and prohibits all forms of discrimination on the exercise of this right in terms of religion.<sup>33</sup> The protection afforded by article 9 ECHR is much broader and applies to all personal, political, philosophical, convictions of all kinds with the express mention of a person's religious beliefs and their own way of apprehending their personal and social life. In addition to the convention, the Charter on Fundamental Rights of the European Union though not legally binding and a universal document like the ECHR also protects freedom of thought conscience and religion in the same terms as the convention and prohibits discrimination on religion

or belief and to members of national minority.<sup>34</sup> It also guarantees parents the right “to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions ... in accordance with the national laws governing the exercise of such freedom and right”.<sup>35</sup> The above treaties prove beyond doubt the commitments of states in ensuring a universal respect for human rights and freedoms. But what remains unclear is whether states in general and Cameroon, in particular, is meeting up to these commitments as required by international law. An attempt to address Cameroon’s domestic legal framework for religious freedom may clarify this doubt.

### 3.3 Legal Framework for Religion in Cameroon

After the ratification of international treaties, states are bound to take steps, in accordance with their Constitutional processes and other measures to give effect to the right to freedom of religion and other fundamental rights. Most liberal Constitutions seem to have followed the detailed formulation of the freedom of religion in the Universal Declaration. The Constitution as mentioned is the supreme law of every democratic society upon which all other laws depends on for their validity. For instance the Penal Code,<sup>36</sup> the anti-terrorism law, the Criminal Procedure Code<sup>37</sup> and other municipal legislation derived their validity from the Constitution. It is apparent that the post colonial era in Africa sparks up the desire or aspirations for constitutionalism so as to guarantee democracy, the rule of law and fundamental human rights. The impact of colonialism and independence in Cameroon was the introduction of a Bill of rights which structures the functioning of state activities and human rights protection. As a state party to the ICCPR,<sup>38</sup> the right to freedom of religion is spelled out in the preamble to its Constitution.<sup>39</sup> It states inter-alia that freedom of religion and worship shall be guaranteed. In a similar direction, the Penal Code guarantees freedom of conscience in the public and prohibits discrimination, violent obstruction of the ministry by threat, disturbances of public worship and contempt of minister of religion by strikes.<sup>40</sup> Analogous to the constitution is the 1990 Law on Freedom of Association which governs the relationship between the government and religious groups.<sup>41</sup> The Law leaves everyone with the right to set up an association and to belong to any religious association.<sup>42</sup> In spite of this positive affirmation, the law leaves the president and other administrative authorities (state) concerned with a broad discretionary power to dissolved religious groups or associations whose activities are contrary to the Constitution, laws and good morals, as well as acting in a way that tends to affect national integrity, unity and the security of the state.<sup>43</sup> However, in *Eitel MOUELLE*

KOULLA, *Jehovah Witness v The United Republic of Cameroon*, the Supreme Court emphasized that the law restrict freedom of belief only to public order grounds.<sup>44</sup>

Though the Constitution imposes a mandatory obligation on the state to guarantee religion, it however guarantees individual freedom of religion and worship separately from conscience in the Penal Code. The Constitution further protects this guarantee through an additional clause which provides that, the state shall be secular and government should remain neutral and independent with regard to religion in order to further the respect for all religion and to prohibit discrimination based on religion or beliefs.<sup>45</sup>

Even though the Constitution does not make explicit the three key concepts which differ from one another, the secular concept according to *Charles Manga* encompasses at least three main notions.<sup>46</sup> The first is the idea of liberty, which also includes the freedom not to believe. These imply that no one must be forced in the domain of religion or basic faith. The second is the idea of equality between peoples of different faiths or basic beliefs, which means that no religious denomination should enjoy a privileged position vis-à-vis other religious denomination and no religion should be adopted as the official religion of the state and that the state should not be in the business of imposing or advancing the interests of a particular religion. The third is the idea that all religious denominations without distinction should be involved in the process of determining what society is about and how it should go about realizing its goals. For instance, engaging in peacemaking processes through dialogue and policy reformulation. This also means that the state will not be bound by any religious laws or principles. In principle, the word neutrality and independence requires that a democratic state is supposed to keep equal distance from all religions by not taking a stand and interfering on religious matters, favoring or disfavoring a position or a group or organization standing for such position. The principle of neutrality of a state in the exercise of different religions, faiths and beliefs is conducive to public order, religious harmony and tolerance in a democratic society.<sup>47</sup>

Cameroonian religious secularism, neutrality and separationism has not completely removed the state from religious matters but rather led to a form of pragmatic cooperation and accommodation under rather complex circumstances where inter- and intra-denominational dynamics, ethnicity, geographical location and political opportunism have come into play.<sup>48</sup> In *Refah Partisi (The Welfare Party) and Others v Turkey*, the European Court of Human Rights (ECtHR) acknowledged that, a neutral state is prevented from manifesting a preference for a particular religion or belief and constituted the foundation of freedom of conscience and equality between citizens before the law. Intervention by the State to preserve the secular nature of the

political regime had to be considered necessary in a democratic society.<sup>49</sup> Cameroon's domestic framework on freedom of religion attest beyond doubt the existence of this right but the extent to which it is being enjoyed by the people in practice remains somehow debatable due to the fact that religious manifestation or exercise is subject to administrative tolerance and public policy.<sup>50</sup>

#### 4. Obligations Of States

The widely and deeply felt outrage about the human calamity and its aftermath caused by terrorism created an appeal to, and a determination on the part of state authorities to take effective preventive measures for the future. States authorities have the primary responsibility for preventing terrorist attacks, and naturally tend to wish greater powers in order not to be found wanting in a crisis. In their desire to be seen as taking effective measures against terrorism, certain governments if not all, for instance, Cameroon, UK, Germany, France, USA, Turkey, Belgium, Ethiopia, Kenya etc responded by adopting new domestic rules and procedures or changing the interpretation and application of existing procedures, which are often seen as standing in the way of an effective prevention of, and fight against terrorism. International norms are also put in place, imposing obligations on States to introduce changes in criminal law and procedure.

Many of these changes seem to have resulted in a weakening of the rule of law and human rights. This one-sided focus on security concerns also brought about a number of particularly invasive measures which severely threatened human rights: extraterritorial abductions, extreme delays in indicting arrested individuals, obtaining confessions through interrogation techniques that amount to torture or cruel, inhuman or degrading treatment of detainees, trials before organs falling short of a properly constituted court of law or in which normal procedural protections was reduced or denied.<sup>51</sup> These are just a few among many measures which have had an adverse effect on traditional rights of the accused, such as the right to liberty and security, as well as the right to a fair trial and freedom from inhuman treatment and religion.

It is of trite standard that the security of the state and its democratic institutions, and the safety of its population, is vital public and private interests that deserve protection, if necessary at high costs.<sup>52</sup> States are even obliged to provide protection to everyone subject within its jurisdiction.<sup>53</sup>

These duties, in other words, imply the obligations to respect human rights, protect human rights and the fulfillment of human rights.<sup>54</sup> As rightly stated by the ECtHR,

the protection of the right to life “may also simply in certain Well-defined circumstances require a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual.”<sup>55</sup> States do not only have the duty to protect State or national security, and the individual and collective safety of their inhabitants; they also have the duty to protect the (other) rights and freedoms of those inhabitants. Real security means that everybody in society can exercise his or her basic human rights and freedoms without being threatened by violence; maintaining security is meant to be in the interest of ensuring human rights, and thus should respect those rights.

