



CONCERNS OVER THE BILL TO ESTABLISH A NEW CAMEROON NATIONAL HUMAN RIGHTS COMMISSION

Yaoundé – Cameroon, 03 July 2019: The Network of Human Rights Defenders of the Central African region (REDHAC), Dynamique Citoyenne, Nouveaux Droits de l’Homme, Centre for Human Rights and Democracy in Africa, and Centre for Law and Public Policy, all civil society organisations, note with deep concern, the tabling before Parliament of a “Bill relating to the Establishment, Organization, and Functioning of the Cameroon Human Rights Commission”, without prior consultation with key actors in the promotion and protection of human rights in the country, notably civil society organisations.

Background: According to State-owned media, on 26 June 2019, the Government tabled the above-mentioned Bill before Parliament, which is currently in session. The presentation of this Bill which is comprised of 68 Sections, in the absence of prior consultations with key national stakeholders in the area of human rights, calls into question the will of the Government to involve these stakeholders in the important task of revamping the current National Commission on Human Rights and Freedoms (NCHRF).

In its explanatory statement accompanying the Bill as tabled, Government explains that this Bill is intended to address a number of criticisms that have been levied against the current NCHRF, notably: (i) the limited scope of its mandate, (ii) its inflated membership numbers, particularly an over-representation of the public administration, (iii) the fragile status of its members, (iv) the non-binding nature of its recommendations, (v) its lack of budget autonomy, and in particular (vi) the fact that the current Commission does not conform to the “Paris Principles”, an internationally-agreed set of principles that govern the status and functioning of national human rights commissions around the world.

Reform of the NCHRF has been a standing point of concern for Cameroonian civil society for several years, especially the need to address shortcomings in the designation of the body’s Commissioners, and the implementation of its mandate. A Bill intended to reform the said institution should logically have been tabled only after an inclusive process of consultations, organised with a view both to sensitise, and to elicit substantive contributions from key segments of civil society (such as human

rights NGOs, and trade unions), as well as respective professional orders (such as the Cameroon Bar Association, the Cameroon National Medical Council, and professional corps of journalists). This would have been even more opportune, given that under Section 13 of the Bill as tabled, it is precisely these civil society segments and professional orders that would designate representatives to serve as Commissioners on the new body.

In addition to our above-mentioned concerns on the *process* through which this Bill has been tabled before Parliament, we also have concerns about the *substance* of the Bill, because it contains provisions which are at variance with the Paris Principles, which Government is seeking to conform to. Presented hereunder are the most worrisome of these provisions:

1. **Contrary to what the Paris Principles require,**¹ the Bill in its Chapter II, and specifically in sections 4, 5, 6, and 7 which spell out the functions of the Commission in the areas of human rights promotion and protection, **does not grant to the Commission, the duty to examine both existing laws and regulatory texts, as well as Bills being considered for tabling to Parliament, in order to ensure that their provisions conform to human rights principles,** and to human rights instruments that the State has ratified. This must be corrected, in order to recognize the Commission's role in scrutinising legislative and regulatory texts in the country (both prior to, and after their adoption), to ensure they conform to human rights principles.
2. The Bill (section 9, 4th bullet, and section 26, 7th bullet) **makes the proffering of views and observations by the Commission on draft legislation (Bills) with an impact on human rights, conditional on its receiving a "request from" or "at the behest of" Government, without such a request being spelt out as mandatory.** Obtaining the views and observations of the Commission should be mandatory and not optional for the Executive, when it is preparing legislation that has an impact on human rights. It should be noted in this regard that under the Paris Principles, national human rights commissions *may act of their own initiative*, in the area of proffering views and advice in the area of human rights.
3. The Bill **is vague and indecisive on the implications of a finding by the Commission, following its investigations or verifications, or after hearing a complaint submitted to it, that a human rights violation has been committed.** While the Bill grants the Commission the power to receive complaints about alleged human rights violations (sections 36 to 39), the text grants the Commission *neither* the power to order a remedy or reparation to the victim of the violation, *nor* to order binding corrective measures to be undertaken by the entity/person that committed the violation. The text only provides that the Commission may "refer to the Minister in charge of Justice cases of human rights violation(s) established by the Commission" (section 7, 2nd bullet), and that the Commission may "make recommendations to relevant authorities in case of human rights violation" (section 26, 6th bullet). In so doing, it renders the Commission's complaints procedure very non-binding in character.

¹ In this regard, the Paris Principles (Principle 3.A.IV) provide that:

"A national [human rights] institution shall, inter alia, have the following responsibilities: i) [With respect to] any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; *the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights*; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures."

4. On the composition of the proposed new body, articles 12 and 13 of **the Bill contain several areas of uncertainty as to the selection of the Commissioners, as well as their status**. The entities that should designate some of the Commissioners are unclear (section 13). The professional profiles requested for some members appear to envisage appointing once more to the Commission, representatives of the public administration as full Commission members (section 13, bullets 1 to 3), whereas under the Paris Principles, such representatives may only participate in the Commission *in an advisory capacity*. The regime of incompatible functions for the body's Commissioners appears inadequate (section 15, sub-section 1), while the mechanism of "secondment" from their service of origin of Commissioners who at appointment fall under the Cameroonian public service, needs to be reviewed (section 15, sub-section 3). While the text protects the Commissioners from being prosecuted for ideas or opinions expressed in the exercise of their duties (section 21), it does not afford them larger protection against acts of reprisals or retaliation during, or after their service on the Commission.
5. Section 43 of the Bill provides that the **State, its agencies, and any natural or legal persons shall be required to "help" the Commission carry out its mission. This is much weaker than what should be required: an "obligation to cooperate" with the Commission**. Similarly, while the Bill provides a criminal sanction for a person who duly served with summons, fails to appear before the Commission (section 62), it provides no sanctions for persons : (i) who fail to produce, or otherwise conceal documents or other material requested by the Commission, (ii) who threaten or intimidate witnesses in the context of an investigation or procedure before the Commission, or (iii) who, in any other manner, obstruct or interfere with the work of the Commission.

In light of the foregoing, WE, the above-mentioned civil society organisations, and signatories of this communique:

1. Note with **deep regret** the approach used by Government in presenting this Bill, which has been conducted in a manner designed to exclude key stakeholders in the process to reform the National Commission on Human Rights and Freedoms.
2. Draw Government's attention to the **non-compliance** of provisions of this Bill with the letter and the spirit of the Paris Principles, and note that such non-compliance will likely undermine the effectiveness of the proposed new Commission.

Furthermore, we:

3. Call on members of the National Assembly and the Senate, elected representatives of the people, to **defer** the adoption of this Bill during the current parliamentary session, and concomitantly to request from Government to **organise an inclusive consultation** process in order to improve the Bill. This will enable Cameroon finally to have a national human rights commission that is in conformity with international norms, and specifically the Paris Principles.
4. Re-affirm to Government, our willingness to work towards the common objective of implementing the regional and international human rights instruments, treaties, and conventions on the promotion and protection of human rights, that it has duly ratified.