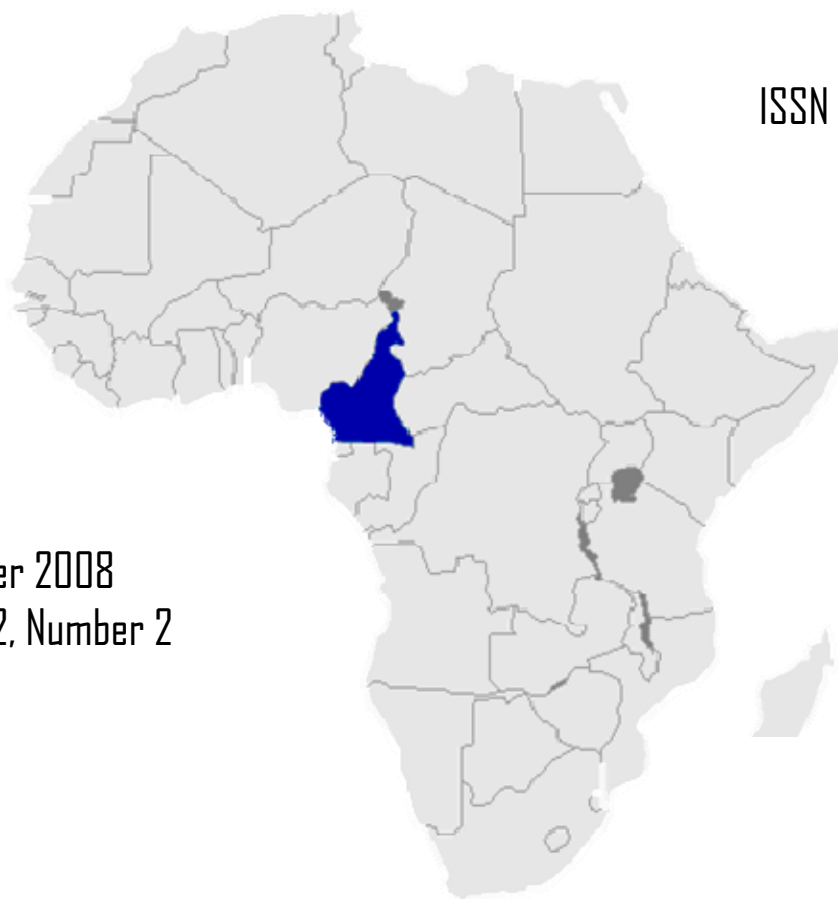


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DEMOCRACY IN CAMEROON DURING THE MONOLITHIC PERIOD: A CONTRADICTION

Godwin MOYE BONGYU*

Abstract

Theoretically and empirically, democracy and monolithism do not go together. This contradiction is depicted in the early governance structure of Cameroon which was centralized, autocratic, but with regular elections which basically provided no real choices. Diversity is both natural and important for a democratic government to exist. While the complexity of life affirms the absurdity of unanimism, social complexity affirms the imperative of pluralism. But the monolithic government did everything to curtail avenues of protests. The structure of the society was accepted than criticized. There were no possibilities of popular protest as the party helped the government to ensure that the people were hemmed in and immobilized. Since unanimity and consensualism are not natural, the government had to use force to ensure support under the monolithic system of governance in Cameroon, which in effect constitutes a gross violation of principles of democracy.

Keywords: democracy, monolithism, violence, institution, one-party, rationalisation, marginalisation, one-dimensional, unidirectional.

* LLB (Yaounde); Maitrise/DEA (Yaounde); Doctorat de 3e cycle (Yaounde); PhD (JSU). Senior Lecturer, University of Dschang, Cameroon.

1. Introduction

Though democracy is subject to varying interpretations, the concept has some universally accepted principles. It is that form of government where there is power sharing within the ruling class and the society in general. Checks and balances should be ensured not only within the ruling class, but also between the rulers and the ruled. From this standpoint, pluralism is *a sine qua non* requirement for democracy. There should be political, organic, and social diversities and the people have to be the ultimate holders of power. But in Cameroon during the monolithic era, powers were concentrated in the president's hands to the detriment of other state organs. Unique organizations were imposed, critics were repressed and elections were a formality. The people were expected to be one-directional and one-dimensional. "Support" was coerced from the people and they became passive and powerless. Declarations by politicians that there was democracy during this era were therefore illogical.

2. Democracy versus Monolithism

Democracy is a pervasive concept, one of the most promiscuous and fascinating words. Etymologically, the term democracy originated from two Greek words "demos" meaning people and "Kratos" meaning rule or power. Therefore, it simply means rule of the people. At various points in time, diversified types of democracy have been preached and practiced especially the liberal and the centralized democracies.¹ According to Abraham Lincoln it is the government of the people by the people for the people.

Literally, monolith simply means a single upright block of stone. It depicts something that is "one" "only". In politics, this is a logical consequence of the state as "one and indivisible." Historically, we can think of the Russian experience, where after the 1917 Revolution the Marxist democracy was proclaimed. Here, the emphasis was on the economy rather than politics, on the classes not the individuals. Democratic centralism as it was termed favoured a

¹ Okwudiba Nnoli, *Introduction to Politics* (1986), p. 116-126. Ibadan: Longman Publishing Group.

unanimous, classless society with a unique party and ideology. Democratic centralism implies two things: the sovereign power of the people, and administration from the “center.”²

In the aftermath of independence many African countries adopted political pluralism in accordance with their colonial masters’ systems. But once the new leaders tasted power, all attempts were made to consolidate it. There was the gradual disappearance of pluralism, and many reasons were given to justify this turn of events.³ A series of monolithisms emerged as an attempt to control all power centres. In Cameroon, the monolithic era can be said to have started in the mid-1960s, reached its peak after 1972, and “ended” with the declaration of pluralism in 1990.⁴ Throughout this period, powers were concentrated in the president’s hands, all associations became unique, and the people powerless.

3. Conflicting Concepts

In spite of varying interpretations and vagueness, the notion of democracy meets with almost universal acclaim. There is a common acceptance that it is desirable, commendable, and progressive. Nowadays, all leaders, even dictators proclaim themselves democrats because it is the form of government regarded as the most legitimate.⁵ There has been a general failure of democratic centralism due to its inherent contradictions. In addition, the recent changes in Eastern Europe and Africa are indicative of the fact that pluralist democracy has meet with almost universal acclaim.⁶ From this standpoint, pluralism is a *sine qua non* for democracy to exist, as there must be political, organic, and social diversities.

² This distinction was fashionable during the Cold War, but with the collapse of the socialist bloc, its experiential-empirical importance has diminished.

³ Michael T Aletum, *Political Sociology* (1992), p. 54. University of Yaounde (unpublished). Aletum discusses the evolution from multi-party to mono-party systems.