As argued by the Venice commission, State security and fundamental rights are, consequently, not competitive values; they are each other’s precondition which in the long run, security is best protected by the enhancement and not by a weakening of the rule of law, democratic principles and the protection of human rights.<sup>56</sup> In a similar line of contention, the UN Security Council Resolution 2178/2014 and the Global Counter-Terrorism Strategy notes that, effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing.<sup>57</sup> This implies that in fulfilling their duties, States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law.<sup>58</sup> Notwithstanding, the fact that states have been left with a very broad margin of discretion (leeway) under the Covenant-ICCPR, “to adopt laws and other measures as may be necessary” to give effects to the right to freedom of religion, does not however implies that they should adopt legislation that will limit or put the right to freedom of religion in jeopardy. Even though subject to restrictions,<sup>59</sup> freedom of religion is a non derogable right which demands absolute protection from states. But how states respond to religion during terrorism, war or public emergency is a matter of great concern.

#### 4.1 Freedom of Religion: A Non Derogable Right

Unlike other rights and liberties, freedom of religion, although it depends on freedom of expression, association and assembly for its exercise and enjoyment is a non-derogable right (*Lex Specialis*).<sup>60</sup> Article 4 of the Covenant constitutes the legal foundation which allows states to derogate from most of their obligations under the covenant “in time of war or other public emergency threatening the life of the nation.”<sup>61</sup> However, some fundamental rights and freedoms are declared non-derogable by the Covenant.<sup>62</sup> These are so called absolute rights, amongst which is the right to life, the prohibition of torture and human and degrading treatment or punishment, slavery,

religion and the *nullum crimen nulla poenae* principle. This is important to emphasize, since State practice shows that these rights may be under severe threat in situations of a proclaimed state of emergency. The right of derogation can be invoked only in time of war or other public emergency threatening the life of the nation. To establish the natural and cultural meaning of “public emergency threatening the life of the Nation”, the ECtHR in *Lawless v Ireland* states that, it is “an exceptional situation of crisis or emergency which affects the whole population and constitutes a threat to the organised life of the community of which the State is composed”.<sup>63</sup> The court in its opinion, on the protection of human rights in emergency situation, laid down the following characteristics of a situation that will justify such emergency:

- (1) It must be actual or imminent;
- (2) Its effects must involve the whole nation;
- (3) The continuance of the organised life of the community must be threatened;
- (4) The crisis or danger must be exceptional, in that the normal measures or restrictions, permitted by the Covenant or Convention for the maintenance of public safety, health and order and the protection of the rights and freedoms of others, are plainly inadequate.<sup>64</sup>

However, the Court further stressed that there must be a “threat to the organised life of the community”.<sup>65</sup> Looking at the national legislation of member states to the covenant for instance Cameroon, the Constitution and the 1990 Law on Freedom of Associations permit restrictions for freedom of religion and other fundamental rights and liberties. These restrictions, to some extent, may apply to rights and freedoms of both those who have committed or are suspected of having committed a terrorist act and also to possible victims of terrorist acts.<sup>66</sup> In order to comply with article 4 of the Covenant, article 9 of Cameroon’s Constitution states that the president, “where the circumstances so warrant”, may declare a state of emergency or state of siege by decree and “take any measures as he may deem necessary”. The only check on the use of power by the president is the requirement that he should “inform the nation of his decision by message”. This excessive use of power and discretion has been described as a *carte blanche* given to the government to take whatever measures it considers necessary to deal with a crisis situation within the state.<sup>67</sup> So whenever anti-terrorism legislation constitutes a derogation of one or more human rights, it is therefore required that the measures in question comply with all the conditions of application of derogations set out in international human rights treaties or in the covenant; in particular, that they are exceptional, temporary, strictly necessary and proportional to the imminent threat to the nation.<sup>68</sup>

Their necessity and proportionality as required by law must be subject to domestic and international supervision and in the keeping in force of the legislation concerned.<sup>69</sup> When an emergency situation pertains and a contracting state wishes to use its power to derogation, it is imperative for the state in question to make a formal derogation under article 4 of the covenant indicating the rights and the territory to which the derogation applies. In case of such derogation, the covenant demands the state concerned to immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated and the measures that it has taken and as well as of the moment these measures have or shall ceased to operate.<sup>70</sup> It is within this backdrop that restrictions on some rights including religious freedom by states during war or time of emergency that result from terrorism will be permissible or justifiable.

## 5. Impact Of Terrorism

As commonly noted, national security and fundamental freedoms are mutually reinforcing and indivisible concepts or rights which imply that the protection of one necessarily requires the protection of another. One of the most recent challenges and threat to peace and development is Terrorism. This has increasingly drawn the attention of many states, if not all towards its eradication as it impacts negatively on human lives. Though many people still doubt what might often be the cause, past experiences have proven that religious discrimination, unresolved conflicts, lack of a rule of law or trust in law; violations of human rights, political injustice, socio-economic marginalization, dehumanization of victims of terrorism, and poverty are some of the roots causes of Terrorism. This outrageous act most often than not, affects the lives of civilians either directly or indirectly. In Cameroon like in other states (Nigeria, Kenya, Chad, France, Germany, United Kingdom, United States, Belgium, Turkey, Ethiopia) for instance, Terrorism has lead to high rate of migration, abduction, lost of lives, rape, homelessness, separation of families, forced marriages, arbitrary arrest, kidnapping, destruction of properties and other related factors.

According to *Denis Tull*, Boka Haram kidnapped the wife of the deputy Prime Minister in the North of Cameroon alongside French and Chinese citizens demanding large ransom payments in compensation.<sup>71</sup> These devastating effects on human rights and freedoms have pushed the international community to reflect on sanctioning Terrorism. Though there is no universally legally accepted definition of terrorism, the term in common parlance, refers to acts of violence that target civilians in the pursuit of

political or religious aims.<sup>72</sup> In spite of this short coming, the international community has set a pace within which states could actually follow or be guided in the course of drafting measures to fight against terrorism and violent extremism. These two terms are often used interchangeably and without a clear distinction. Unlike terrorism, violent extremism is extremism in a wider category of manifestation.<sup>73</sup>

The United Nation Security Council in its Resolution 1566(2004), referred to Terrorism as “criminal acts, including against civilians, committed with the intention to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism.”<sup>74</sup> The above definition seems to be the most commonly accepted definition worldwide though with no binding force. It states out clearly the material and mental elements that constitute terrorism and which must be taken into consideration by states in adopting counter-terrorism laws. Alex however, argues that, in the context of fundamental freedoms, the definition of terrorism ought to be restricted to violent crimes that are designed to advance an ideological, religious, political or organized criminal cause and to influence public authority by inflicting terror on the public.<sup>75</sup>

In his report, the Special Rapporteur, Martin Scheinin, affirmed that the model definition of terrorism implies an action that is “intended to cause death and serious body injury to one or more members of the general population or segments of it” and should not include property crimes.<sup>76</sup> Although some states have gone beyond this limit, any restrictions need to be justified by means of necessity and proportionality. Since the aftermath of the September 11 attack in the US, several states if not all, have developed counter-terrorism measures to prohibit acts contrary to national security so as to enhance peace and human rights. But why adopt these measures? Undoubtedly, the absence of peace necessarily signifies violations and the non respect for and the enjoyment of human rights. In attempt, some states for instance Cameroon, United Kingdom, Ethiopia, Kenya, and just to name a few vaguely or broadly define such acts as being concerned with terrorism while in some other countries, the definition of terrorism in national laws may be so broad that it encompasses a wide range of acts differing gravity. These definitions to some extent carry a risk that certain crimes or offences are incorporated in the category of terrorist act that, by nature do not belong there. The lack of a universally binding legally accepted definition for terrorism amongst states has hampered the effective enjoyments of certain rights and freedoms including freedom of religion, the right to life, freedom of association and freedom of speech. This

to a greater extent has a consequential effect on the lives of individuals either directly or indirectly. In order to take a stand on whether an anti- terrorism law adopted by a state or states comply with the framework for national security and human rights requires a critical assessment of its scope, content and clarity of its protection.

