Prosecuting Human Violations Committed in the Anglophone Cameroon Crisis: A Disquisition on the Legal Framework

DT Cho* and AA Agbor**

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Authors

Derrick Teneng Cho
Avitus A Agbor

Affiliation

North-West University, South Africa

Email

choderrickteneng@yahoo.com
Avitus.Agbor@nwu.ac.za

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Abstract

The prosecution of perpetrators of mass violations of human rights remains one of the unfinished tasks of Africa's "democracies" which, in itself, is eloquent evidence of the need for systemic arrangements to protect human rights, build a culture of the rule of law and ultimately defeat impunity. Emboldened by the absence of the foregoing, accountability for human rights violations of individuals and the fulfilment of the corresponding duty to prosecute violators have been contentious issues in Africa's politically volatile communities. As states are caught betwixt and between protecting human rights and holding individuals accountable, the questions about the State's fulfilment of its international obligations arises. Sourced primarily from international treaties, customary international law, and general principles of law, the duty to prosecute violations of human rights is revisited with a focus on the theoretical and legal framework. Situated in the context of the ongoing Anglophone Cameroon crisis in which political factions of the English-speaking regions are pitted against the French-speaking dominated Government of Cameroon, and bringing to the fore the violations, which have become an odious scourge, this paper argues that there is a sacrosanct duty on the Government of Cameroon to investigate, prosecute and punish such violations. The paper interrogates the relevant international law instruments and engages in a dialogue with relevant and respectable literature penned by prominent scholars and jurists on the issue of accountability. It provides an analytical disquisition on the duty to prosecute which, as argued herein, must be fulfilled by Cameroon given the violations that have been committed during the ongoing Anglophone Cameroon crisis.

Keywords

Anglophone Cameroon crisis; human rights violations; duty to prosecute; accountability.

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1 Introduction

In the last several decades, the protection of human rights has grown to be sacrosanct as evidenced by numerous international human rights instruments including mechanisms put in place to hold perpetrators of gross human rights violations accountable. In times of armed conflict, whether national or international, international law provides the minimum standards by which warring factions must treat individuals, whether military or civilian.[1] The prosecution and conviction of individuals at the International Military Tribunal (IMT), Nuremberg (hereafter Nuremberg Tribunal), for the atrocities committed by the Hitlerite gang was without precedence. It also formulated a new standard and dimension of accountability: the notion of individual criminal responsibility.[2] Since then, there have been positive developments geared towards the reaffirmation of that concept as seen in the International Military Tribunal for the Far East (IMTFE), Tokyo (hereafter the Tokyo Tribunal);[3] the International Military Tribunal for the former Yugoslavia (hereafter the ICTY);[4] the International Criminal Tribunal for Rwanda (hereafter the ICTR);[5] the Special Court for Sierra Leone (hereafter the SCSL);[6] the Extraordinary Chambers in the Courts of Cambodia (hereafter ECCC);[7] and the International Criminal Court (hereafter ICC).[8]

* Derrick Teneng Cho. LLB (Hons) (University of Buea) Masters I & LLM (University of Yaoundé II); LLD (NWU). E-mail: choderrickteneng@yahoo.com. ORCID: https://orcid.org/0000-0002-6094-915X

** Avitus A Agbor. LLB (Hons) (University of Buea); LLM (Notre Dame, USA); PhD (Wits). Research Professor of Law, Faculty of Law, North-West University, South Africa. E-mail: Avitus.Agbor@nwu.ac.za. ORCID: https://orcid.org/0000-0001-9647-4849

1 See generally the *Geneva Conventions I-IV* (1949) and the *Additional Protocols to the Geneva Conventions* (1977).

2 This was laid bare in the *Charter of the International Military Tribunal* (IMT), Nuremberg (annexed to the *London Agreement* of 8 August 1945) (hereafter *Charter of the Nuremberg Tribunal*) established for the "just and prompt trial and punishment of the major war criminals of the European Axis" (Article 1). Also see Articles 6, 7 and 8 thereto.

3 *Charter of the International Military Tribunal for the Far East* (1946).

4 *Statute of the International Criminal Tribunal for the Former Yugoslavia* (annexed to UN Security Council Resolution 827, UN SCOR, 3217th meeting, UN Doc S/RES/827 (1993)).

5 *Statute of the International Criminal Tribunal for Rwanda* (annexed to United Nations Security Council Resolution 955, UN SCOR, 3453rd meeting, UN Doc S/RES/955 (1994)).

6 *Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone,* pursuant to UN Security Council Resolution 1315, UN SCOR, 4186th meeting, UN Doc S/RES/1315 (2000).

7 *Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia*, with inclusion of amendments as promulgated on 27 October 2004 (NS/RKM/1004/006).

8 *Rome Statute of the International Criminal Court*, UN Doc A/CONF.183/9 (1998) (hereafter the *Rome Statute of the ICC*).

Responsibility for the crimes over which these mechanisms had and have jurisdiction is tied to the individual or natural person.[9] In addition to the developments in this regard, it is also worth considering a very close concept: the obligation to prosecute perpetrators of such violations. If it is argued that individuals do bear responsibility for serious violations of human rights, then there is a corresponding obligation to impose that responsibility on them. In other words, if a breach of human rights has occurred, and responsibility for that breach is attributable to an individual, then an obligation to impose or hold such an individual responsible does exist. In jurisprudential terminology, it is referred to as the duty to prosecute: a duty which, over time, has undergone commendable evolution. Given the substantive contents of treaties, as well as customary international law on which hinges *jus cogens*, one can make a case that where there is evidence of grave violations of human rights, there is a corresponding duty to prosecute such violations. In the context of Cameroon wherein an ongoing conflict erupted in October 2016, there is a case to be made considering the "systematicity" (the organised nature thereof) or "widespreadness" (the scale of the victimisation) of those violations. Beyond establishing the seriousness of those violations, it is also important to underscore the need to hold the perpetrators of those violations accountable.