⁴ Law No. 90-53 of 19 December 1990 relating to the freedom of association. The monolithic era therefore concerns Mr. Ahidjo’s and part of Mr. Baya’s reigns.

⁵ Okwudiba Nnoli (note 1 above), states that under these circumstances it becomes difficult to fully understand the meaning of the concept, p. 116.

⁶ Today, the Marxist democracy is practiced in few countries as China and Cuba.

While democracy can be contextualized, it can also be conceptualised.⁷ There are some universal principles that can serve as guidelines for this system of government. These include multiplicity and diversity of organizations and power centres, checks and balances between the three state organs, free and fair elections, declaration and guarantee of rights and freedoms, an independent judiciary, strong organized opposition, rule of law, and democratic (participant) culture. Democracy is a system of government where the people are the ultimate holders of power which should be exercised for their interest.⁸ This extends beyond participating in elections and to the day-to-day management of state affairs. For the above guidelines to exist, there must be pluralism (organic, ideological, and political). During the monolithic era in Cameroon with the concentration of powers in the president's hands, and the proliferation of unique organizations on the other, to talk of democracy was a contradiction of terms. This is because the core aspects of a democracy were non-existent.

During the monolithic system in Cameroon the President was almighty and his impact felt at all strategic levels of political life. In Africa at large and Cameroon in particular, there has been the borrowing of legal techniques from parliamentary and presidential systems which helped to reinforce the status of the president. The negro-african presidentialism is a deformation of the parliamentary and presidential systems in a dictatorial sense.⁹ The president's rights and powers were emphasized and obligations neglected. This has been baptized the "Presidentialist Regime." This excessive presidentialization led to the reduction of the powers of the other state organs. The institutional models borrowed from the Western regimes by the modern states were gradually altered.¹⁰ Many third world

⁷ Democracy in France, Britain, U.S.A, Canada, Cameroon etc cannot be exactly the same. This is so because these countries have different historical, cultural, social, economic, and political environments.

⁸ Bernard-Raymond D Guimdo, "Reconnaissance des Minorités et Démocratie: Duel ou Duo?" in *Annales de la Faculté des sciences Juridiques et Politiques* (1997), p.125. Université de Dschang.

⁹ Thierry Michalon, *Quel Etat pour l'Afrique?* (1984), p. 59. Paris: L'Harmattan.

¹⁰ Roger-Gérard Schwartzenberg, *Sociologie Politique* (1977), p. 294-299. Paris: Editions Montchrestien.

countries, including Cameroon, witnessed constitutional instability that was essentially the result of the inadaptable nature of the constitutional rules to the socio-economic environment.¹¹ The general tendency was towards the growth in the president's powers in the new arrangements.

4. The Gradual Growth of Presidential Powers in Cameroon

After independence, the constitution of March 5, 1960 of *La République du Cameroun* was inspired by the French 1958 constitution. A political regime was adopted which was more parliamentary at the governmental level, and more presidential at the level of the head of the state.¹² During this time, Ahmadou Ahidjo, President of *La République du Cameroun* did everything to consolidate his powers. When Southern Cameroons, which was under the British administration decided through a referendum to join *La République du Cameroun*, there was a necessity for a new constitution. But a simple revision of the 1960 constitution was done, and according to President Ahidjo "legally, reunification can be analysed as simply a modification of frontiers."¹³

The federal constitution which resulted instituted a complex regime, presidential at the federal level and parliamentary at the level of federated states.¹⁴ The constitutional transformations rendered necessary by reunification risked reducing the presidential prerogatives. This was so because the Anglophones were inspired by parliamentary and particularistic tradition.¹⁵ Paradoxically this episode of reunification was a fundamental stage in the maximization of the president's powers, both at the institutional and political levels.¹⁶

¹¹ Michael Aletum (note 3 above), p. 160-161.

¹² Francois Mbome, *Régimes Politiques Africains*, Class Reading Pack (1986), p. 38. University of Yaoundé.

¹³ Jean-François Bayart, *l'Etat au Cameroun*, 2nd ed (1984), p. 97. Paris: Presses de la Fondation Nationale de Sciences Politiques. See also article 50 of the 1961 Constitution.

¹⁴ Francois Mbome (note 12 above), p. 42.

¹⁵ Jean-François Bayart (note 13 above), p. 96-97.

¹⁶ Ibid, p. 99.

On the 20th May 1972 President Ahidjo convoked a referendum of the Cameroonian people who had to answer to the following questions - “do you approve the aim of consolidating national unity, and accelerating the socio-economic and cultural development of the nation, the constitutional project submitted to the Cameroonian people by the president of the federal Republic of Cameroon, instituting a Republic, one and indivisible under the denomination United Republic of Cameroon?”.¹⁷ From the way the question was framed and mindful of the coercive environment at the time, the citizens had no choice but to “vote” in the affirmative. Consequently, the constitution of June 1972 was adopted institutionalising a real presidentialist regime. But why this turn of events? Almond and Powell underline four principal problems that have to be solved by developing political systems - construction of the state; construction of the nation; ensuring the participation of the citizens; and the satisfaction of general interest (even distribution).¹⁸ Surely all these reasons have their place, but the fact remains that underlying them was an insatiable quest for power. The president became all-powerful and logically anti-democratic.

5. The Extent of the Powers of the President

During the monolithic era Cameroon, there was the simultaneous existence of the double phenomenon of “personal power” and “personification of powers.”¹⁹ The first is an institutional reality where one person controls, concentrates, and masters the state apparatus. The latter is psychosocial, where an authority symbolizes and incarnates the nation, state, party, etc. Concretely, the president is head of state, party, armed forces, magistracy, and indeed head of government. The head of state, in other words, formed a ruling class which identified and owed allegiance to him. He was generally seen as infallible and described as “father of the nation,” “messiah,” and “charismatic.”²⁰ In a democracy institutional relations are favoured to personal, but in Cameroon the

¹⁷ Francois Mbome (note 12 above), p. 43

¹⁸ Gabriel A Almond and Bingham G Powell, *Comparative Politics: A Developmental Approach* (1966), p. 35. Boston: Little Brown Series

¹⁹ Roger-G rard Schartzenberg (note 10 above), p. 306

²⁰ This is “spurious charisma” for there is no genuine sense of calling or exemplary character.

pre-eminence of the president was a fact and unfortunately was not counter-balanced by other powers.

The President appointed discretionarily and controlled all the important posts.²¹ The creation of the post of the Prime Minister changed nothing as far as the predominance of the president was concerned, as President Ahidjo did state clearly that the regime in Cameroon remain Presidentialist and as such “the Prime Minister will only be responsible to the President of the Republic, who as in the case of other members can appoint and put an end to his functions.”²² No doubt, the Ministers were simply executors without scope and were responsible only to the President. Consequently, appointments were made following subjective, partisan, and discretionary appreciation of the President.²³ Professor Gonidec has rightly underlined that “the importance of ministerial functions depend on the nature of the political regime.”²⁴ On his resignation therefore in 1982, President Ahidjo transmitted to President Paul Biya this heritage.