### 5.1 Anti-Terrorism Laws: A framework for protection

In every democratic society, national security is a necessary condition for the well being of citizens. The respect for freedom of religion and other fundamental freedoms has a crucial role to play in ensuring democracy and sustainable human development, as well as in promoting international peace and security.<sup>77</sup> One of the most substantial threats to humanity today is terrorism and states have taken several measures to counter that threat. They have a positive duty to protect people within their jurisdiction. Such measures, however, must be taken within the framework set out by international human rights law.<sup>78</sup> Nowadays, states or governments have the tendency of restricting fundamental rights and freedoms for the aim of national security. The UN Human rights committee has noted that, extreme care must be taken by state parties to ensure that anti-terrorism laws, treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conform to the strict requirements of articles 18 and 19 paragraphs 3 of the Covenant.<sup>79</sup>

So when a state party invokes a legitimate ground for restriction of freedom of religion, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken in particular by establishing a direct and immediate connection between the right and the threat.<sup>80</sup> As rightly argued; “terrorism can and must be fought with means that fully respect human rights and the rule of law, excluding all forms of arbitrariness. Injustice breeds terrorism and undermines the legitimacy of the fight against it”.<sup>81</sup> The African Commission guidelines and the UN Declaration recommend that states “shall not use the concepts of “violent extremism”, “extremism” and the combating of terrorisms as a pretext to restrict fundamental freedoms, including freedom of religion and conscience, expression, association, assembly, and movement, and the right to privacy and property with due regards to non derogations and restrictions on human rights and freedoms.”<sup>82</sup> It is only in exceptional circumstances may states restrict certain human rights and freedoms. In an attempt to counter-terrorism, states have developed anti-terrorism measures to fight against religious radicalization or extremism and terrorism without giving an overall definition of terrorism within

national laws. These measures, to some extent have gone far beyond the obligations to take necessary steps, in accordance with their constitutional processes and in line with the covenants provisions. Although states have been given the margin of discretion under the Covenant to adopt legislation within their territory to counter terrorism, this however does not give room for them to go beyond what the Covenant is aimed at protecting. A case in point is Cameroon with the adoption of its anti-terrorism law.<sup>83</sup>

The Venice Commission also recalls that,<sup>84</sup> when states adopt anti-terrorism laws, they should conform to three fundamental principles of criminal law which represent the pre-condition for the protection of the rights of the accused: that any new offence must be introduced by an ordinary law, discussed and approved by Parliament through normal legislative procedure, and not by mere acts of the executive, without Parliamentary control; must address actual facts which must be possible to ascertain materially and objectively; must relate to facts which are committed after the entry into force of the new law. It is for the judiciary and the Constitutional justice – national and international – to assess whether the legislative responses to terrorist threats comply with the principle of legality, and if need be, to declare the legislation introducing the new offences inadmissible or non applicable, depending on the specific features of the relevant legal order. In attempt to ascertain or evaluate whether the Cameroonian anti-Terror law complies with the principle of legality, it will be necessary to take cognizance of the definition and laws or measures adopted and applied by other states for instance United Kingdom and Germany. The adequacy of this legislation will depend on their legal certainty and the extent to which they provide adequate protection on human rights and freedoms.

### 5.2 Cameroon's Anti-Terrorism Law in a Comparative Perspective

One year after the invasion of Cameroon by a terrorist group Boko Haram, the devastating effects were very much felt in the Northern part of the Country, a border between Cameroon and Nigeria. This was seen by the ruling party as a threat to national security and the long lasting peace which the new (deal) government has fought for or build since 1982.<sup>85</sup> A desire to give his nationals the continuous trust in preparation for a new wake come 2018 (Elections) inspired the government for increased security within the Country to fight against terrorism and a continuous maintenance of a long lasting peace in Cameroon. Alongside security increase, the state adopted a law that will punish, prevent and guide legislators in cases of terrorism. According to section 2 of this law:

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

Like article 1 of the UK anti-terrorism law,<sup>86</sup> article 2 of the Cameroon anti-terror law is very broad on the definition of terrorism. They criminalize not only acts that are widely understood to be ‘terrorist’ in nature but also lawful gatherings and demonstrations as well as many forms of behavior that cannot be regarded as terrorism. Looking at the scope of protection, article 2 of the Cameroon’s anti-terror law extends to anyone who disrupt the functioning of public services, the delivery of essential services to the population, or create a situation of crisis among the public is sanction with death sentence.<sup>87</sup> Although it sets out a demarcation line between what may constitute terrorism, the law appears to be unconstitutional. This is because it include death sentence as a sanction to terrorism and violates the right to life guarantee in the preamble to the Constitution. Even though Cameroon unlike UK and Germany is not a state party to the second optional protocol to the abolition of the death penalty,<sup>88</sup> a mere inclusion of this sanction in its national law does not in any way serve as a deterrent, and as such, is unconstitutional and unjustifiable. In addition, the scope as to what constitute terrorism under the two laws is too broad. Unlike in the German anti-terrorism law,<sup>89</sup> the UK and Cameroon’s anti-terror laws include property as a constitutive element of Terrorism.

This gives room for those in power to limit any group (associations) that may rise to protest against the incumbent regime for the act of terrorism. According to ARTICLE 19, article 1 of the UK anti-terrorism law is too broad so much so that it triggers executive powers that are very restrictive on human rights, often with reduced judicial oversight.<sup>90</sup> In a similar line of contention in Cameroon, Civil Rights Defenders pointed out that the so-called anti-terror law has a chilling effect on civil society and the human rights community in Africa.<sup>91</sup> Article 2 of Cameroon’s anti-terror law also applies to a crisis situation. One may be tempted to question whether a “crisis” situation is similar to a “war” situation? According to the Guidelines of the Committee of Ministers, the word ‘crisis’ as mentioned in the above provision is not limited to wars, terrorist attacks, natural and man-made disasters but also extends to

situations in which freedom of religion is threatened.<sup>92</sup> The expression “time of crisis” however, is not equivalent to the “time of war or other public emergency threatening the life of the nation” as formulated in article 4 of the Covenant. This implies that a declared national state of emergency might sometimes justify temporary restrictions on fundamental freedoms including religion but a crisis situation should not serve as an excuse for imposing limitations on freedom of religion beyond those prescribed in article 18(3) of the covenant.