This paper explores the origins and nature of this obligation from an international law perspective, narrowed to the Cameroonian context, given the constitutional provisions on the reception of international law in her legal system. Even though there are numerous sources wherefrom such a duty is derived, this paper, for reasons of space and crispness, is limited to the most persuasive sources, with guidance drawn from Article 38(1) of the *Statute of the International Court of Justice* (hereafter *Statute of the ICJ*) on the sources of international law.[10]

The challenge, however, is not the exploration of the aforementioned sources wherefrom the duty to prosecute is extrapolated. That, in our view, is a much easier task. The worry is about fulfilling this obligation: the obligation to prosecute. To condemn, investigate and prosecute serious crimes in international law wherever they are committed, unfortunately, over time has not proved to be an easy task. While the impact of states' interests (or *realpoliticking*) has shaped the path in pursuing justice for perpetrators and victims, a question needs to be posed: why does accountability remain

9 See generally the provisions on individual criminal responsibility in the instruments in fn. 2-8 inclusive.

10 Articles 38(1)(a)-(d) of the *Statute of the International Court of Justice* (1945) (hereafter *Statute of the ICJ)*. Over time (at least since the adoption of the *Charter of the United Nations* (1945)), these sources have grown considerably.

one of those unresolved, unfinished tasks of human rights enforcement across Africa?

Narrowed to the ongoing political crisis in Cameroon, this paper explores the theoretical underpinnings and legal framework wherefrom the duty to prosecute is deduced. In doing this, this paper seeks to answer the question whether Cameroon has any international law obligation to investigate and prosecute the human rights violations committed on her territory. The paper is split into three parts. Part one looks at the duty to prosecute from an international law perspective which is guided by the relevant provisions of the *Statute of the ICJ* on the sources of law. This is followed by a disquisition on regional arrangements that validate the view that there is a duty to prosecute. The last part deals with the Cameroon's legal arrangements and how the duty to prosecute is a feature thereof.

In order to engage in a constructive dialogue that builds upon existing gaps on the issue of accountability for gross violations of human rights, the paper considered the qualitative desktop research approach as the most suitable: it warranted the identification, collection and interrogation of both primary and secondary sources on the issue of accountability for human rights violations by looking at the legal framework (at global, regional and national levels), the international soft-law arrangements, case-law and respectable and relevant publications penned by some leading scholars on the topic. The results achieved include persuasive analytical and descriptive research in which both primary and secondary sources are interwoven in building a theoretical and legal framework on the duty to prosecute gross violations of human rights committed in the Anglophone Cameroon crisis.

2 A brief overview of the Anglophone Cameroon crisis

Since 2016 Cameroon has been plagued with internal political challenges which have now evolved into what could be referred to as a prolonged, unresolved political crisis, pitting the State (Government of Cameroon)[11] against non-State factions of the English-speaking regions (Anglophone Cameroon).[12] The crisis erupted when some members of the English-speaking regions, led by teachers and lawyers, began to demand reforms

11 Governmental forces of the Joint Military Region (JMR) are made up of members of various military factions including the Rapid Intervention Battalion (known by its French acronym, BIR), gendarmerie and members of the infantry battalion: see Anon 2018 https://www.africanews.com/2018/02/22/cameroon-govt-creates-new-military-region-based-in-bamenda//.

12 Armed separatist groups, fighting for secession of the Anglophone regions (the former Southern Cameroon). These factions include *inter alia* the Ambazonian Defence Forces (ADF), the Southern Cameroons Defence Forces (SOCADEF), and the Lebialem Red Dragons, all of which are locally known as "Amba Boys": see Dionne 2018 https://www.nytimes.com/2018/10/06/world/africa/cameroon-election-biya-ambazonia.html.

from the government regarding their Anglo-Saxon educational and common law legal systems, which were facing the threat of "frenchification" by the Francophone-led Cameroon government.[13] On long-standing grounds of marginalisation,[14] they began to question the political circumstances of the country, and by late 2016 this culminated in protest actions decrying the discriminatory treatment of the Anglophone people. In response to the protests, the government applied highhanded and repressive tactics, which escalated into violence, leading to the emergence of separatists groups who started making radical demands for secession and even declared their independence from the former French Cameroon.[15] This further fuelled resentment between the factions, leading to confrontations[16] which resulted in the commission of numerous violent acts against the civilian population of the Anglophone regions,[17] these including *inter alia* arbitrary arrests and detentions, the abduction of civilians, the destruction of civilian facilities such as medical institutions, burning of State- and privately owned properties, mutilations, the extortion of private property, the wrecking of schools, murders, torture and other cruel, inhumane and degrading treatment.[18] Attributed to both parties, these violent acts constitute human rights violations for which there exists a duty under international law requiring the State to hold the perpetrators accountable.[19] It is against this backdrop that this paper argues for the investigation, prosecution and punishment of those responsible for the human rights violations committed in the Anglophone Cameroon crisis.

It is argued that the situation in the Anglophone Cameroon crisis has gone beyond acceptable levels of political violence.[20] While this should not be construed to imply that there is a level of violence that is acceptable, it nevertheless gives credence to the view that perpetrators should not be granted impunity. This paper is thus significant as it highlights the legal justifications for accountability.

13 See generally Seta 2017 https://www.accord.org.za/conflict-trends/anglophone-dilemma-cameroon/.

14 For details on Anglophone marginalisation, see Ngoh 1999 *Journal of Third World Studies* 165-185; Gros "Cameroon in Synopsis" 18; Konings "Anglophone Struggle for Federalism in Cameroon" 289-325; Konings and Nyamnjoh 1997 *J Mod Afr Stud* 207-229; Fonchingong 2013 *AJPSIR* 224-236.

15 Atabong 2017 https://qz.com/1086706/cameroon-is-on-edge-after-security-forces-opened-fire-on-anglophoneregion-protesters/.

16 Amnesty International *Annual Report 2017/18* 112-115.

17 Amnesty International *Turn for the Worse* 20-29.

18 Amnesty International *Turn for the Worse* 20-29.

19 See generally Orentlicher 1991 *Yale LJ* 2537-2615; and Roht-Arriaza "Sources in International Treaties" 24-38.

20 Agbor and Njieassam 2019 *PELJ* 3.

3 The duty to prosecute (gross) human rights violations under international law: international legal arrangements

At the opening of the trials at the Nuremberg Tribunal, Robert Houghwout Jackson (then US Supreme Court Associate Justice) who was the Chief Prosecutor started off by making a compelling statement as to why he believed perpetrators of heinous crimes should be prosecuted.[21] Almost eight decades later his words are just as relevant as when they were uttered: different individuals but similar crimes. The past eight decades have been characterised by a great deal of compromise by states, especially states plagued by some form of political violence, internal conflict, or dictatorial regime violence. Compromise can be seen in the granting of amnesties or sheer impunity as the sanction awaiting those perpetrators of serious crimes in international law around the world. This problematic manner of dealing with accountability for violations has most often been attributed to factors that include (but are not limited to) the lack of political will, weak judicial systems, and the threat or fear of the resurgence of violence.[22] In such circumstances, justice has so often been traded for a perceived, much desired state of peace and stability.[23]

Regardless of this dismal and pessimistic assessment, one cannot ignore the colossal strides that have been made towards ensuring accountability for human rights violations. During the same period (1945 – present) perceptions have changed slightly. International instruments have been adopted and implemented, and customary international law has evolved. These developments, seen in terms of the protection of international human rights, have greatly influenced the notion of accountability for gross violations of human rights as well as the discourse and efforts on the duty imposed upon states to ensure that perpetrators of human rights violations are held accountable. Where and when such human rights violations amount to serious crimes in international law, it is argued that there is a duty to prosecute the perpetrators – a duty which, as discussed below, has evolved through and is well captured in multilateral treaties, customary international law, and other sources of international law.