Monopolizing power is dangerous to the society. The temptations of power are too great for it to be left in the discretion of any men.²⁵ Democracy is not the exercise of power; it is rather its limitation.²⁶ As propounded by John Locke and further developed by Montesquieu power has to be separated. This implies that “in order to avoid a situation in which no one branch of government obtains a monopoly of power which is almost certain to result in arbitrary rule the three functions should be kept entirely separate.”²⁷ The Legislative to make laws, executive to apply them, and the judiciary to adjudicate. There should be

²¹ Unlike the case in the U.S.A where appointments to important posts have to be confirmed by the Senate.

²² Press Conference, Ahmadou Ahidjo, 16 June 1970.

²³ Abel Eyinga, *Introduction à la Politique Camerounaise* (1984), p. 286. Paris: Editions l'Harmattan.

²⁴ Roger-Gabriel Nlep, “l'Administration Publique Camerounaise”, *Contribution à l'étude des Systèmes Africains d'Administration Publique* (1986), p. 54. Paris: Librairie Générale de Droit et de Jurisprudence (LGDJ).

²⁵ Robert M MacIver, *The Modern State* (1962), p. 202. Oxford University Press.

²⁶ Zahir Fares, *Afrique et Démocratie: Espoir et Illusion* (1992), p. 47. Paris: l'Harmattan.

²⁷ Tom Brennan, *Politics and Government in Britain: An Introductory Survey* (1972), p. 197. Cambridge: Cambridge University Press, 1972.

reciprocal controls, mutual restraint, multifunctionality but not to the extent of challenging the independence of any organ. In Cameroon, the executive's head usurped much of powers that *ceteris paribus* belong to the other state organs. The parliament was rationalized and the judiciary marginalized.

5.1. Rationalization of the Parliament

In the majority of contemporary political regimes, there has been a reduction in the powers of the parliament.²⁸ It is logical that the primacy of the executive is proportionally inverse to the weakening of the parliament. However, if the weakening of the parliament is a general phenomenon, it is more marked in presidentialist regimes. Cameroonian authorities went beyond techniques of parliamentary "rationalizing" enshrined in the French 1958 Constitution. The manifestations of this belittling of the parliament are many and varied. The domain of the law was limited and defined in a precise manner, the legislative domain was therefore the exception,²⁹ and as if this were not enough the President of the Republic was empowered with the unreciprocal right to intervene in the legislative domain through ordinances.³⁰

Further, the executive enjoyed important prerogatives in legislative procedures. The agenda of parliamentary sessions usually had as priority the discussion and proposals accepted by the government. The Cameroon parliament during the monolithic era has been variously described as "yessy," "house of registration," "rubber stamp," "hand clappers," etc. One begins to question what really was the *raison d'être* of this parliament? This situation can be explained by parliamentary and extra-parliamentary factors.³¹ In presidentialist regimes, the executive power is endowed with vigour and splendour, while parliament is obliged to consecrate its decisions. Under such conditions it is difficult for the parliament to serve as a check to the powers of the executive. No doubt in Cameroon between 1960 and

²⁸ Constantin Georgopoulos, *La Démocratie en Danger* (1977), p. 240. Paris: Librairie Générale de Droit et de Jurisprudence (LGDJ).

²⁹ Article 20 of the Cameroon Unitary Constitution of 1972.

³⁰ Article 21 of the Cameroon Unitary Constitution of 1972.

³¹ Constantin Georgopoulos (note 28 above), analyzes them as illiteracy, politicization, time, etc.

1979 out of 505 laws promulgated only 8 were private members bills, while 497 were government bills.³²

5.2. Marginalization of the Judiciary.

The judiciary was marginalized as a state organ. With the accumulated powers of the President, it was difficult for the judiciary to resist the executive's pressure.³³ In any democratic nation, it is the judiciary that ensures the rule of the law. As a protector of human rights and freedoms, it has to intervene when administrative systems fail to guarantee check and balances. The authority of the state, according to the 1972 Constitution had to be exercised by the President of the Republic and the parliament.³⁴ Logically, it talks of the president of the republic as a person and not the executive as an organ. No doubt, the judiciary was not a power but a simple authority.³⁵ The inability of other organs to exercise control over executive power breeds Presidential Monarch.³⁶

The democratic state goes hand in hand with the rule of Law.³⁷ For the latter to exist, the judiciary must be independent and impartial. As an important third power controlling the constitutionality of laws and legality of the executive, Bernard Muna notes, "it is important that those who make up the judiciary should be free from coercion, intimidation or pressure..."³⁸ It is only in such situations that judges can implement the law objectively, indiscriminately and with audacity. In a democratic state, the state does not create law for others, but for everyone,

³² Jean Claude Kamdem, *Institutions Administratives et Droit Administratif* (1988/89), p. 24, Reading Pack, University of Yaoundé.

³³ Abel Eyinga (note 23 above), p. 286-287.

³⁴ Article 4 of the Cameroon Unitary Constitution of 1972.

³⁵ Although title V of Law No. 96/06 of 18 January on the Revision of the Constitution of 1972 talks of the "Judiciary Power", with the era of democratisation, this has not changed much.

³⁶ Phrase used by Abraham (M.F): *Perspectives on Modernization: Toward a General Theory of Third World Development*, Washington DC, University Press of America, 1980, p.43.

³⁷ Maurice Kamto, *L'urgence de la Pensée: Réflexions sur une Précognition de Développement en Afrique* (1993), p. 100-101. Yaounde: Edition Mandara.

³⁸ Bernard A Muna, *Cameroon and the Challenges of the 21st Century* (1993), p. 67. Yaoundé: Tama Books.

the state itself included. In fact, the law is not only an instrument of state action; it is above all a factor of power limitation.³⁹

Nonetheless, the Cameroonian Judiciary was in chains and was expected to act with prudence. Criminal provisions to the effect that “whoever being a legal or judicial officer issues an order or prohibition to any executive or administrative authority shall be punished” certainly conditioned the judges psychologically.⁴⁰ By allying with the executive the judges lost the function of impartiality in administering laws and became agents and justifiers of repression. Discussing with his colleagues during the solemn opening of the Judiciary year of 1966 Marcel Nguini, the then president of the Supreme Court declared:

“The duty of discretion and reserve of the magistrate implies that he should be and remain faithful and loyal to the regime; that this loyalty can be shown in all his actions and behaviour, as regards his judicial function as well as his public and private life.”⁴¹

6. The Proliferation of Monolithisms

Pluralism has to be manifested in all domains of life. According Maurice Kamto, democracy is essentially pluralist.⁴² A pluralistic or democratic society is one with organizations, power centres, and diversity of ideas.⁴³ Democracy involves power-sharing not only within but also without the ruling class. It implies above all the intervention of the people themselves through various ways and means so as to ensure that no person, organ or even the government itself should concentrate power and its benefits. But with the imposition of a one-dimensional and unidirectional society by the government, “support” was forced from the people (the ultimate sovereign), rendering them passive and powerless. Using the ideological apparatus to force support for the political regime has been

³⁹ Conférence des Ministres Africains de la Fonction Publique à Cotonou-Benin (Novembre 1991), Collection Focal Coop, 1992, p. 219.

