



## COI QUERY

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| <b>Country of Origin</b>                          | <b>CAMEROON</b>   |
| <b>Title</b>                                      | <b>Situation of women who have children out of wedlock, including Muslim women, and treatment by non-state actors in the Far North region</b>   |
| <b>Reference period</b>                           | January 2019 – 25 October 2023  |
| <b>Topic(s)</b>                                   | <ol style="list-style-type: none"><li>1. <a href="#">Legislation</a></li><li>2. <a href="#">Societal attitudes</a></li><li>3. <a href="#">Treatment by non-state actors</a></li></ol> |
| <b>Date of completion</b>                         | 26 October 2023   |
| <b>Query Code</b>                                 | Q53-2023  |
| <b>Contributing EU+ COI units (if applicable)</b> | N/A   |

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## COI QUERY RESPONSE – Cameroon

### Situation of women who have children out of wedlock, including Muslim women, and treatment by non-state actors in the Far North region

#### 1. Legislation

In Cameroon, children born in lawful wedlock are considered ‘legitimate,’ whereas those born out of wedlock are considered ‘illegitimate.’<sup>1</sup> Title V of Order No. 81/002 of 29 June 1951 indicates the following regarding children born out of wedlock:

[informal translation]

‘Chapter 1 – Recognition of children

Article 41. (1) The recognition or legitimation of a child born out of wedlock shall be established by court decision. The same shall apply to cases of adoption.

However, delivery shall be equivalent to recognition of the child by the mother, and marriage celebrated after recognition shall imply legitimation of the children recognized as born of the spouses.

(2) Recognition and legitimation, excepting adoptive legitimation shall be based on blood relationship. Once the relationship has been established, no one may raise objection to recognition.

(3) Court judgments on recognition, legitimation and adoption shall be inscribed as marginal notes on birth certificates.

Article 42. Substantive conditions for adoption shall be those contained in the written law, except where there is provision to the contrary in the present Ordinance.

Article 43. (1) A child born out of wedlock may be recognized by his natural father. In such a case, the mother shall be heard and if she is a minor, her parents too.

(2) However, a child born as a result of adultery on the part of the mother may be recognized by the natural father only after disavowal by the husband before a law court.

(3) Action to recognize a child born as a result of rape shall be inadmissible.

Article 44. (1) a) Notwithstanding the provisions of Article 41 hereabove, recognition of children born out of wedlock may be done by declaration made before a civil status registrar during the birth registration.

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<sup>1</sup> Kinsmen Advocates Law Firm, Procedure for child recognition in Cameroon: 2023 approved guidelines, n.d., [url](#); Kima & Partners, Child recognition and legitimation in Cameroon, n.d., [url](#)



b) In such a case, the declaration of the presumed father shall be accepted by the civil status registrar after the consent of the mother, and in the presence of two witnesses.

(2) The civil status registrar shall identify the parents of the child and shall transcribe the declaration into a register, numbered and initialled by the president of the court of the first instance, and kept for that purpose.

(3) Such declaration shall be signed by the father, the mother, the witnesses and the civil status registrar before the birth certificate is drawn up.

(4) If one of the parents is minor, his consent shall be given by the father, mother or guardian, consent shall be given verbally before the civil status registrar or in writing duly legalized and annexed to the register.

(5) The procedure provided for in the above paragraph shall not apply when there is a dispute and, especially, if paternity is claimed by several persons before the establishment of the civil status certificate.

Article 45. Any recognition before a civil status registrar may be challenged before a competent court by any person claiming paternity over the same child.

Chapter II – The search for the real father.

Article 46. (1) The mother of a minor or a person of full age may, through application before a competent court, bring action for the search of the real father.

(2) However, any action in search of the real father shall be rejected if during the legal period of conception, the mother led a loose life or had intercourse with another man or if the alleged father was physically unfit to be the father.

(3) Under pain of foreclosure, action in search of the real father shall be taken by:

(a) the mother within two (2) years from the date of delivery or when the father ceases to maintain the child;

(b) the child of full age, within one (1) year from the date of his majority.

(4) Judgments relating to the search for the real father shall be entered in the margin of birth certificates.

Chapter III – Parental power and the custody of illegitimate children.

47. Parental power over children born out of wedlock shall be jointly exercised by the mother and the father with whom the affiliation was legally established. In case of disagreement, it shall be exercised by the parent who has the effective custody of the child except the judge decides otherwise.<sup>2</sup>

## 1.1 Islamic law

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<sup>2</sup> Cameroon, Ordonnance No. 81/002 du 29 juin 1951 (amended 1980), 1980, [url](#)



Information on the application of Islamic law in cases of children born out of wedlock, particularly in the Far North in Cameroon, could not be found among the sources consulted by EUAA within the time constraints of this query. However, the following may be useful.