21 Jackson 1945 https://www.roberthjackson.org/speech-and-writing/opening-statement-before-the-international-military-tribunal/.

22 Duursma and Müller 2019 *TWQ* 890-907.

23 This can be seen in the peace versus justice debates that usually arise in the aftermath of violent conflicts and human rights violations: see generally Bassiouni 1996 *LCP* 9-28; Duursma and Müller 2019 *TWQ* 890-907; and Mendez "Importance of Justice in Securing Peace".

3.1 International human rights instruments: Treaty obligations to prosecute

International human rights treaties constitute some of the most compelling body of rules regulating human rights practice in the national and international terrain. In some states, these rules have even been given a superior status over domestic law. On the reception and status of international law in Cameroon, the *Constitution of the Republic of Cameroon*, 1996 stipulates that all duly ratified international instruments automatically become law in Cameroon (unlike other states, there is no need for legislative domestication for them to be applied by the courts). In addition to this direct and automatic reception, such duly ratified instruments are accorded a status superior to that of domestic laws.[24] International human rights treaties do proscribe conduct that violates the human rights of individuals in states parties. They also prescribe for states parties the duties or obligations that encompass measures to be taken to ensure the guarantee of human rights of everyone within their jurisdiction. At the core of the obligations imposed upon states parties to multilateral human rights treaties is to protect human rights: a task which usually evokes legislative and institutional mechanisms and processes aimed at preventing abuses, and is extended to include even provisions that criminalise violations. In other words, they are indirectly obliged to ensure that perpetrators of these violations are held accountable; more specifically, that they are prosecuted and punished. It is worth noting, however briefly, that the legal underpinnings for accountability may also be found in some international humanitarian law treaties, some of which deal specifically with serious crimes in international law, for example, the *UN Convention on the Prevention and Punishment of the Crime of Genocide* (hereafter the *Genocide Convention*).[25] An obligation is imposed on the contracting parties to this instrument to prevent and punish the crime of genocide.[26] The four *Geneva Conventions* of 1949 and their subsequent *Additional Protocols* of 1977 contain similar provisions: to prosecute or extradite anyone suspected of violating any of the provisions of the Conventions.[27] The current Anglophone Cameroon crisis, from a doctrinal point of view, may not have met the threshold of an armed conflict (to evoke the rules of international

24 Article 45 of the *Constitution of the Republic of Cameroon*, 1996 (hereafter the Constitution).

25 *UN Convention on the Prevention and Punishment of the Crime of Genocide*, adopted by the UNGA on 9 December 1948 (hereafter the *Genocide Convention*).

26 Article I of the *Genocide Convention*.

27 International humanitarian law distinguishes international armed conflict (IAC) from non-international armed conflict (NIAC). With regards to IAC, Common Articles 49, 50, 129 and 146 of the *Geneva Conventions* (1949) impose an obligation on each contracting party to prosecute. With regards to NIAC, there is no such corresponding obligation save for Common Article III: prosecution is left to national criminal courts.

humanitarian law applicable to non-international armed conflicts).[28] Neither is there a reason to suspect that it may amount to genocide given the absence of evidence of the *dolus specialis* of the crime of genocide.[29] It is based on these premises that this paper digresses from the discussion of international humanitarian law instruments. However, the substantive contents of some core international human rights treaties to which Cameroon is a state party do impose that obligation. Treaties that have a bearing on what is happening will be the focus of this paper.

Cameroon is a state party to the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (hereafter the *CAT*).[30] The *CAT* imposes an explicit and unequivocal obligation on states parties to treat acts of torture as criminal.[31] Under the *CAT*, the obligation upon states parties to prosecute acts of torture is imposed in three stages: first, they are required to ensure that all acts of torture are criminalised under their domestic laws;[32] secondly, they are required to establish jurisdiction over such offences in specific circumstances (namely where the crimes were committed within "any territory" under the control of the state, or "on board a ship or aircraft registered in that state", or where the "alleged offender" is a national of the state party, or where the victim is a national of the state);[33] thirdly, and even more importantly, in Article 7 the *CAT* requires that state parties either prosecute or extradite those accused of acts of torture in their territory.[34] In this light, Article 12 states that

> [e]ach State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.[35]

Reports from credible national and international bodies detail the commission of acts of torture during the Anglophone Cameroon crisis. Agents of law enforcement (construed in the broadest sense) have employed different tactics of torture on the civilian population in their efforts

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28 Cullen 2007 *J C & S L* 419-445; Cullen *Concept of Non-international Armed Conflict*; Dinstein *Non-international Armed Conflicts*; Kretzmer 2009 *Israeli Law Review*; Law *et al Manual on the Law of Non-international Armed Conflict*; and McLaughlin 2012 *MJIL* 94-121.

29 The *dolus specialis* of the crime of genocide is the intent to destroy, in part or in whole, a people based on their national, ethnic, racial or religious attributes: see Article II of the *Genocide Convention*.

30 The *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) (hereafter the *CAT*) was ratified by the Republic of Cameroon on 19 December 1986.

31 Article 4(1) of the *CAT*.

32 See Art 4(1) of the *CAT*.

33 Articles 5(1)(a), (b), and (c) of the *CAT*.

34 Article 7(1) of the *CAT,* which reflects the *aut dedere, aut judicare* principle of international law.

35 Article 12 of the *CAT*.

to identify, track and arrest Anglophone political activists and other individuals who bear responsibility for orchestrating the ongoing political crisis. In addition to torture, enforced disappearances have become rife. The *International Convention for the Protection of All Persons from Enforced Disappearance* (hereafter the *Convention on Enforced Disappearance*) is just as unequivocal as the *CAT* in its imposition of the duty to hold perpetrators of enforced disappearances accountable.[36] State Parties thereto are required to investigate persons alleged to have committed acts of enforced disappearance and bring them to justice.[37] In so doing, the *Convention on Enforced Disappearance* requires states parties to criminalise enforced disappearances under their criminal laws.[38] Moreover, Article 5 thereof states that enforced disappearances committed in a widespread or systematic manner shall constitute a crime against humanity and will be accorded the applicable consequences provided for under international law. It further requires states parties to hold accountable not only those who commit, but also persons who may have ordered, solicited or induced, and those who attempt the commission of enforced disappearance, including even superiors who may have had information on the commission or imminent commission of enforced disappearance by a subordinate but failed to prevent or initiate an investigation of the commission thereof.[39] The *Convention on Enforced Disappearance* prohibits the defence of superior orders as a justification for the crime of enforced disappearance.[40] The fulfilment of these treaty obligations is yet to be seen, but the principle laid down therein is that Cameroon as a state party has an obligation to investigate allegations of enforced disappearances and prosecute all those who, in one way or another, took part in their commission. In doing this, no one is exonerated.