⁴⁰ Section 126(b) of the Cameroonian Penal Code.

⁴¹ Abel Eyinga (note 23 above), p. 298.

⁴² Maurice Kamto (note 27 above), p. 71.

⁴³ Peter F Drucker, *Managing for the Future: The 1990s and Beyond* (1992), p. 173-174. New Delhi: Tata-McGraw.

commonplace in Cameroon. The imposition of a series of monolithisms led to untold undemocratic effects on the Cameroonian polity.⁴⁴

6.1. Imposition of Unique Associations

Cameroon was a one party state between 1966 and 1990.⁴⁵ The single party had as justifications national unity, socio-economic development of the state, and the fact there were no classes in Africa. However, the party achieved none of the above goals. The mundane reason for the one-party rule was simply the desire for politicians to remain in office.⁴⁶ The argument that there was democratisation within the unique party is not rational. Even if it existed, democracy at the micro-level without one at the macro is an illusion. Yet the unique party was nothing than an illusory expression of the unanimity of the citizens. As a corollary to monopartism, there was the centralization of the state.⁴⁷ The change from a federal to a unitary form of state was a logical consequence.

The centralized state directed everything, controlled everything, and imposed everything from above. It was an instrument of forging the nation. On the myth of national unity, all must pass through the state and converge towards it.⁴⁸ Such is “integration from above”⁴⁹ a syndrome of a ‘soft state’ according to the expression of Gunnar Myrdal, which is authoritative but less efficacious, fragile, and vulnerable.⁵⁰ This state and the unique party formed a ‘hegemonic alliance’

⁴⁴ Maurice Kamto (note 37 above), p. 26.

⁴⁵ 1966 – 1985 (the C.N.U), 1985 – 1990 (the C.P.D.M)

⁴⁶ Peter C Lloyd, *Africa in Social Change* 3rd ed (1975), p. 233. London: Penguin Books.

⁴⁷ As Jean-François Bayart (note 13 above) comments satirically, everything that divides Cameroonians was fought against, p. 183.

⁴⁸ Thierry Michalon (note 9 above), p. 9.

⁴⁹ Jean-Pierre Fogui, *l'Intégration Politique au Cameroun* (1990), p.336. Paris: Paris: Librairie Générale de Droit et de Jurisprudence.

⁵⁰ Thierry Michalon (note 9 above), p. 10.

that controls all the poles of power.⁵¹ There was governmentalization of opinion party, trade unions, media, and dissent was not tolerated.⁵²

6.2. Absence of Alternatives or Opposition

Democracy is a government of alternance and alternation, and a strong opposition is therefore indispensable.⁵³ Thoughts are expected to be diverse or contradictory - the nation is blessed which cherishes its heretics.⁵⁴ Throughout the monolithic period in Cameroon, the people lost their sense of truth to the profit of permanent illusion. They were drogued with slogans and fed with words. All public events were seen as infinite acknowledgement and a motion of support.⁵⁵ Not surprisingly during this period, failure to possess one's party card or to turn out for public ceremonies, to stand and cheer ones leaders, were grave omissions in the Cameroon polity.⁵⁶

The unique party reduced developing societies to those of clapping, singing, acclamation, dancing and canalized collective ecstasy.⁵⁷ It ruined intellectualism, and for the elite the only choice was being co-opted to the single party or go on exile. The party was instrumental in mollifying and muzzling the Cameroonian citizens. Unquestioning absolute loyalty and uncritical patriotism were expected from the citizens. The opposition was not seen as an alternative government but as wrecking, sabotage, or hooligans.⁵⁸ In fact the opposition leaders were seen as heresies,⁵⁹ they were co-opted, imprisoned, exiled, or killed. The spoils of the

⁵¹ Robert M MacIver (note 25 above), p. 165. The party was a powerful instrument for coercing the people to "support" the government, non-possession of the party card was at times sanctioned.

⁵² Abel Eyinga (note 23 above), p. 299. These were violations of the freedoms of expression, association and especially the necessity of organized opposition.

⁵³ Maurice Kamto (note 37 above), p. 76.

⁵⁴ Herman Finer, *The Theory and Practice of Modern Government* 4th ed (1961), p. 953. London: Methuen and Co. Ltd.

⁵⁵ Maurice Kamto (note 27 above), p. 28.

⁵⁶ Abel Eyinga, "Government by State of Emergency" in Richard Joseph (ed) *Gaullist Africa: Cameroon Under Ahmadou Ahidjo* (1978), p. 39. Enugu Fourth Dimension Publishers.

⁵⁷ Maurice Kamto (note 27 above), p. 25.

⁵⁸ Peter Lloyd (note 46 above), p. 234.

⁵⁹ Valentin N Mbarga, *Ruptures Et Continuités Au Cameroun* (1993), p. 97. Paris: L'Harmattan.

state were shared on the basis of party faithfulness - patronage became commonplace and politics became the most highly rewarded of all professions.

Democracy is founded on popular control.⁶⁰ Normally, the electorate should control periodically the leaders through elections. Negative vote is seen as a sanction for ineffective government. In Cameroon, the use of the word “election” during the one party era was simply due to lack of better word.⁶¹ Elections were a formality, probably a joke. People had to choose between “oui” or “yes” on single issues and single candidates. No doubt, no matter his performance President Ahidjo and later Paul Biya was always sure of 99.99% votes, as refusal to vote for the president was a crime that merited punishment. There was general public feeling of powerlessness.⁶² The private newspapers were victims of seizure, blackout, and harassment. Some journalists who attempted to make constructive criticisms were detained or imprisoned. For example, Joseph Atemengue was arrested for questioning the predominance of the northerners in one sector of government. Likewise, the detention of the Cameroon calling crew in 1990 for discussing especially in favour of multipartism is still fresh in our minds. The elite who did not belong to the privileged stratum often preferred to join it than fight it. The main reason for the restriction of criticisms was the control exercised by government over employment and resources.⁶³

7. Support by Coercion in Monolithic Cameroon

The belief of legitimacy of the authorities or regime is usually the basis for support. It is the acceptance or recognition by the masses of those in office as their rightful leaders. The authority must constantly justify its existence to the

⁶⁰ Zahir Fares (note 26 above), p.106. People the ultimate holders of sovereignty have to control the representatives through formal and informal means.