Unlike in Cameroon and UK, Germany seems to have developed a more succinct approach towards terrorism.<sup>93</sup> Sections 89(a)(b) of the German Criminal Code proclaim that whoever prepares, attempts, or commits a serious violent offense endangering the state shall be liable for imprisonment from six months to ten years.<sup>94</sup> A critical observation of this provision will affirm that it differs completely from that of Cameroon and UK. This distinction can be seen both in its material and mental elements and the sanctions attached to terrorism. Unlike in Cameroon, the German Anti-terrorism law sets out the foreseeability for any commission by stating clearly the acts that may constitute terrorism and the sanctions awaiting any possible commission. This is a clear indication that, during adjudication process, Cameroon judiciary will need to look left and right so as to learn from the examples of its counter-parts on how such laws should be formulated and interpreted. Even though its national laws or Constitution does not give express room for this, the state cannot in anyway avail itself from comparative interpretation cognizance of globalization and internationalization in human rights law. To make certain this point of contention, it will be appropriate to assess the legality of the Cameroon’s anti- terrorism law so as to enable those subject to it to understand how and when it is necessary to justify a claim for any breach.

### 5.3 Assessing the legality/Character of Cameroon’s Anti-Terrorism Law

According to article 18(3) of the ICCPR, any restriction on the right to freedom of religion must be “prescribed by law” and must be “necessary in a democratic society”.<sup>95</sup> ‘Necessary in a democratic society’, according to the European Court of Human Rights amounts to “a pressing social need.”<sup>96</sup> It implies in particular that, the measures taken for the restriction of fundamental freedoms must be effective and that the scope and effects of the resulting limitation must be proportional in relation to the importance of the interest to be protected.<sup>97</sup> The expression provided by law however, implies that a limitation on freedom of religion must be laid down in law, sufficiently transparent and accessible legal provision. The Phrase “provided by law” also known as legality

(*nullum crimen nulla poena sine lege*) is a very important guarantee of the rule of law.<sup>98</sup> The word “law” in this context has an autonomous meaning. According to Black’s, “it is the regime that orders human activities and relations through systematic application of the force of politically organized society, or through social pressure backed by force.”<sup>99</sup> It includes for instance written and unwritten laws such as the Constitution, Anti-Terrorism law, Criminal Law and so on. According to article 18(3) of the Covenant, the expression provided by law also implies that any restrictions on freedom of religion must adequately specify the permissibility of a given interference by states enforcement organs.<sup>100</sup>

This in other words implies that for a norm (Anti-Terrorism Law) to be characterized as a law, it must be well formulated and explicit so as to guide the society on how and when to exercise their fundamental freedoms and must be compatible with international human rights law. Such laws to an extent will be vital in framing the discretion granted to authorities. The OSCE/ODIHR guidelines further point to the fact that, for a norm to be characterize as a law, it must be compatible with international human rights standards and be sufficiently precise to enable an individual to assess whether or not his or her conduct would be in breach and as well as a likely consequences of any such breaches.<sup>101</sup> The UN Human Rights Committee as an interpretative guideline,<sup>102</sup> also observed that, for a “norm” to be characterized as a “law” it must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and must be made accessible to the public. A Law may not confer unfettered discretion for the restriction of freedom of religion on those charged with its execution. Laws must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression or freedoms are properly restricted and what sorts are not. Laws must not violate the non-discrimination provisions of the covenant and must not provide for penalties that are incompatible with the Covenant.<sup>103</sup> The Human Rights Committee further highlighted that offences as “encouragement of terrorism” and “extremist activity” as well as offences of “praising”, “glorifying”, or “justifying” terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with fundamental freedoms.<sup>104</sup>

In a similar vein, the African Commission guidelines while countering terrorism in Africa, even though a soft law with no binding force stressed that any criminalization of, or other punishment for acts of terrorism must abide by the principle of legality and as such states must ensure that their laws criminalizing acts of terrorism are accessible to the public, defined by clear and precise provisions in the law, non discriminatory, non-retroactive and must be directed only against acts done knowingly and with

intent and in accordance with international law, including human rights.<sup>105</sup> In *Sunday Times v United Kingdom*, supra the ECtHR further determines the clarity of precise norms or legislation by upholding the opinion of the Human Rights Committee. It states clearly that:

A norm cannot be regarded as a “law” unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able-if need be with appropriate advice-to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.<sup>106</sup>

According to the Court, laws which are not formulated with sufficient precision are considered vague. Why? This may be so because vague or broad provisions (like article 2 of the Anti-Terror Law) are susceptible to wide interpretation, by both authorities and those subject to the law. Consequently, they are an invitation to abuse and authorities may seek to apply them in situations which bear no relation to the original purpose of the law. Vague provisions also fail to provide sufficient notice of exactly what conduct is prohibited. Ben Emmerson, Special Rapporteur on the promotion of human rights and freedoms while countering terrorism argued that, vagueness of concept could lead to its use against members of religious minorities, civil society, human rights defenders, peaceful separatist and indigenous groups and members of political opposition parties.<sup>107</sup> Vague legislation on religious issues can also create tensions and problems rather than solve them. Consequently, they exert an unacceptable chilling effect on fundamental human rights and freedom of religion.<sup>108</sup> The principle of accessibility requires that laws should be intelligible, clear and predictable. Although the ECtHR in *Feldek v Slovakia*<sup>109</sup> acknowledged that law should not be excessively rigid so as to permit it ‘to keep pace with changing circumstances’, the provision of a given law requires a sufficient elevated degree of legal precision so that the possibility of commission of an offence is foreseeable.

Undoubtedly, the Cameroonian anti-terror law is unconstitutional, imprecise and too wide and applied to unintentional acts done unknowingly and not in accordance with international law and fundamental freedoms. It seems to accord greater protection to the rich more than the poor and crackdown on those who are against the incumbent government. In his opinion on the law, Ni John Fru Ndi Chairman of the Cameroon Social Democratic Front-SDF argues that, the Anti-Terror Law is designed to terrorize the people and kill their Freedoms.”<sup>110</sup> According to Amnesty international reports, the law infringes on many basic rights and freedoms protected in the Cameroonian Constitution and international human rights law.<sup>111</sup> However,

the National Commission on Human Rights and Freedom-NCHF also pointed out that it is feared that the security situation in Cameroon could provide grounds for the application of the law, or encourage public authorities to use their powers to suppress public demonstrations.<sup>112</sup> Without fear of any contradiction, the drafters had the intension at the time of its adoption to restrict fundamental human rights vaguely guaranteed in the Constitution. Consequently, article 2 of the law is vaguely formulated with regard to the definition of terrorism, disproportionate penalties and provisions for only military courts to try terrorism cases and hence risk stifling freedom of the press. This can also be seen as an intension to maliciously categorized human rights abuses as an apology for terrorism. For instance, in 2015 Ahmed Abba a Radio France International Correspondent was charged with complicity and non-denunciation of terrorist acts while in 2014 Fomusoh Ivo Feh, was arrested in Limbe for forwarding a sarcastic text message about Boko Haram and charged for non-denunciation of a terrorist act. This is contrary to the 1990 Mass Communication Law which protects the confidentiality of journalists' sources.<sup>113</sup> There is therefore an urgent need for a new Anti-Terrorism Law in Cameroon and the sanction of death penalty should be wiped out. This is because failure to do so is likely to result to war or instability. A second thought to engage religious or church authorities during its drafting phase will be a bold step towards the respect for democracy, rule of law and fundamental freedoms in Cameroon.