General multilateral human rights treaties are not always explicit about a state party's obligation to investigate and prosecute violators. For example, the *International Covenant on Civil and Political Rights* (hereafter the *ICCPR*) as well as the *African Charter on Human and Peoples' Rights* (hereafter the *Banjul Charter*) make no provision on the issue of whether there exists a duty to prosecute with regard to violations of the rights provided therein.

This does not mean, however, that no such duty may be derived from those treaties. Authoritative bodies such as the Human Rights Committee (HRC)

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36 See generally Art 6 of the *International Convention for the Protection of All Persons from Enforced Disappearance* (2006) (hereafter the *Convention on Enforced Disappearance*).

37 Article 3 of the *Convention on Enforced Disappearance*.

38 Article 4 of the *Convention on Enforced Disappearance*.

39 Articles 6(1)(a) and (b)(i)-(iii) of the *Convention on Enforced Disappearance*.

40 Article 2 of the *Convention on Enforced Disappearance*.

and the African Commission on Human and Peoples' Rights (hereafter the African Commission) created and empowered to monitor compliance with these treaties, have often been seen to impose on states parties the obligation to investigate, prosecute, and punish perpetrators of human rights violations including torture, extra-judicial executions, and enforced disappearances committed in their jurisdiction. In addition, states parties are even required to ensure that victims whose rights have been violated receive a remedy for the harm suffered.[41]

Authoritative interpretations and rulings provided by the HRC and the African Commission indicate that there is an obligation to investigate and prosecute human rights violations. In the context of the human rights violations committed in the Anglophone Cameroon crisis, these two human rights bodies have made authoritative rulings obliging the Government of Cameroon to conduct impartial and independent investigations of allegations of torture, extra-judicial killings and enforced disappearances in order to hold the perpetrators accountable.[42] The jurisprudence from these human rights bodies clearly affirms a duty on states parties to prosecute crimes including acts of torture, extra-judicial executions and enforced disappearances.[43]

With regard to crimes such as extra-judicial killings involving the security forces of the state, the HRC requires states parties to take effective steps to investigate, prosecute, and punish perpetrators, as well as to compensate victims. But more importantly, such "investigations should be carried out by

41 Orentlicher 1991 *Yale LJ* 2537-2615; and Roht-Arriaza "Sources in International Treaties" 24-38.

42 See African Commission on Human and Peoples' Rights' *Resolution on the Human Rights Situation in the Republic of Cameroon,* ACHPR/Res 395 (LXII) (2018); OHCHR 2018 https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23404&LangID=.

43 See, for example, *Muteba v Zaire* 1982 Communication No 124/1982, 39 UN GAOR Supp (No 40) Annex XIII, UN Doc A/39/40 (1984), where the Committee found that the Government of Zaire had committed torture in violation of Article 7 of the *International Covenant on Civil and Political Rights* (1966) (hereafter the *ICCPR*), and ruled that the Government had the obligation to "conduct an inquiry into the circumstances of the victim's torture, to punish those found guilty of torture and to take steps to ensure that similar violations do not occur in the future". Also see *Quinteros v Uruguay* 1981 Communication No 107/1981, 38 UN GAOR Supp. (No 40) Annex XXII, UN Doc A/38/40 (1983); *Bautista de Arellana v Colombia* Communication No 563/1993, UN Doc CCPR/C/55/D/563/1993 (1995) para 82; *Jaoquin Herrera Rubio v Colombia* Communication No 161/1983, UN Doc CCPR/C/OP/2 (1987). For more on the jurisprudence of the Committee, see Joseph, Schultz and Castan *International Covenant on Civil and Political Rights*; ICCPR *Selected Decisions; HRC General Comment No 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc CCPR/C/74/CRP4/Rev 6 (2004) paras 16, 18.

an impartial body that does not belong to the organisation of the security forces themselves".[44]

It is now widely accepted that references to "ensuring" the enjoyment of the rights enumerated in human rights treaties may be interpreted as imposing an affirmative obligation on states parties.[45] The *ICCPR*, for example, in Article 2 requires every state party to "ensure to all individuals within its territory and subject to its jurisdiction the rights" enshrined in the Covenant, and take necessary steps to give effect to the rights enumerated therein.[46] Also, Articles 1 and 2 of the *Banjul Charter* can be read to reveal an obligation on states parties to "recognise the rights, duties and freedoms enshrined" therein, to take measures "to give effect to them", and to ensure that its citizens are "entitled to the enjoyment of the rights and freedoms recognised and guaranteed" therein.[47] This obligation to "ensure", and take measures to "give effect" to rights signifies a duty on states parties to respect, protect and enforce the rights. This may also be understood as including a broader obligation on states parties to take appropriate legal steps, whether administrative or judicial, against violators.

According to some commentators, given the fact that the HRC has not prescribed the type of punishment to be meted out to violators, that may mean that amnesties that take into consideration measures such as investigations seeking to identify violators and to document abuses, the purging of violators from leadership positions and the provision of compensation to victims could be acceptable. However, the HRC held in the case of *Bautista de Arellana v Colombia* that "purely disciplinary and administrative" measures "cannot be deemed to constitute adequate and effective remedies" in the meaning of the obligation to investigate, prosecute, punish and provide compensation for victims.[48] The aforementioned irrefutably indicates an overarching obligation under treaty law to hold perpetrators of human rights violations accountable.

3.2 The duty to prosecute under customary international law

The Statute of the ICJ also has as a source of law "international custom, as evidence of a general practice accepted as law".[49] Through consistent state

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44 *Torres Millacura v Argentina* (Judgment) 2011 HRC Series C No 229 para 121. Also see *HRC General Comment No 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc CCPR/C/74/CRP4/Rev 6 (2004) paras 16, 18.