⁶¹ Abel Eyinga (note 23 above), p. 343.

⁶² Nfor N Susungi, *Crisis of Unity and Democracy: Can a Country which has Pronounced Itself Dead be Saved by Democracy?* (1991), p. 246-247. Abidjan; Frantz Fanon, *The Wretched of the Earth* (1991), p.171. Translated by F Constance. New York: First Evergreen Edition. Fanon notes that there were no possibilities of popular protest as the party helped the government to ensure that the people were hemmed in and immobilized.

⁶³ Peter Lloyd (note 46 above), p. 237.

people.⁶⁴ Only the citizens can grant legitimacy to the rulers. Authority is usually delegated by the consent of the masses.⁶⁵ It cannot be forced out of the people. In Africa in general, especially during the monolithic era, there existed a 'maginot line' between the political and civil society, and between the rulers and the ruled.⁶⁶ The state was suspended between the sky and earth, lacking popular support.⁶⁷ The government attempted to force people to like it, which led to dictatorship and disorders. One of the chief arguments in favour of the democratic state is that with it, government is less dependent on the psychology of power.⁶⁸ But in Cameroon coercive means were used to compel support that led to adverse impacts on the society.

7.1. Coercive Means Used to Compel Support

Violence is all forms of constraint exercised on a person making him to act contrary to what he would have done if he were to act freely.⁶⁹ In addition to psychological, there was also physical violence. DeLancey comments that force, whether legitimised by laws or not, was a major factor in Ahidjo's efforts to build a national political system and maintain that system.⁷⁰ This tendency continued throughout the monolithic era, and even during democratisation to fill the legitimacy vacuum or face disorders. The use of force, rightly or on pretext was to maintain public law and order. In democratic countries, public order refers to the minimum conditions necessary for the maintenance of normal social life. This includes security of persons and property, sanction, peace, and tranquillity. On the contrary in Cameroon, it was transformed around two fundamental principles - the maintenance of political status quo and the retention of power.⁷¹ While

⁶⁴ Okwudiba Nnoli (note 1 above), p. 90.

⁶⁵ G Desaunay, *Comment Gérer Intelligemment ses Subordonnés* (1984). Paris: DUNOD.

⁶⁶ Maurice Kamto (note 27 above), p. 189.

⁶⁷ Jacques Giri, *L'Afrique en Panne: Vingt-Cinq Ans de Développement* (1986), p. 190-191. Paris: Editions Karthala.

⁶⁸ Robert M Maclver (note 25 above), p. 229.

⁶⁹ Abel Eyinga (note 23 above), p. 330.

⁷⁰ Mark W DeLancey, *Cameroon: Dependence or Independence* (1989), p. 63. London: Westview Press.

⁷¹ Abel Eyinga (note 56 above), p. 101.

democracy emphasizes the guarantee of fundamental freedoms, the judiciary in Cameroon was built on the primacy of public order at the expense of freedoms.

Monolithic regimes designed strategies to keep power at all cost and by all means. Consequently every person was subjected to the Presidential faith.⁷² The state's repressive apparatus - the gendarmes, police and even the army were used to molest the citizens. More so, the government had two special units to carry out intelligence and security: the *Service de Documentation* (SEDOC) which had informants both inside and outside of the country and served as a political police force; and the *Brigades Mixtes Mobiles* (BMM) which was responsible for torturing and imprisoning those considered suspicious by SEDOC.⁷³ The ordinance N° 62 of March 1962 on the repression of subversion was not clear in its stipulations; as such the detection or appreciation of subversion was done discretionarily by the Head of State and his agents.⁷⁴

The state of emergency became generalized during Ahidjo's fight against "rebellion." This weapon has been used frequently during the monolithic era to destroy with ferocity some progressive or opposition tendencies. During such exceptional circumstances, the military administrators replace the civilians - house arrests, imprisonments without trials, and killings were commonplace. These excessive and undemocratic powers have been termed 'constitutional dictatorship'.⁷⁵ In such circumstances, the Cameroonian state was seen by many as absolute and dictatorial with profound negative effects on the community.

7.2. Adverse Effects of Support by Coercion on the Society

Emphasis in the use of force is diseconomical. It is expensive for any people to accept a regime or its authorities based on force. According to the World Bank, in all developing countries, national defence absorbs at least a fifth of the state

⁷² Jean-François Bayart, "The Structure of Political Power" in Richard Joseph (ed) *Gaullist Africa: Cameroon Under Ahmadou Ahidjo* (1978), p. 80. Enugu Fourth Dimension Publishers.

⁷³ Mark DeLancey (note 70 above), p. 65.

⁷⁴ Abel Eyinga (note 23 above), p. 300-301.

⁷⁵ Authorized by article 11 of the Cameroonian 1972 Constitution without precautions and Limits.

budget.⁷⁶ President Ahidjo demonstrated its oppressive and repressive nature by using 54% of the state budget for the upkeep of the police, military personnel, and other forces.⁷⁷ This view may be exaggerated but demonstrates the tendency. A democratic and legitimate government makes it easy and cheap for authority to be accepted by people, which enables authority to act with minimum costs⁷⁸ The use of force also instilled fear on the society. In a democracy, men reflect and participate freely for common good. In Cameroon, fear paralysed the society. In January 1968, the catholic newspaper *L'Effort Camerounais* mustered the courage to publish that:

“Fear is a bad thing. It empties man of all he is and all he has. It inhibits intelligence, annihilates the will and chases away what makes him a man; freedom. What was a man now becomes a robot, automation with conditioned reflexes”⁷⁹

The Cameroonian regime therefore, has been characterized by a tendency of reinforcing the President’s powers that is monarchy.⁸⁰ This represents a particular regime in which sovereignty, that is the supreme power, is in the hands of an individual who uses it as a personal property. In the presidentialist regime such as that in Cameroonian, the constitution is nothing than a façade, behind which the politico-administrative system animated by the head of state, supported by the party, the administration, the police, and the army, govern without any hindrance. Other organs of government and state apparatuses of constraint are rendered powerless and the masses, the real holders of sovereignty became objects of politics.

8. Conclusion

Democracy is that form of government where there is effective distribution of power and resources among the citizens and public welfare is the main and

⁷⁶ Zahir Fares (note 26 above), p. 39.

⁷⁷ Abel Eyinga (note 80 above), p. 131.

⁷⁸ Okwudiba Nnoli (note 1 above), p. 90.

⁷⁹ Abel Eyinga (note 80 above), p. 131.