## 6. Role of the church

Past experiences have shown that many people if not all, direct blames for terrorism on religion most especially to Islamic religion or sates. During terrorism which is often seen as the most challenging moments in human life, the church is an essential moral touchstone and regulator of human rights. Apparently, the devastating effects caused by terrorism are felt by almost every sector of the population including the church. This has resulted in the loss of lives as well as church and state properties. A recent case was seen in France and Egypt following the death of a Catholic priest (Father Jacques Hamel)<sup>114</sup> and twenty eight other Egyptian Christian pilgrims in a bus bomb attack in Egypt.<sup>115</sup> In response to the acts of terrorism against humanity and the attack on the Catholic priest in France, Pope Francis pointed out that,<sup>116</sup> no religion has a monopoly on violence, and his own experience in inter-religious dialogue has shown that Muslims seek "peace and encounter." It is not right and just to say that Islam is terroristic. He further argues that, terrorism grows when there is no other option, and as long as the world economy has as its center the god of

money and not the person. According to the Popes point of contention, the world seems to have focused more attention on money than on humanity and that the time has come for states to focus great attention on humanity and peace building so as to save the entire world from terror attacks and injustice. These devastating effects on peace and human dignity have not only attracted the attention of states in the fight against terrorism but also that of the church through every day preaching. The role of the church in the fight against terrorism is very instrumental in peace making and democracy. In doing so, Religions, religious leaders, and religious organizations need to assist the strengthening of state power at the expense of their activities in the sphere of spirituality, insofar as strong authorities have wide-ranging possibilities to provide for freedom of belief and freedom of religion. The church plays a prominent role in peace-making through interreligious dialogue, law making and policy reformulation, fight against discrimination, promotion of human rights, development and poverty reduction.<sup>117</sup> This intention tallies with the 2030 UN Development Goals,<sup>118</sup> that states aim at fostering peaceful, just and inclusive societies which are free from fear and violence.

This is because there can be no sustainable development without peace and no peace without sustainable development. This is a clear affirmation to the fact that without peace, development and human rights will be at risk. The Church preaches against discrimination and encourages states to promote and enforce non-discriminatory laws and policies so as to enhance development using, religious dialogue as their main tool for peace. According to Marko Kuhn, interreligious dialogue has been very high on the agenda of religious leaders and institutions for many years.<sup>119</sup> The role of the church in peace building and dialogue can be clearly seen for instance, in Cameroon during the uprising or crisis between the government and English Southern Cameroonians where several joint letters and memorandum were sent to the Head of State by religious authorities emphasizing on a continuous dialogue.<sup>120</sup> In addition, the transitional phase in power in the Republic of Congo between Joseph Kabila and the opposition party or leaders was calmed by religious authorities. In Central African Republic, the church was part of the mediation for a long lasting peace.

These are just a few amongst many contributions. Thus the role of the church in the fight against terrorism and peace building cannot therefore be underestimated or over emphasized. This is because, in some states most especially developing states, religious authorities have been forced to participate fully in politics despite the demand for neutrality in politics or by states authorities in religious matters. The great desire for states to respect religious rights and authorities within their respective scope of influence will better the world if they are made to become part of policy and law

reformation against terrorism. This is because the scope of religion is better known by religious authorities who have great or long term experiences within this domain. Had it been Cameroonians included religious authorities during the drafting process of the anti-terror law, it would have been better off than what it is today.

## 7. Conclusion

In fact, every state has the obligations to adopt legislation to protect national security as a means to counter-terrorism. Like other states, Cameroon undertakes this authority since its ratification of the International Covenant on Civil and Political Rights in 1984. This gives the state the powers to take steps to adopt laws or other measures as may be necessary and in accordance with its Constitution taking cognizance of the rights in the Covenant. Though the protection of national security is necessary to enhance the enjoyment of other rights, this to some extent can only be achieved if such measures are adopted in respect of other rights and freedoms. As rightly said, human rights are interdependent and indivisible of which the enjoyment of one, may necessarily lead to the other. Freedom of religion and other fundamental human rights are indivisible concepts, so to national security. But the nature of religion and state relations in Cameroon in many respects reflects the latent tensions that exist in a complex multi-ethnic, multicultural and multi-religious society facing challenges of economic, social, cultural and political development.<sup>121</sup> One of such is open conflict with government on the recent crisis in Anglophone Cameroon. Despite some challenges, religious denominations have increasingly filled the void by speaking out and trying to influence the pace of changes in the Country. Indeed, Counter-terrorism measures adopted by states require some clarity and certainty both in scope and in content to enable foreseeability and accessibility. Such legislation should be subject to parliamentary approval and should be under independent review for their legality, necessity and proportionality.

A critical observation of article 37(3) of Cameroon's Constitution will affirm that, the judiciary in Cameroon is not an independent institution.<sup>122</sup> A court which is not independent from the executive may not be impartial towards parties, if one of them is the state. In *Campbell and Fell V United Kingdom*, the ECtHR observed that the requirement of independence entails safeguards relating to "the manner of appointment of judges, the duration of their office, the existence of guarantees against outside pressures and the question whether the body presents an appearance of independence."<sup>123</sup> This gives room for excessive discretion for those in power against the interest of the majority concern.

The law-Anti-Terror itself leaves national authorities with a broad margin of appreciation to make national and international supervision practically meaningless. This to a greater extent has helped to weaken the enjoyments of human rights within the country and limit the individuals from absolute enjoyments of their basic freedoms in general and religion in particular. In addition, the lack of an independent and effective national supervisory body to promote the effective and speedy enjoyment of fundamental freedoms has spark up the desire for a new Constitution and a counter-terrorism measures that will guarantee the rule of law within the Country and in conformity with the principle of legality, necessity, proportionality and non discrimination.<sup>124</sup> In spite of the aspiration for legal review, parliamentary control and internal executive checks, judicial review thus remains of the utmost importance, with extra guarantee supervision measures against terrorism by an international independent tribunal. To wipe out this outrageous act, the world in general and Cameroon in particular will need to replace instability with stability, hostility with friendship and animosity with alliance. In order to achieve its goal of human rights protection, Cameroon is therefore in great need of good policies and effective legislation and should engaged church authorities in the law making process, reduce poverty and unemployment, review the anti-terrorism law and all other legislation that contradict fundamental freedoms, respect for politics, law, democracy and good governance. Only when this has been put into practices that the aspiration for its vision for 2035<sup>125</sup> emergence plans for poverty reduction, economic growth, acquiring the status of a newly industrialized Country, reinforcing national unity, consolidating the democratic process, and employment strategy will be realistic.

## Notes

<sup>1</sup> The 9/11 Final Report of the National Commission on Terrorist Attacks Upon the United States September 11 World Trade Center and the Pentagon, 2001. [http://govinfo.library.unt.edu/911/report/911Report\\_Exce.htm](http://govinfo.library.unt.edu/911/report/911Report_Exce.htm). Accessed 15 June 2017.