45 Roht-Arriaza "Sources in International Treaties" 24-38.

46 Article 2 of the *ICCPR*.

47 See Arts 1 and 2 of the *African Charter on Human and Peoples' Rights* (1981) (hereafter the *Banjul Charter*).

48 *Bautista de Arellana v Colombia* Communication No 563/1993, UN Doc CCPR/C/55/D/563/1993 (1995) para 82.

49 Article 38(1)(b) of the *Statute of the ICJ*.

practice and the obligation to be bound (*opinio juris*), a particular rule of law is developed and cemented.[50]

Certain categories of crimes that involve human rights violations have, through consistent state practice, conveyed an indication that they are prohibited in customary international law. This prohibition has been interpreted to constitute a positive obligation borne by states, and includes the obligation to prevent, investigate, prosecute, and punish perpetrators thereof. Examples include torture,[51] enforced disappearances,[52] genocide, slavery and slave trading, apartheid and crimes against humanity.[53] Embedded in such obligations is the intolerability of amnesties for these crimes since amnesties constitute a hindrance to the positive duty to investigate, prosecute and punish the perpetrators. More so, the fact that recent amnesties are increasingly conditional and limited may be seen as recognising the existence of an overarching duty under customary international law to prosecute (gross) human rights violations.[54]

Moreover, the current trend in international community and state practice seems to suggest the existence of a *de facto* customary international law duty to prosecute especially serious crimes in international law. The United Nations (UN) and various states are increasingly drifting away from the granting of amnesties to those who bear responsibility for crimes that constitute human rights violations. This trend is reflected in the many trials that have taken place since the last quarter of the previous century in *ad hoc,* hybrid and even national tribunals exercising both territorial and universal jurisdiction.

Although there are many controversies and debates as to what human rights violations have earned a customary law duty for their prosecution, it is without doubt that serious crimes in international law, particularly crimes against humanity, having attained the status of *jus cogens* norms, warranting states to prosecute or extradite (*aut dedere, aut judicare*) perpetrators in their territorial jurisdiction, and arguably, also to exercise universal jurisdiction.[55] It has also been argued that the principle of *aut dedere, aut judicare* qualifies as a customary international law principle.[56]

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50 Bantekas and Oette *International Human Rights Law*.

51 *The Prosecutor v Anto Furundzija* (Judgment) 1998 ICTY-95-27/1-T para 151.

52 OHCHR *Rule-of-law Tools* 12-20.

53 See *HRC General Comment No 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN Doc CCPR/C/74/CRP4/Rev 6 (2004) para 18.

54 OHCHR *Rule-of-law Tools* 7.

55 See generally Reydams 2003 *AJIL* 627-631; Randall 2005 *AJIL* 293-298.

56 Judge Weeramantry in his dissenting view in the case of *Libyan Arab Jamahifiya v United States (Lockerbie)* 1998 Judgement ICJ Rep 9 at the ICJ, asserted that *aut dedere, aut judicare* constitutes a well-established principle of customary

Our contention, however, is not the principle itself which qualifies as a customary international law principle but its prohibition of certain crimes in international law such as torture and crimes against humanity. Due to their seriousness, these crimes have been recognised by the international community as being of serious concern to the international community as a whole, and as such, warranting their prosecution with or without a treaty. As discussed earlier, the commission of torture and enforced disappearances in Cameroon, being crimes that have attained a *jus cogens* status, triggers the application of the customary international law rules thereon: a duty imposed on Cameroon to investigate and prosecute these violations.

3.3 The duty to prosecute: Jurisprudence of international criminal justice mechanisms

Prior to the establishment of the Nuremberg Tribunal, there was no such thing as an international criminal justice mechanism. Nuremberg was the first coordinated international attempt at holding perpetrators of serious crimes accountable. After Nuremberg there was a general perception, based on the apparent success of the trials, that an international court would be set up, but due to distractions caused by the Cold War this was realised only nearly half a century later. However, Nuremberg set the ball rolling for the establishment of other international criminal tribunals such as the two UN *ad hoc* tribunals (the ICTY and the ICTR); hybrid courts (like the SCSL); the ECCC (Cambodia); the Special Tribunal for Lebanon (Lebanon); Special Panels for Serious Crimes (East Timor); and the ICC. The founding instruments of these institutions as well as the jurisprudence emerging therefrom constitute a valuable and credible grounding for the prosecution of perpetrators of serious crimes in international law such as torture, enforced disappearances, genocide and crimes against humanity.

An important doctrine that was established at the Nuremberg Tribunal and has since been carried through all these institutions is that individuals can and should be held accountable for serious crimes in international law.[57] Furthermore, the obligation to ensure accountability was emphasised in certain principles rooted in Nuremberg, two of which are worth mentioning. First, it was affirmed at Nuremberg that the position of an individual as head of state or in another government office does not relieve him from criminal responsibility.[58] Second, the fact that an individual acted under superior orders cannot be used as a defence to relieve him of criminal responsibility

international law, supporting Bassiouni's argument that the widespread use of the concept in international treaties has raised it to the status of customary law.

57 See the formulation on the imposition of individual criminal responsibility in the *Charter of the Nuremberg Tribunal.*

58 Principle III of the Principles of International Law recognised in the *Charter of the Nuremberg Tribunal* and in the Judgment of the Tribunal (1950). Also see Article 7 of the *Charter of the Nuremberg Tribunal*.

under international law.[59] These principles were formulated at Nuremberg, yet their application over time has gone beyond, as is evident in both the statutes of these institutions and the case-law developed by them. This has led to the establishment of an enormous jurisprudential grounding for the duty to prosecute and punish perpetrators of human rights violations, especially when such violations are of a *jus cogens* character. On the duty to prosecute such crimes, the Appeals Chamber of the SCSL, for example, affirmed that under international law, states "are under a duty to prosecute crimes whose prohibition has the status of *jus cogens*",[60] asserting further the position of the UN that amnesties do not apply to serious crimes in international law.[61] Although the exact boundaries of *jus cogens* in international law are still disputed, crimes such as torture, genocide, apartheid, slavery and slave trading, and crimes against humanity have earned sufficient consensus to be fitted into the category of *jus cogens* crimes. The multitude of cases that involve even top political elites of specific countries tried by these international criminal justice mechanisms constitutes compelling evidence of a primary duty to investigate and prosecute *jus cogens* crimes in international law: a principle which, *a fortiori*, should be extended to and applied in the current Anglophone Cameroon crisis since such crimes have been committed therein.