⁸⁰ Abel Eyinga (note 23 above), p. 281.

continuous preoccupation. For a regime to be democratic, good governance and pluralism are indispensable. During the monolithic era, there was concentration of power, imposition of unique organizations, emphasis on force, which led to the passiveness and powerlessness of the people. To say therefore that there was democracy during this era can be attributed to ignorance or hypocrisy. Monolithism with its inherent contradictions is believed to have been the main cause of misgovernance and consequently economic crisis. When matters deteriorated to unbelievable standards, both internal and external forces imposed liberalism and pluralism in the 1990s.⁸¹ But in spite of the democratisation, the monolithic syndrome still persists.⁸² Future researchers can compare the monolithic and pluralistic eras to discover continuities and differences. Let us hope that this time pluralism has come to stay.

⁸¹ Lawyers, students, intellectuals, churchmen, political leaders, east wind, aid donors, etc served as catalysts and accelerators to the democratic flames.

⁸² Many believe that there is still confusion between the ruling party, state and government.

REVISITING BRITISH AND FRENCH INFLUENCE: UNIFICATION OF CAMEROONS' LEGAL SYSTEM AND A COMMITMENT TO HUMAN RIGHTS

Christian Aimé Chofor Che*

Abstract

This paper analyses the role of France and Britain in the formation of the bijural state of Cameroon after independence in 1960. An assessment is done of the 1961 constitution, the 1972 Constitution, as well as the 1996 Constitution of Cameroon. It is established that the country has been confused, running back and forth with a bijural system, thus a perpetual state of chaos. This contribution looks at the failed fusion of Cameroon's judicial system and argues for another attempt. Proposals are made for the institutions of customary law to be strengthened, as well as the need for constitutional changes on appointments in the judiciary. A proposal is equally made of a revisit of the principle of democracy and the independence of the judiciary in Cameroon. The paper adds that Cameroon needs to have a firmer grip on the African human rights system and adopt her own institutional model rather than copying entirely from the French and British model of institutional change; for Cameroon has her own realities.

Keywords: bijural, independence, democracy, human-rights.

* LLB (Yaounde), Public Administration Diploma, Ecole National D'Administration et de Magistrature (Yaounde), LLM (Pretoria), Second Assistant Prefect Manyu Division, Cameroon.

1. Introduction

The then Federal Republic of Cameroon situated at the frontier between West and Central Africa was created in 1961 from two territories formerly under trusteeship: the territory administered by France became the Federated State of East Cameroon and the Southern Cameroons administered by Great Britain became the Federated State of West Cameroon. Both English and French Cameroon inherited the English and French style of governance, adopting the *modus operandi* of the executive, the legislative, and judiciary of these countries. For instance, the former British Cameroon was endowed with a government, a two Chamber Assembly, a police force and a public service. It was a Parliamentary system with a government that was accountable to the Assembly, and Ministers, referred to as Secretaries of State in the Federal States.¹

2. Constitutional Confusion in Cameroon since Independence

Many jurists recognize the complex nature of flexible possibilities challenges offered by Federal Constitutions.² As a pre-condition for the autonomy of a federated State, jurists also state that it must be endowed with a sufficient number of domains and organs.³ Sir Ivor Jennings and C.M Young point out that the Federative form is excessive and less efficient.⁴ In the case of Cameroon, the Federal system of government adopted by this newly independent country proved to be expensive and ineffective.⁵

In 1972 the country became the United Republic of Cameroon with the elimination of the post of Vice Presidents of the federated states, and in their place, a single position of Prime Minister. This transition also saw the birth of the

¹ Jacques Benjamin. *Les Camerounais Occidentaux: La Minorité dans un État Bicommunautaire* (1972), p. 3. Montréal: Les Presses de l'Université de Montréal.

² Anthony H. Birch. "Opportunities and Problems of Federation" in Leys and Robson (eds) *Federalism in East Africa* (1965), p. 7. Nairobi: Oxford University Press.

³ Charles Durand, *Confédération d'Etats Fédéral Réalisations Acquisées et Perspectives Nouvelles* (1995), p 34. Paris: M.Rivière.

⁴ Ivor W Jennings and C.M Young, *Constitutional Laws of the Commonwealth* (1952), p 343. London: Oxford University Press

⁵ Ibid.

1972 Constitution.⁶ Mr. Paul Biya was appointed Prime Minister of the new United Republic and later became President of the country on the 6th of November 1982. After political turmoil and the Tripartite Conference in 1991, the President thought there was need for a constitutional change.⁷ By the end of 1996, the country had yet a new constitution. The 1996 Constitution was intended to amend the Constitution of 1972. Many argue that this purpose was defeated for the country now runs on two constitutions; the 1972 Constitution and the 1996 Constitution.⁸

The constitutional changes highlighted above are clear proof of a country operating in confusion since independence. The contention on both sides of the argument as to whether Cameroon operates on the 1972 or the 1996 Constitution or both has further exacerbated the confusion.⁹ It can be asserted that this mixture of affairs is a direct consequence of a country finding its own path within the influence of Britain and France, Cameroon's former colonial masters. Meanwhile, the outcome of the various constitutional transmutations has led to an increasingly centralized system of governance leading to complete control by the executive over the management and running of state institutions, including the judiciary.

3. The Effects of French and British Institutions over the Cameroonian Judicial System

Cameroon after independence was most certainly not the only African State where several legal systems were used side by side.¹⁰ In French and British

⁶ See "The 1972 Constitution of Cameroon"

<http://www.asqp.info/Resources/Data/Documents/HPMOEWVPHSZPHGXVHYOUSSTWPSYJWI.pdf>, accessed in August 2008.

⁷ See the Constitutional change after 1991 www.postwatchmagazine.com/2007/07/no-joining-inva.html, accessed July 2008.

⁸ Magloire Ondo, "La Constitution Duale: Recherches sur les dispositions constitutionnelles transitoire au Cameroun", *Revue Africaine des Sciences Juridiques* vol 1(2000), pp.20-56.

⁹ Ephraim Ngwafor, "The Law Across the Bridge: Twenty Years (1972-1992) of Confusion", *Revue Générale de Droit* vol. 26 (1995), p 69.

¹⁰ Pierre François Gonidec, *Les Droits Africains*, (1968), p 211. Paris : Lebrairie Générale de Droit et la Jurisprudence.

colonies such as Morocco and Nigeria, the French and British legal systems were introduced alongside customary law, and in some cases, Islamic law.¹¹ Countries in Africa with inherited legal systems such as Nigeria and Morocco have equally suffered the same faith of conflict of laws.¹² So the subject of legal confusion is not peculiar to Cameroon. In Cameroon, the East Cameroon legal system was modelled after French tradition and practice¹³ while the legal system of West Cameroon was operated in accordance with British common law and Nigerian statutes.¹⁴

In 1969, the Ministry of Justice presented the government of Cameroon with a proposal to unify the two legal systems via a document known as “the Counte-Quinn Pre-Pilot study”.¹⁵ These changes seemed to put West Cameroon (British Cameroon) on the disadvantage because much of British common law was not codified, for these laws were drawn from so many sources. Also, the absence of frequent contacts between officials charged with handling the harmonization on behalf of the Federal Government of Cameroon, and the legal advisers of West Cameroon prevented both sides from finding a head way.