<sup>2</sup> Denis M Tull, Stiftung Wissenschaft und Politik und Sicherheit (ed.) *Cameroon and Boko Haram: Time to Think Beyond Terrorism and Security*, Berlin 2015 (SWP Comments 42/2015)1 <[http://www.ssoar.info/ssoar/bitstream/handle/document/44590/ssoar-2015-tull Cameroon\\_and\\_Boko\\_Haram\\_time.pdf?sequence=1](http://www.ssoar.info/ssoar/bitstream/handle/document/44590/ssoar-2015-tull_Cameroon_and_Boko_Haram_time.pdf?sequence=1)> [accessed 15 June 2017]; Amnesty International Report, The State of the World's Human Rights-Cameroon (Amnesty International 2016/17)106-107.

<sup>3</sup> Law No.2014/028 of 23 December 2014 on the Suppression of Act of Terrorism.

<sup>4</sup> Bryan Garner A (ed)..2001. *Black's Law Dictionary*, 2<sup>nd</sup> edn, West Group Publisher. 295.

- <sup>5</sup> European Union Guidelines on the Promotion and Protection of Freedom of Religion or Belief, adopted by the Council of Europe, Luxembourg 24 June 2013, para.1.
- <sup>6</sup> United States Constitution, Amendment 1(1791); See also Sect.116 of the Commonwealth of Australia Constitutional Act(The Constitution) adopted, 4 September 2013, which states that the Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion.
- <sup>7</sup> *Everson v Board of Education of the Township of Ewing* 330 US 1(1947)15-16 quoted in Iain Currie & John de Wall, *The Bill of Rights* (5th edn, Juta 2005)346.
- <sup>8</sup> Morsink Johannes. *The Universal Declaration of Human Rights Origins, Drafting and Intent* (University of Pennsylvania Press 1999)1; Glendon Mary A, *A World Made New. Eleanor Roosevelt and the Universal Declaration of Human Rights* (Random Publishing Group 2001)10-11; Thomas Buergenthal et al (ed), *International Human Rights in a Nutshell*(3<sup>rd</sup> edn, West Group 2004)27-28.
- <sup>9</sup> See the preamble to the Constitution of the Republic of Cameroon, 1996.
- <sup>10</sup> Human Rights and Labour, *International Religious Freedom Reports-Cameroon* (Bureau of Democracy 2014)1 <[https://consultations.worldbank.org/Data/hub/files/executive\\_summary\\_international\\_religious\\_freom\\_report\\_for\\_2014.pdf](https://consultations.worldbank.org/Data/hub/files/executive_summary_international_religious_freom_report_for_2014.pdf)> [accessed 18 June 2017].
- <sup>11</sup> Universal Declaration of Human Rights, adopted by the United Nation General Assembly Resolution 217A (III) of 10 December 1948.
- <sup>12</sup> Art. 18 UDHR.
- <sup>13</sup> European Union Guidelines on the promotion and Protection of freedom of religion (n.5), para.10.
- <sup>14</sup> Art.18 (1)(2) ICCPR 1966.
- <sup>15</sup> Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary*(2<sup>nd</sup> edn, N.P Engel Publisher 2005) 412-413.
- <sup>16</sup> UN Covenant on Civil and Political Rights, adopted 16 December 1996, entered into force 23 March 1976: 999U.N.T.S. 171
- <sup>17</sup> Art. 18(3) ICCPR, 1966.
- <sup>18</sup> See art.18(4) of the Covenant.
- <sup>19</sup> Art. 2 ICCPR 1966; Art.2 UDHR 1948.
- <sup>20</sup> Arts. 1, 2 and 6 of the UN Declaration on Religious Intolerance adopted by the UN General Assembly Resolution 36/55 (1993).
- <sup>21</sup> Art.6 International Convention on the Elimination of All Forms of Racial Discrimination, adopted 7 March 1966, entered into force 4 January 1969: 660 U.N.T.S. 195.
- <sup>22</sup> Art. 2 CERD.
- <sup>23</sup> Arts. 2 & 14 of the UN Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990: 1577 U.N.T.S.7.
- <sup>24</sup> Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna A/CONF.157/23, 25 June 1993, paras.5 and 25.

- <sup>25</sup> African Charter on Human and Peoples Rights, adopted 27 June 1981, OAU Doc.CAB/LEG/67/3rev.5,211.L.M: 58(1982; entered into force 21 October 1986.
- <sup>26</sup> European Convention on Human Rights, adopted 4 November 1950, entered into force 3 September 1953: E.T.S No.005, 213 U.N.T.S. 221.
- <sup>27</sup> Organisation of American States, American Convention on Human Rights, adopted at San Jose Costa Rica 22 November 1969, entered into force 18 July 1978, O.A.S.T. No. 36, 1144 U.N.T.S. 123 (herein after American Convention).
- <sup>28</sup> Arab Charter on Human Rights, adopted in Cairo on 15 September 1994.
- <sup>29</sup> The African Charter on human rights was ratified by Cameroon on 20 June 1989.
- <sup>30</sup> See art. 8 and 2 of the Charter; see also article 9 and 3 of the African charter on the rights and welfare of the Child adopted in 1979.
- <sup>31</sup> Protocol to the African Charter on Human and Peoples Rights on the Right of Women's in Africa adopted in Ethiopia by Resolution AHG/Res. 240 (XXXI), 1995.
- <sup>32</sup> Arts. 1 & 12 American Convention on human Rights.
- <sup>33</sup> Arts. 9 and 14 of the ECHR.
- <sup>34</sup> Arts. 10 and 11 of the Charter on Fundamental Rights of the European Union 2000/C364/01.
- <sup>35</sup> Art. 14(3) of the charter; Art. 2 Protocol No. 1 to the ECHR; See also arts.2 &15 of the Canadian Charter on Rights and Freedoms 1982.
- <sup>36</sup> Law No. 65-LF-24 of 12 November 1965 introducing the Cameroon Penal Code and Law No.90/16 of 19 December 1990 to amend certain provisions of the Penal Code as Amended by Law No: 2016/007 of 12 July 2016.
- <sup>37</sup> Law No.2005/007 of 27 July2005 on the Criminal Procedure Code-CPC.
- <sup>38</sup> The ICCPR was acceded by Cameroon on October 17, 1980 and ratified on 27 June 1984.
- <sup>39</sup> Preamble to the Constitution of the Republic of Cameroon, 1996. It should be noted that since independence, Cameroon has had so far three Constitutions followed with several constitutional amendments. But what is applicable now is the 1996 revised Constitution.
- <sup>40</sup> Sects. 269, 242,271,272 and 270 of the Cameroon Penal Code 2016.
- <sup>41</sup> Law No. 90/053 of 19 December 1990 on Freedom of Association.
- <sup>42</sup> See Art. 1 of the Law relating to Freedom of Association, 1990.
- <sup>43</sup> See arts. 4 and 16 of the 1990 Freedom of Association Law in Cameroon.
- <sup>44</sup> Eitel MOUELLE KOULLA, Jehovah Witness v The United Republic of Cameroon, Judgment No. 1/A of 9 January 1975.
- <sup>45</sup> See Recital 13-14 of the Preamble to the 1996 Cameroon's Constitution.
- <sup>46</sup> Charles Manga F, State Religion and Law in Cameroon: Regulatory Control, Tension, and Accommodation (2013) (57)1 *Journal of Church and State*, 30-33.
- <sup>47</sup> Andras Sajo & Renata Uitz, 'Freedom of Religio' In Michel Rosenfeld & Adras Sajo (eds) *The Oxford Handbook of Comparative Constitutional Law* (1<sup>st</sup> edn, Oxford University Press 2012) 912-914.