3.4 The obligation to prosecute under general principles of law

General principles of law as practiced by civilised nations constitute a source of international law.[62] Although not having the same weight as the other sources, general principles of law, regardless of their soft-law nature, arguably have earned acceptance because of their wide recognition as concepts and norms that are common in the practices of most legal systems.[63]

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59 Principle IV of the Principles of International Law recognised in the *Charter of the Nuremberg Tribunal* and in the Judgment of the Tribunal (1950); International Military Tribunal *Trial of the Major War Criminals* 223.

60 *The Prosecutor v Augustine Gbao* 2004 SCSL -04- 15-PT-141 para 10. Decision on Preliminary Motion on the Invalidity of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court, Appeals Chamber.

61 *The Prosecutor v Augustine Gbao* 2004 SCSL -04- 15-PT-141 para 10. Decision on Preliminary Motion on the Invalidity of the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court, Appeals Chamber; *Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone*, UN Doc S/2000/915 (2000) para 24.

62 See s 38(l)(c) of the *Statute of the ICJ* which names "the general principles of law recognised by civilized nations" as one of the sources of international law.

63 However, the general principles of law may not always, as has been argued in the past, emanate from norms and practices common to national legal systems. Certain rules and practices which constitute general principles of law are in themselves of international law origin: see Bassiouni 1989 *Mich J Int'l L* 768-818. For example,

Over the years international human rights have been embedded in legal developments in states, some of which have provoked constitutional amendments. Legislative developments have sought to enhance the respect for, promotion and protection of human rights in domestic legal systems. They have also grown to be one of the cornerstones upon which democracies are built. Orchestrated in part by multilateral international human rights treaties at global and regional levels, the underlying outcomes include setting limits to governmental power, building free societies for the enjoyment of rights, and recognising that victims of human rights violations have a right to a remedy (both substantive and procedural).

The violation of human rights, irrespective of its scale or the legal system in which it is committed, triggers the right to a remedy. Beyond the right to a remedy, the victims in question are entitled to justice, both administrative and judicial. The victims of torture, murder or enforced disappearances, for example, are entitled to pursue justice in the courts so that the perpetrators are brought to justice at least for the simple reason that their acts constitute a violation of the criminal laws of the country. For some legal systems the involvement of specific categories of public servants in the commission of human rights violations in particular or crimes in general is an aggravating circumstance.[64] Such general principles of law, fortunately, have been incorporated into the legal system of Cameroon, specifically the *Penal Code,* which criminalises human rights violations (not as "violations" *per se* but as crimes within the penal system).[65]

Stretching beyond the domestic sphere, it is a widely established principle of law that victims of human rights violations are entitled to reparations. In cases where responsibility for such violations is attributable to the state, the state is obliged to make reparations to the victims. Even though this is a substantive right in most international human rights instruments, the notion of reparations for the wrongful acts of states had long been established as a general principle of law in the *Chorzow Factory* case. In this case, the Permanent Court of International Justice (PCIJ) found the principle of reparation established through international practice to constitute "as far as

regarding the admissibility of cases to international tribunals, the rule that requires domestic measures to be exhausted before turning to international intervention could be regarded as a general principle; however, it does not originate from national legal systems but from the practice of international courts. Also see Roht-Arriaza "Sources in International Treaties" 24-38.

64 In some jurisdictions, criminal acts committed by state officials are treated with more sternness: see, for example, Arts 144(3), (4) and (5) of the *Penal Code* of Argentina (1963) providing additional sanctions for state officials who perpetuate acts of torture; *Title 18 US Code*, s 242 provides for the imposition of both federal and state criminal penalties for law enforcement officials who under "color of law" infringe on the civil rights of citizens (US).

65 See generally *Penal Code*, Law No 2016/007 of 12 July 2016, ss. 1-361 (inclusive).

possible, to wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed."[66]

3.5 United Nations Security Council Resolutions

The *Charter of the UN* empowers the Security Council to adopt measures aimed at maintaining international peace and order if, in the view of the Security Council, a situation in any part of the world constitutes a threat to peace and order. In furtherance of the mandate, the UN Security Council (UNSC) in exercising its Chapter VII powers has adopted resolutions that bind all member states and convey a message to perpetrators of gross violations of human rights that some form of accountability must take place. The UNSC has in several cases required member states to either surrender for prosecution or investigate and prosecute individuals responsible for gross human rights abuses. In 1992, for example, following the bombing of the Pan-American Flight 103 by Libyan officials, the UNSC adopted a resolution[67] obliging Libyan authorities to surrender the responsible individuals to the US and the UK for prosecution. In addition, it was also through UNSC resolutions that the ICTY and ICTR were established in 1993 and 1994 respectively to try individuals bearing responsibility for serious violations of international law in the former Yugoslavia and Rwanda.[68] The statutes of the *ad hoc* tribunals defined the crimes over which they had jurisdiction and the imposition of individual criminal responsibility, and the UNSC resolutions that set up these tribunals imposed on all UN Member States the obligation to cooperate with the tribunals regarding the enforcement of its orders including, *inter alia,* the actions of arrest and surrender.[69] Richard Goldstone, the Prosecutor of the ICTY, had noted that even if a peace negotiation resulted in the granting of immunity to perpetrators of war crimes, it would not prevent the tribunal (ICTY) from continuing with its proceedings against them. Also, the granting of an amnesty would not absolve member states of their obligation to arrest and surrender individuals indicted by the Tribunal.[70]

However, UNSC resolutions referring situations to the ICC have proved quite problematic regarding the obligations to cooperate imposed on both the referred State and other member states. Article 13(b) of the *Rome Statute of the ICC* allows the UNSC to refer a situation to the ICC where crimes under the ICC's jurisdiction appear to have been committed

66 *Chorzow Factory (Germany v Poland)* 1928 PCIJ (ser. A No 17) para 47.
67 *UNSC Resolution 748 (Libyan Arab Jamahiriya),* UN Doc S/RES/748 (1992).
68 See *UNSC Resolution 827*, UN Doc S/RES/827 (1993).
69 See *UNSC Resolution 827*, UN Doc S/RES/827 (1993) para 4; and *UNSC Resolution 955*, UN Doc S/RES/955 (1994) para 2.
70 Scharf 1996 *LCP* 41-61.