Further, there were fundamental differences between the two legal systems which were to be merged. The then West Cameroon had a firmer grip on customary law than East Cameroon in 1961. P.F Gonidec contends that in East Cameroon, ‘traditional law’ was the concern of the federal government whereas in West Cameroon, the *Customary Court of First Instance* fell under the jurisdiction of the Federated State.¹⁶ Customary law in the French tradition had a

¹¹ Ibid.

¹² Sandra Fullerton Joireman, “Inherited legal systems and effective rule of law: Africa and the colonial legacy”, *The Journal of Modern African Studies* (2001), p 28. Cambridge: University Press

¹³ Jacques Benjamin, *West Cameroonians: The Minority in a Bi-cultural State* (1972), pp159 -162 Canada: Les Presses de L’Université de Montréal.

¹⁴ Ibid.

¹⁵ The Ministry of Justice (Dept. of Legislative Matters) File No. 3 DL 1304/DL, circular No 30023 C/MJ, 30 December 1968, Mimeo

¹⁶ Pierre François Gonidec, *Les Droits Africains*, (1968), p 213-276. Paris : Lebrairie Générale de Droit et la Jurisprudence.

direct influence on the post-reunification judicial system. This is a clear link between Cameroon' constitutional evolution and the British and French legacy. The constitutional text of 1961 gave such powers to West Cameroon making it possible for every ethnic group as well as every clan to have its own laws and customary courts. The rule of Chiefs was seen in the local councils and in the House of Chiefs.¹⁷ One of the major differences between the two Cameroons, inherited from colonisation resides in the concept of decentralisation of the local level. Today the rule of chiefs is fading away.

It can therefore be contended that colonial legacy had and continues to have an influence on the Cameroonian constitutionalism post-1972 'reunification' as well as on the confusion following the co-existence of the 1972 and 1996 constitutions. There is therefore need for the Cameroonian authorities to revisit the possibility of a fusion of the bijural system in Cameroon as well as give customary courts more powers as before. There is no sense trying to adopt the French or British legal system when in actual fact there remains a lacuna in applicability. From all indications, most of the judicial institutions enshrined in the 1996 constitution have not gone operational.¹⁸ This is a porous way of giving credence to our colonial masters, credence which only comes back to generate conflict of laws as well as delay in justice.

4. The Need for Constitutional Changes on the Independence of the Judiciary in Cameroon

Judicial powers and the administration of justice in Cameroon are dealt with under Part V of the 1996 Constitution of Cameroon. Article 37(1) state that

¹⁷ Article 38 of the Federal Constitution of 1961 acknowledged the existence of the House of Chiefs. This House considered itself the West Cameroon equivalent of the House of Lords in Great Britain as asserted by the then Prime Minister, S.T Muna. Budget Session of the House of Assembly, Buea 8 /7/1968, *No 9, Cameroon Express*, 3rd August 1968, p 5.

¹⁸ The 1996 Constitution makes mention of a Constitutional Council in articles 46 to 52; but this council has never gone operational. Instead the Supreme Court usually sits in for the Constitutional Council especially on matters of electoral contestation. A Court of Impeachment is also mentioned in article 53(1) of the 1996 Constitution, having powers to impeach the President, Prime minister as well as other top ranking officials in case of treason and gross mismanagement of public funds. This court has not gone operational.

“justice shall be administered in the territory of the Republic in the name of the people of Cameroon, while article 37(2) provides that judicial power shall be exercised by the Supreme Court, Courts of Appeal and Tribunals. This subsection also stipulates that Judicial Power shall be independent of the Executive and Legislative Powers, and that Magistrates of the bench shall, in the discharge of their duties, be governed only by the law and their conscience.

However, article 37(3) immediately takes away the independence of the judiciary proclaimed above. It grants extensive powers to the executive arm of government over the judiciary in Cameroon, by subjecting the process of appointment, dismissal, and management of the judiciary like an integral part of the executive. It states that:

“The President of the Republic shall guarantee the independence of the Judicial Power. He shall appoint members of the bench and of 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....”

Most recently, the Secretary of State for Justice in Britain presented three consultation papers to Parliament in October 2007, on the ‘Governance of Britain’.¹⁹ Proposals were made on creating a judicial appointments commission for the first time in Britain, in order to remove the residual role of the executive in appointments and to create a role for Parliament in the process. This is a very important step for the independence of the Judiciary in Britain, which Cameroon can begin to consider. Divorcing from British or French influence with respect to institutional changes is necessary, but when it comes to concrete reforms that will guarantee the independence of the judiciary, Cameroon must learn and adopt such democratic and transparent processes. It is in this regard that judicial reforms in other countries, including Britain and France can still be important.

¹⁹ See “Consultation Papers to Parliament in October 2007, on the ‘Governance of Britain’ <http://www.justice.gov.uk/publications/cp2507.htm>, accessed in June 2008.

For instance the creation of an independent judicial appointment commission will be most welcome in Cameroon. Members of such a commission should be selected from law professors and political scientists with a mastery of the history, geography of Cameroon, and legal culture of the country. Other members of such a commission could include Parliamentarians with a solid legal background, traditional authorities that master customary law as well as legal practitioners with a proven successful record of Cameroonian legal practice. In the selection criteria, consideration should equally be given to those with a mastery of the African human rights system. Though the idea of a judicial appointments commission is welcomed, a mastery of the cultural realities of Cameroon as well as a high sense of judgement should be conditions for selection of members of such a commission.

A lot was debated in favour and against the amendment of the 1996 Constitution. Despite these debates, the constitutional amendment was passed by the National Assembly and promulgation into law by the President on the 14th of April 2008.²⁰ Debates on constitutional amendment received mixed feelings at home and abroad. Many were of the view that it was not yet time for an amendment of the 1996 Constitution for most of the articles have not been implemented,²¹ while others were of the view that the country needed to amend the constitution for purposes of a smooth transition of power as well as checks and balances in corrupt practices by government officials.²²

Whatever the lingering contentions, there was a need for a constitutional amendment with regards to the principle of democracy, independence of the judiciary, and accountability. However, the constitutional modification that was adopted in Cameroon woefully failed to incorporate these aspects. The Republic

²⁰ See I. Chmielewski, "Cameroon: Democratic Dictatorship?" <http://www.ijid.org/022208Cameroon.html>, accessed in September 2008.

²¹ See note 18 above.