- William Schabas, *The European Convention on Human Rights: A Commentary* (1<sup>st</sup> edn, Oxford University Press 2015)438.
- <sup>48</sup> Charles Manga F(n.41) *State Religion and Law in Cameroon* 2.
- <sup>49</sup> *Refah Partisi (The Welfare Party) and Others v Turkey* Application No.41340/98, 41342/98, 41343/98, 41344/98(2003), para.25.
- <sup>50</sup> See Preamble to the Constitution 1996.
- <sup>51</sup> Iain Cameron et al, *Report on Counter-Terrorism Measures and Human Rights*-CDL-AD(2010)022 (Venice Commission 2010), para.10.
- <sup>52</sup> Iain Cameron et al, *Report on Counter-Terrorism Measures and Human Rights*, para.11.
- <sup>53</sup> Art. 2 of the ICCPR 1966.
- <sup>54</sup> UN Office of the High Commissioner for Human Rights(OHCHR), Fact Sheet No. 32, Human Rights, Terrorism and Counter-Terrorism, July 2008, No.32 <<http://www.refworld.org/docid/48733ebc2.html>> [accessed 18 June 2017].
- <sup>55</sup> *Osman v The United Kingdom*, Application No.87/1997/871/1083(1998), para.115.
- <sup>56</sup> Iain Cameron et al(n.45), *Report on Counter-Terrorism Measures and Human Rights* para.12.
- <sup>57</sup> UN Security Council Resolution 2178/2014 adopted by the Security Council at its 7272<sup>nd</sup> meeting, S/RES/2178(2014); para.7; UN Global Counter Terrorism Strategy, adopted by Member States on 8 September 2016, part. IV.
- <sup>58</sup> UN Global Counter-Terrorism strategy, part IV, para.2.
- <sup>59</sup> See art. 18(3) of the Covenant which states that freedom to manifest a religion or beliefs may be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.
- <sup>60</sup> Art.4(2) of the ICCPR; 1966.
- <sup>61</sup> Art. 4(1) of the Covenant states that, In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. See also Art. 15 of the ECHR 1950.
- <sup>62</sup> No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.
- <sup>63</sup> *Lawless v Ireland*, Application No. 332/57(A/3) (1961), para.28.
- <sup>64</sup> CDL-AD(2010)022; PARA:15, Guide on Article 15 of the European Convention on Human Rights Derogation in Time of Emergency(European Court of Human Rights; 2016), paras.8-9 <[http://www.echr.coe.int/documents/Guide\\_Art\\_15\\_ENG.pdf](http://www.echr.coe.int/documents/Guide_Art_15_ENG.pdf)> [accessed 14 June 2017]
- <sup>65</sup> Guide on Art. 15 of the European Convention on Human Rights-Derogation in Time of Emergency, Para,10.
- <sup>66</sup> See also art.2 of the 2014 Cameroon Anti-Terrorism Law.

- <sup>67</sup> Charles Manga F, Cameroon's Emergency Powers: A Recipe for (Un)Constitutional Dictatorship? (2001) (48)1 *Journal of African Law* 68; Charles Manga F, African Bills of Rights in a Comparative Perspective (University of South African Press-UNISA 2011)51.
- <sup>68</sup> CDL-AD(2010)022, para.18.
- <sup>69</sup> See Art.. 18(3), and 19(3) ICCPR.
- <sup>70</sup> Art. 4(3) of the ICCPR.
- <sup>71</sup> Denis M. Tull (n.2) *Cameroon and Boko Haram: Time to think beyond Terrorism and Security* 1.
- <sup>72</sup> Fact Sheet No.32 (No.48) Human Rights, Terrorism and Counter-Terrorism, 5.
- <sup>73</sup> Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, A/HRC/31/65(2016), para.13.
- <sup>74</sup> UN Security Council, Security Council Resolution 1566(2004)[Concerning Threats to International Peace and Security Caused by Terrorism], 8 October 2004, S/RES/1566(2004), para.3.
- <sup>75</sup> Alex Conte, *Human Rights in the Prevention and Punishment of Terrorism* Commonwealth Approaches: The United Kingdom, Canada, Australia and New Zealand (Springer 2010)25-32.
- <sup>76</sup> Martin Scheinin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, "Ten area of Best Practices in Countering Terrorism", A/HRC/16/51(2010), paras.13-15.
- <sup>77</sup> Goal 16 and Preamble to the UN Agenda of the 2030 Sustainable Development, UN General Assembly Resolution 70/1(2015); United Nations Millennium Declaration adopted by the UN General Assembly Resolution 55/2(2000), principle I(4).
- <sup>78</sup> United Nation Millennium Declaration, Principle II(9).
- <sup>79</sup> UN Human Rights Committee(HRC9; General Comments No.34, Art.19, Freedom of Opinion and Expression, 12 September 2011, CCPR/C/GC/34, para.29 <<http://www.refworld.org/docid/4ed34b562.html>> [accessed 18 June 2017].
- <sup>80</sup> UN Human Rights Committee General Comments No. 34, para,35.
- <sup>81</sup> Resolution 1634(2008) on the "Proposed Law on forty-Two-day pre charge detention in the United Kingdom" quoted in Iain Cameron et al (n.45), Report on Counter-Terrorism Measures and Human Rights, para.21.
- <sup>82</sup> Principles and Guidelines on Human and Peoples Rights While Countering Terrorism in Africa (2015)14-15; Joint Declaration on Freedom of Expression and Countering Violent Extremism, 4 May 2016, Recommendation 2(c).
- <sup>83</sup> Law No.2014/028 of 23 December 2014.
- <sup>84</sup> CDL-AD(2010)022, para.34.
- <sup>85</sup> The Year 1982 marked the beginning of Biya's Regime commonly referred to as the New Deal Government.
- <sup>86</sup> Art. 1 UK Anti-Terrorism Act 2000 defines Terrorism as follows: (1) In this Act "terrorism" means the use or threat of action where- (a) the action falls within subsection (2), (b) the use or threat is designed to influence the government or an international governmental organisation or to intimidate

the public or a section of the public, and (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause. (2) Action falls within this subsection if it- (a) involves serious violence against a person, (b) involves serious damage to property, (c) endangers a person's life, other than that of the person committing the action, (d) creates a serious risk to the health or safety of the public or a section of the public, or (e) is designed seriously to interfere with or seriously to disrupt an electronic system. ... (4) In this section- (a) "action" includes action outside the United Kingdom, (b) a reference to any person or to property is a reference to any person, or to property, wherever situated, (c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and (d) "the government" means the government of the United Kingdom, of a Part of the United Kingdom or of a country other than the United Kingdom.

<sup>87</sup> Art.2(b)(c) 2014 Anti-Terror Law.

<sup>88</sup> Art.1 Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty, adopted 15 July 1989, entered into force 11 July 1991, 1642 U.N.T.S. 414.