irrespective of the state's being a party to the *Rome Statute of the ICC*. An example is the referral of the situation in Darfur to the ICC, which led to the indictment of the then President Umar Al-Bashir of Sudan (a non-state party to the Rome Statute). Generally, referring a situation in a non-state party to the *Rome Statute of the ICC* raises the question as to how the *Rome Statute of the ICC* would apply to the referred state.[71] Does such a referral require the referred state to be treated as a member state such that the provisions of the *Rome Statute of the ICC* impose obligations on states to cooperate,[72] as well as provisions waving the immunities of heads of states and government officials?[73] Different views have been expressed on these aspects and interpretations regarding, for example, the implications of UNSC Resolution 1593, that referred the Darfur situation to the ICC.[74] The ICC Pre-Trial Chamber stated that the immunities of Al-Bashir "have been implicitly waived by the Security Council".[75] The Pre-Trial Chamber argued that the implications of UNSC 1593 are to require Sudan to cooperate and also waive the immunity of government officials.[76] Akande, however, holds that whenever the UNSC refers a case involving a non-party to the *Rome Statute*, the implication is that the UNSC makes the *Rome Statute* binding on that state as though it were a state party and that includes Article 27, which removes the immunity of heads of states,[77] and Part 9, which imposes the obligation on that state to cooperate with the ICC. Thus, UN member states may fulfil their duties under Part 9 to arrest and surrender violators found in their territory.[78] Despite this understanding, Al-Bashir was not arrested in several states he went to, including South Africa. On the contrary, Tladi has argued that such a move conflicts with customary international law, which grants immunity *ratione personae* to heads of states and state officials before the national authorities of foreign states, as was stated in the *Arrest Warrant* case.[79] To him, Article 27 applies only to

71 See generally Akande 2012 *JICJ* 299-324.

72 Part 9 (Arts 86-102) of the *Rome Statute of the ICC*.

73 Article 27 of the *Rome Statute of the ICC*. See generally Akande 2009 *JICJ* 333-352; and Gaeta 2009 *JICJ* 315-332.

74 *UNSC Resolution 1593 on Violations of International Humanitarian Law and Human Rights Law in Darfur, Sudan*, UN Doc S/RES/1593 (2005).

75 See generally *The Prosecutor v Omar Hassan Ahmad Al Bashir* Pre-Trial Chamber II Case No ICC-02/05-01/09-1 (Decision of 13 June 2015). Also see *UNSC Resolution 1593 on Violations of International Humanitarian Law and Human Rights Law in Darfur, Sudan*, UN Doc S/RES/1593 (2005) para 2.

76 *The Prosecutor v Omar Hassan Ahmad Al Bashir* Pre-Trial Chamber II Case No ICC-02/05-01/09-1 (Decision of 13 June 2015).

77 Akande 2004 *AJIL* 407-433.

78 *UNSC Resolution 1593 on Violations of International Humanitarian Law and Human Rights Law in Darfur, Sudan*, UN Doc S/RES/1593 (2005) paras 5, 9. Also see Akande 2009 *JICJ* 333-352.

79 *Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v Belgium)* 2000 ICJ GL No 121*;* and followed in subsequent cases like *Ex Parte Pinochet* 37 ILM 1302 (HL 1998).

persons undergoing proceedings before the Court. In addition, UNSC Resolution 1593 imposes the duty to cooperate on Sudan but does not waive the immunities of Sudan as immunities are never waived implicitly but explicitly.[80] According to Gaeta, while it was lawful for the ICC to issue an arrest warrant against Al-Bashir, given that the rules of personal immunities do not apply to cases before the ICC, it constitutes an "*ultra vires*" act for states to disregard the personal immunities of heads of states or state officials by arresting and surrendering them to the ICC.[81]

Although Cameroon is not yet a State Party to the *Rome Statute of the ICC*, it should be noted that Article 13 empowers the UNSC to intervene under Chapter VII. From this perspective, such power may be triggered, leading to the UNSC adopting a resolution on the crisis in Anglophone Cameroon. Yet, given the complementarity nature of the ICC, the violations that have been committed can and should be investigated and prosecuted by the national courts of Cameroon to preclude any UNSC or ICC intervention therein.[82] Despite the controversies aroused in the *Al-Bashir* case, generally, the contributions of the UNSC resolutions are a compelling and invaluable source of the obligation to prosecute perpetrators of serious crimes in international law.

4 Regional framework for human rights accountability

Apart from the substantive regional framework of rights provided in the *Banjul Charter*; its subsequent protocols and other treaties that bind African states, there exists a distinctive legal ground for holding perpetrators accountable for certain serious crimes in international law in Africa. This stems from the obligation placed on the AU under its organic instrument (the *Constitutive Act of the African Union*) to prosecute conduct prohibited by human rights treaties. Under Article 4(h) of the *Constitutive Act of the African Union*, the AU shall have "the right … to intervene in a Member State according to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity". Also, Article 4(o) reiterates the aspirations of the AU regarding the "condemnation and rejection of impunity". In this regard, the right to intervene would imply the obligation to take necessary measures whenever these crimes are committed to ensure that the AU fulfils its aspirations towards condemning and rejecting the granting of impunity to perpetrators of these serious crimes in international law. Despite these affirmations in its organic document, the reality has been very distant therefrom. The role of the AU in the *Al-Bashir*

80 Tladi 2015 *JICJ* 1027-1047.

81 Gaeta 2009 *JICJ* 315-332.

82 According to the principle of complementarity, the ICC would not intervene in cases where the state has already initiated proceedings to prosecute perpetrators of crimes in the jurisdiction of the court: see Art 17 of the *Rome Statute of the ICC*.

case was nothing more than a concerted effort to obfuscate and impede the pursuit of international criminal justice. In floating the dream of establishing a justice mechanism to deal with about fourteen crimes in international law (a blend of serious crimes in international law and international crimes), the inclusion of a clause exonerating state officials for crimes committed while they were in office itself lends weight to the argument that the AU supports impunity for serious crimes in international law, and any tensions with the UNSC or ICC were based on the need to hold a sitting president accountable.