An article entitled ‘The lineage of children out of wedlock according to Islamic law’ indicated that the Maliki, Shafi’i, and Hanbali schools of Islamic thought assert that ‘a child out of wedlock has no kinship relationship with his father who had impregnated his mother. The child only has kinship with his mother and his mother's family,’ while Hanafi school of thought asserts that ‘a child out of wedlock is legal if the father and mother are legally and Islamically married, and the child is born in the marriage bond of his parents.’<sup>3</sup> Fatwa 84788 of 2002 similarly indicated that

‘[t]he child of Zina (who was born outside wedlock) is traced back to his mother's lineage and to her family. The rulings of Mahram apply to him in relation to his relatives from the mother's side only. His/her legal Wali is from the mother's side and he inherits from that side which is the only one that inherits from him and to which he is legally linked. So, all other rulings concerning fatherhood stem directly from the mother's side. Therefore, the child born outside legal wedlock is not traced back to his father, nor does any of them inherit from the other.’<sup>4</sup>

Additional information could not be found among the sources consulted by EUAA within the time constraints of this query.

## 2. Societal attitudes

According to a report produced by the Population Council, an international NGO that focuses on gender and reproductive health, pregnancies out of wedlock, including those as a result of rape or after having consensual sex with her boyfriend, are considered a source of shame.<sup>5</sup> Similarly, in a journal article on the effect of armed conflict on youth sexual and reproductive health in Northwest Cameroon, the authors indicated that mothering a child outside wedlock is considered a source of shame and that, often, the mother aborts the child out of fear of family rejection.<sup>6</sup> The same study also indicated that the mother often faces pressure to end the pregnancy by her entourage, including family members, as they do not want the shame associated with having a child outside wedlock.<sup>7</sup>

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<sup>3</sup> Sampuju, Uswatun H. et al., The lineage of children out of wedlock according to Islamic law, 2022, [url](#)

<sup>4</sup> Islamweb.net, Inheritance of an Illegitimate Child, Fatwa No: 84788, 7 September 2022, [url](#)

<sup>5</sup> Population Council, When Girls’ Lives Matter: Ending Forced and Early Marriage in Cameroon, 2011, [url](#), p. 7

<sup>6</sup> Fonkwo, J. et al., The effect of the anglophone crisis on youth sexual and reproductive health in the Northwest region of Cameroon: a qualitative study, in Journal of Global Health Reports, Vol. 7, 16 August 2023, [url](#), pp. 4-5

<sup>7</sup> Fonkwo, J. et al., The effect of the anglophone crisis on youth sexual and reproductive health in the Northwest region of Cameroon: a qualitative study, in Journal of Global Health Reports, Vol. 7, 16 August 2023, [url](#), pp. 4-5



Under the Penal Code, abortion is punishable in Cameroon with 15 days to one year imprisonment, or a fine ranging from 5 000 to 200 000 FCFA (8 to 305 EUR).<sup>8</sup> The Penal Code also indicates that '[w]hen however procures the abortion of a woman, notwithstanding her consent, shall be punished with imprisonment for from 1 (one) to 5 (five) years and with fine of from CFAF 100 000 (one hundred thousand) to CFAF 2 000 000 (two million) [152 to 3 050 EUR].<sup>9</sup> The USDOS report on Cameroon indicated that '[w]omen also had access to emergency care, including services for the management of complications arising from abortion regardless of whether abortion was legally permitted.'<sup>10</sup>

Additional information could not be found among the sources consulted by EUAA within the time constraints of this query.

### **3. Treatment by non-state actors**

Information on the treatment by non-state actors could not be found among the sources consulted by EUAA within the time constraints of this query.

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<sup>8</sup> Cameroon, Penal Code, 2016, [url](#), Sec. 337

<sup>9</sup> Cameroon, Penal Code, 2016, [url](#), Sec. 337

<sup>10</sup> USDOS, 2022 Country Reports on Human Rights Practices: Cameroon, 20 March 2023, [url](#)

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## **ADDITIONAL SOURCES CONSULTED**

All Africa; Amnesty International; Belgium – CEDOCA; Brookings; Cameroon Tribune; Canada – Immigration and Refugee Board; Deutsche Welle; ECOLI.net; EuroNews; European Union – EUAA COI Portal, European Parliament; Freedom House; Girls Not Brides; Human Rights Watch; IslamOnline; The New Humanitarian; Nkafu Policy Institute; Norway – Landinfo; Norwegian Refugee Council; United Nations – Office of the High Commissioner for Human Rights (OHCHR), Refworld, United Nations High Commissioner for Refugees (UNHCR), United Nations Population Fund (UNFPA); United States – Central Intelligence Agency, Department of Justice, Library of Congress; Voice of America (VOA)