<sup>89</sup> See Generally Section 89 of the German Criminal Code 2013.

<sup>90</sup> ARTICLE 19, The Impact of UK Anti-Terror Laws on Freedom of Expression (London, 2006)4.

<sup>91</sup> Civil Rights Defenders, The Misuse of Anti Terrorism Law sin Africa, Undermining Civil Society, Eroding Human Rights Jailing Dissent, Parallel event at the 28th Session of the United Nations Human Rights Council 12 March 2015, 1.

<sup>92</sup> Guidelines of the Committee of Ministers of the Council of Europe adopted by the Committee of Ministers 26 September 2007 at the 1005<sup>th</sup> Meeting of the Ministers' Deputies, 1-2.

<sup>93</sup> See Sect. 89 of the German Criminal Code 2013.

<sup>94</sup> Sects.89 (a) to 89(b) of the German Criminal Code.

<sup>95</sup> Art.18(3)ICCPR; 29 UDHR; 9(2)ECHR; 12(3)ACHR.

<sup>96</sup> Sunday Times v United Kingdom, Application No.6538/74(1991), para.59.

<sup>97</sup> Ibid.

<sup>98</sup> See art. 15 ICCPR; 7 ECHR, and 7(2) UDHR.

<sup>99</sup> Bryan A. Garner(ed), *Black's Law Dictionary* (2nd edn, Wes Group Publisher 2001)400.

<sup>100</sup> Immaculate Joseph et al v Sri Lanka, Communication No.1249(2004),para.7.2.

<sup>101</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly (2nd edn, strasbourg 2010)16.

<sup>102</sup> UN Human Rights Committee Gen. Comment No.34, para.25-26.

<sup>103</sup> UN Human Rights Committee Gen. Comment No.34, para.25-26.

<sup>104</sup> Gen. Comment No. 34, para.46.

<sup>105</sup> African commission on Human and Peoples Rights Principles and Guideline on Human and people's Rights while countering Terrorisms in African(2015)27.

<sup>106</sup> Application No.6538/74(1979), para.49.

<sup>107</sup> Ben Emmerson (n.66), *Rapporteur on Fundamental Freedoms while Countering Terrorism*, para.21.

- <sup>108</sup> Toby Mendy & Eve Solomon, *Freedom of Expression and Broadcasting Regulation, Communication and Information* (United Nations Educational, Scientific and Cultural Organization-UNESCO 2011) 12-13.
- <sup>109</sup> Feldek v Slovaĳia, Application No.29032/95(2001),para.56.
- <sup>110</sup> Ngala Killian C, *Cameroon Anti Terrorism Law-Reversal of Human Freedom* (2014). <<http://www.ipnews.net/2014/12/cameroon-anti-terrorism-law-reversal-of-human-freedoms/>> [accessed 19 June 2017].
- <sup>111</sup> Amnesty International Reports, *Human Rights Under Fire: Attacks and Violations in Cameroon's Struggle with Boko Haram* (Amnesty International Publication 2015)18.
- <sup>112</sup> National Commission on Human Rights and Freedoms, *Report on the State of Human Rights in Cameroon* (Messie Publisher 2015)19.
- <sup>113</sup> Art.50 of Law No.92/052 of 19 December 1990 Relating to Freedom of Mass Communication.
- <sup>114</sup> Theguardian, *Powerful Tributes at funeral of Priest Killed in France Terrorist attack*, 2 August 2016 <<https://www.theguardian.com/world/2016/aug/02/thousands-expected-funeral-priest-killed-in-france-terror-attack>> [accessed 20 June 2017].
- <sup>115</sup> Catholic News Agency-CNA, *Dozens of Egyptian Christians Killed in Bus Attack*; 26 May 2017, <<http://www.catholicnewsagency.com/news/dozens-of-egyptian-christians-killed-in-bus-attack-62949/>> [accessed 20 June 2017].
- <sup>116</sup> Pope Francis; *Capitalism is "Terrorism Against All of Humanity"* 23 December 2016 <<http://www.collective-evolution.com/2016/12/23/pope-francis-capitalism-is-terrorism-against-all-of-humanity/>> [accessed 20 June 2017].
- <sup>117</sup> Jolanta Ambrosewicz-Jacobs, *Reports of Member of the OSCE/ODIHR Advisory Panel on Freedom of Religion and Belief, In the Role of Religion and Belief in the Fight Against Terrorism' OSCE Conference on the Role of Freedom of Religion and Belief in a Democratic Society: Searching for Ways to Combat Terrorism and Extremism Baku, Azerbaijan, 10-11 October 2001*, 58-59.
- <sup>118</sup> Preamble to the UN 2030 Development Goals.
- <sup>119</sup> Marko Kuhn, "Interreligious Dialogue in Ethiopia-an Example Illustrating the Chances and Challenges" In Marko Kuhn (ed.) *Facing Africa's Future in a Global Era: The Power of Higher Education and Research* (Alexander Von Humboldt Stiftung/Foundation & Katholischer Akademischer Ausländer Dienst-KAAD 2011)107-119.
- <sup>120</sup> Bamenda Provincial Episcopal Conference, *Memorandum presented to the Head of State, His Excellency President Paul Biya, By the Bishops of the Ecclesiastical Province of Bamenda on the Current Situation of Unrest in the Northwest and Southwest Regions of Cameroon*, 22December 2016, <<http://www.mission.universelle.catholique.fr/wp-content/uploads/sites/7/2017/01/BAMENDA-PROVINCIAL-ESPICOPAL-CONFERENCE.pdf>> [accessed 21 June 2017].
- <sup>121</sup> Charles Manga(n.41), *Religion and Law in Cameroon: Regulatory Control and Accommodation*18.
- <sup>122</sup> Art. 37(3) of the Constitution states that, the President of the Republic Shall Guarantee the Independence of Judicial Power. He shall appoint members of the bench and for the Legal Department. He shall be assisted in this task by the Higher Judicial Council which shall give him its opinion on all

nominations for the bench and on disciplinary action against judicial and legal officers. The organization and functioning of the Higher Judicial Council shall be defined by law.

<sup>123</sup> Campbell and Fell v United Kingdom, Application No.7819/77(1984), para.78.

<sup>124</sup> This desire started with a strike action in Anglophone Cameroon(North West and South West regions) by Lawyers and Teachers following the ‘marginalization of Anglophone Cameroonians’ and the gradual dissolution of the Common Law system by the French Civil Law system. This calls for a nationwide strike action both in and out of Cameroon by English Speaking Cameroonians (a minority group) demanding for a regime change, non discrimination and a federal system of Government. The Impact of the strike action was arbitrary arrest among which the leaders of the Anglophone Civil Society Consortium representing or acting on behalf of the people were arrested. Those arrested are currently facing trial on terrorism charges at the Military tribunal at the Capital city Yaoundé since January 2017, What remains questionable is whether civilians are to be tried at the military Court and whether those arrested are really terrorist or not? This can only be answered by the outcome of the verdict of the Military court which is still pending before the court.

<sup>125</sup> International Monetary Fund Country Report, Cameroon Poverty Reduction Strategy Paper(IMF Publication 2010)17-26 <<https://www.imf.org/external/pubs/ft/scr/2010/cr10257.pdf>> [accessed 20 June 2017].