The African Commission on Human and Peoples' Rights (the Commission) has been instrumental through its case law in establishing a duty to prosecute in cases of violations of the *Banjul Charter,* especially in instances of the commission of acts in violation of Article 4 of the *Banjul Charter* such as arbitrary arrests, arbitrary detention, extrajudicial executions and torture. Cases abound.[83]

In the case of the Anglophone Cameroon crisis, the Commission met in its 62nd Ordinary Session from 25 April to 9 May 2018 and released a "Resolution on the Human Rights Situation in the Republic of Cameroon".[84] The Commission noted that

> … the continuous deterioration of the human rights situation in Cameroon, as well as the socio-economic situation, since October 2016 following brutal crackdowns on peaceful protests by lawyers, teachers and members of civil society of the English-speaking North West and South West regions of Cameroon who called for the preservation of the Anglophone legal and educational systems in their regions, and an end to marginalization, and for better management of the regions by the Government of Cameroon in terms of development and infrastructure.[85]

In condemning the violations of human rights committed in the Anglophone regions since 2016,[86] the Resolution urged the Government of Cameroon to carry out "impartial and independent" investigations into alleged violations; identify perpetrators and bring them to justice.[87] The Commission

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83 *Lawyers Committee for Human Rights v Zaire*, Communication 47/90, 7th ACHPR AAR Annex IX (1993-1994); *Forum of Conscience v Sierra Leone*, Communication 223/98, 14th ACHPR AAR Annex V (2000-2001). See IHRDA *Compilation of Decisions.*

84 *Resolution on the Human Rights Situation in the Republic of Cameroon*, ACHPR/Res 395 (LXII) (2018).

85 *Resolution on the Human Rights Situation in the Republic of Cameroon*, ACHPR/Res 395 (LXII) (2018) para 4 of the Preamble.

86 *Resolution on the Human Rights Situation in the Republic of Cameroon*, ACHPR/Res 395 (LXII) (2018) paras 1, 2.

87 *Resolution on the Human Rights Situation in the Republic of Cameroon*, ACHPR/Res 395 (LXII) (2018) para 3.

also called on the warring factions to engage in a dialogue in order to preserve lives and restore peace and stability.[88]

5 Domestic legal framework for accountability

The Preamble to the Constitution of Cameroon incorporates human rights standards of the *Universal Declaration of Human Rights* (*UDHR*) and the *Banjul Charter* as well as instruments that predate the amendment to the Constitution (1996). Furthermore, the Preamble states that all individuals without distinction "as to race, religion, sex or belief, possess inalienable and sacred rights", and that the State has the duty to "ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law".[89] Undoubtedly, this obligation of the State to "ensure the protection" and "preserve the rights" may well be interpreted to mean, amongst other things, the obligation to prosecute individuals who violate these "inalienable" (non-derogable) rights of those subject to its jurisdiction.

The Constitution not only recognises international law but also gives it precedence over national law. This implies that obligations imposed by these treaties, including *inter alia* the obligation to prosecute human rights violations (violations of which are prohibited in treaties "duly approved or ratified" by Cameroon) are binding upon the Cameroon government and authorities to ensure accountability for violations of rights provided in those treaties, irrespective of the status of the violators. Cameroon has ratified several international human rights instruments which warrant the protection of human rights.[90]

As a State Party to the international instruments she has ratified, she is bound to fulfil the obligations therein. Cameroon is therefore obliged to fulfil the provisions of these instruments regarding the respect, protection and enforcement of human rights individuals in its territorial jurisdiction without discrimination as to language, political or other opinion, or other status.[91] In addition, she must embrace and apply the normative contents of these instruments. The non-discrimination clause clearly enshrined in these

88 *Resolution on the Human Rights Situation in the Republic of Cameroon*, ACHPR/Res 395 (LXII) (2018) para 5.

89 Preamble to the Constitution.

90 A few examples include the following: the *ICCPR* was ratified on 27 June 1984; the *CAT* was ratified on 19 December 1986; the *Banjul Charter* was ratified on 20 June 1989; the *Convention on the Rights of the Child* was ratified on ratified 11 January 1993; the *Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity* was acceded to on 6 October 1972 and its *Optional Protocol* (ratified on 4 February 2013); and the *International Convention on the Elimination of All Forms of Racial Discrimination* was ratified on 24 June 1971.

91 This includes individuals in governmental positions of authority such as Ministers and law enforcement agents.

foregoing international human rights treaties must be sacrosanct in her legal system, prohibiting any kind of unlawful discrimination.

As a state party to the *Vienna Convention on the Law of Treaties* (hereafter the *VCLT*),[92] Cameroon is bound by the principle of *pacta sunt servanda,* which requires that "every treaty in force is binding upon the parties to it and must be performed by them in good faith".[93] In addition, the *VCLT* further forbids a state party from invoking its domestic law provisions "as justification for its failure to perform a treaty".[94] Clearly, Cameroon is bound to prosecute. The duty is imposed under the different sources of international law specified in Section 38(1) of the *Statute of the ICJ*, namely: treaties, customs, jurisprudence and general principles, as discussed above, as well as its own national law providing such a duty.

6 Conclusion

As mentioned earlier, the theoretical and legal framework on the duty to prosecute perpetrators of gross violations of human rights in the Anglophone Cameroon crisis will not in itself make accountability happen. These normative and legal apparatuses must be accompanied by the zeal to achieve the ends of justice: justice for the victims of those violations; justice for the perpetrators themselves; justice for the communities and country whose laws have been breached; and justice for the international community whose norms, laws and standards have been violated. By taking the trajectory of accountability which is delineated by the foregoing legal provisions, this paper recommends that the Cameroon government should ensure respect for the rule of law; put in place measures that set the tone for a Cameroonian society that recognises the sacredness of human rights; ensure that violations thereof are met with accountability, that the culture of impunity is effaced, and that both state and non-state actors responsible for human rights violations are brought to justice. With a strong normative, theoretical and legal framework, one task is already accomplished. The other tasks (building a post-crisis society, transitional justice and accountability) require the flesh and blood of the Government of Cameroon to bring these to fruition.

92 *Vienna Convention on the Law of Treaties* (1969) (hereafter the *VCLT*).
93 Article 26 of the *VCLT*.
94 Article 27 of the *VCLT*.

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List of Abbreviations

AJIL	American Journal of International Law
AJPSIR	African Journal of Political Science and International Relations
AU	African Union
CAT	UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ECCC	Extraordinary Chambers in the Courts of Cambodia
HRC	Human Rights Committee
IAC	International armed conflict
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Military Tribunal for the former Yugoslavia
IHRDA	Institute for Human Rights and Development in Africa
J C & S L	Journal of Conflict and Security Law

J Mod Afr Stud	Journal of Modern African Studies
JICJ	Journal of International Criminal Justice
LCP	Law and Contemporary Problems
Mich J Int'l L	Michigan Journal of International Law
MJIL	Melbourne Journal of International Law
NIAC	Non-international armed conflict
OHCHR	Office of the High Commissioner for Human Rights
PELJ	Potchefstroom Electronic Law Journal
SCSL	Special Court for Sierra Leone
TWQ	Third World Quarterly
UK	United Kingdom
UN	United Nations
US	United States
UNSC	United Nations Security Council
VCLT	Vienna Convention on the Law of Treaties
Yale LJ	Yale Law Journal