²² There was a lot said on an amendment of article 6 of the 1996 Constitution, which stated that in a case of death or incapacity, the president of the Senate assumes power. Forty days are then given for the organisation of elections, which was virtually impossible.

of South Africa is a country, which has gone a long way in the guarantee of the principle of democracy. Some of the most important provisions flowing from the principle of accountability are found in the Bill of Rights of the South African constitution of 1996.²³ With respect to separation of powers and checks and balances, the executive is directly answerable to the elected legislature.²⁴ This is an example, which Cameroon needs to emulate.

5. Strengthening Ties with the African Human Rights System

The African human rights system was established with the adoption of the African Charter on Human and Peoples' Rights (African Charter).²⁵ However, the hopes of this regional system seem to be slowly slipping away. One of the reasons why African States including Cameroon continue to follow institutional changes awkwardly from France and Britain is because of lack of confidence in the African Human Rights System. Gino Naldi contends that the adoption of the African Charter on Human and Peoples' Rights²⁶ has largely proved to be a false dawn for the promotion and protection of human rights in Africa.²⁷

The African Commission on Human and Peoples' Rights (the African Commission) has also been confronted with a situation where the national legislations, including constitutions of state parties have been at variance with the express provisions of the African Charter.²⁸ Nevertheless the creation of the African Court on Human and Peoples' Rights (the African Court) has as specific

²³ Johan De Wall, Ian Currie & Gerhard Erasmus, *The Bill of Rights Hand Book* (Juta & Co Ltd. 2001), p.19.

²⁴ Ex parte Chairperson of the Constitutional Assembly: in re-certification of the Constitution of the Republic of South Africa 1996 (First Certification Judgment) 1996(4) SA 744(CC) para 13.

²⁵ Adopted by the OAU Assembly of Heads of States and Governments in 17 July 1981, and came into force on 21 October 1986.

²⁶ Adopted by the 18th Assembly of Heads of State and Government of the Organisation of African Unity (OAU) at Nairobi in July 1981, entered into force on 21st October 1986, ILM 21(1982) 58

²⁷ Gino J Naldi, "Future trends in human rights in Africa" in Malcolm Evans & Rachel Murray, *The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2000*, (Cambridge University Press, 2002), p. 5.

²⁸ N. B Pityana, "The challenge of culture for human rights in Africa" in Malcolm Evans & Rachel Murray, *The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2000*(Cambridge University Press, 2002), p. 234-235.

task the reinforcement of the role of the African Commission.²⁹ As many African countries continue to adapt to the provisions of the African Charter, it is hoped that national courts will continue their role in incorporating international standards to national practice.

Although many authors have criticised the applicability of the African Charter and its institutions, African states and most including Cameroon must remain optimistic about the influence it will have on shaping the domestic institutions on the continent, rather than a complete reliance on British and French institutional models. This in no way castigates the fact that the recent proposals in France and Britain are useless. There is need to inculcate more trust in the African human rights system for a more independent Africa. Most African states are in the process of reshaping their judicial systems because of the influence of the African human rights system, and although the African Charter may be too general as a useful guide to detailed judicial reforms at the domestic level, state parties like Cameroon must continue to improve their justice system.

6. Conclusion

This contribution did not set out to undermine the importance of institutional changes in Britain and France to Africa and Cameroon in particular, for these countries may still have much to offer. Neither did it set out to underestimate the importance of globalisation to Cameroon. This paper simply demonstrated the level of confusion Cameroon experiences because of blind credence and adoption of French and British systems of governance to the detriment of Cameroonians. As a solution to this melee an independent commission for the appointment of judges is suggested. A legal system with a strong customary law foundation will equally be ideal. This will make the traditional rulers who are closest to the people to play an active role in judicial matters. The paper

²⁹ Article 2 of the Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples Rights adopted by the OAU Assembly of Heads of State and Government at its 34th Ordinary Session in Ouagadougou in 1998, RADIC 9 (1997) 953.

therefore advocates for a unified legal system in Cameroon while encouraging the government of Cameroon to assist in the evolution of the African human rights system. It is important to note that Cameroon can still give credence to Britain and France without necessarily copying entirely from these countries.

Though the phenomenon of adapting to the French and British system is a major handicap to the system of governance in Cameroon, public authorities seem too blind to notice this reality. This attitude is not only common in Cameroon but on the entire Africa. It is clear that because of such perpetual confusion sweeping over the continent, room is created everyday for violent conflicts. Having said that, there need for Africa to adopt institutions of governance that reflect her own cultures and realities and not British and French ones. The House of Chiefs underscored by Article 38 of the Federal Constitution of 1961 should be reintroduced. The executive of such a body should include both chiefs from former West Cameroon and East Cameroon. It is important for Cameroon to work together with the African Union as well as the institutions of the African system such as the African Commission and the African Court so as to adapt her institutions according to African values.

DEVELOPING VIABLE INDEPENDENT INSTITUTIONS FOR POLITICAL AND ECONOMIC DEVELOPMENT IN CAMEROON

John W. FORJE*

Abstract

This article analyses the role of the state in what may be described as manufactured violence in the democratisation and development of Cameroon. Social violence in Cameroon is on the rise due to moral decay, failure of the state to meet obligations to the people, rival interests in the quest, grapping, and retention of power. For these reasons, organised violence by the state has been on the increase following the return to pluralism in the 1990s. This article departs from the premises that weak state institutions and over-zealous officials hamper development and fan “manufactured or random violence.” Instead, random violence is the product of politics, law, economic, and social settings. I conclude by stating that a constructive turnaround is needed for peaceful and sustainable development in Cameroon. This requires building a development state on the principles of democratic values, people’s participation, rule of law, and equitable shared-prosperity.

Keywords: democracy, violence, institution, state-building, unity, participation.

* MA (Lund), PhD; Lecturer Department of Political Science, University of Yaoundé II-Soa; Former Archie Mafeje Fellow at the Africa Institute of South Africa, Pretoria; jowifor@yahoo.fr.

1. Introduction

The Republic of Cameroon has a chequered, compound, and complicated historical past. It was a German colony, a League of Nations Mandate, and a United Nations Trust-Territory as two entities under British and French administration. The former French Cameroon known as East Cameroon and former British Cameroon known as Southern Cameroon re-united on 1st October 1961 as the Federal Republic of Cameroon. Multi-party political structures were abolished in 1966 following the formation of the Cameroon National Union (CNU) as the country's lone political party. In 1972, the political leadership of Cameroon staged a pretended referendum, the pre-arranged results of which they claimed authorised them to abolish the Cameroon federation. In reality the ploy was a farcical quest to legitimise its Germano-Austrian *Anschluss*-type annexation of Southern Cameroons. The resultant controversial entity was the United Republic of Cameroon, which was then transformed twelve years later as the Republic of Cameroon, the very name and style by which French Cameroon achieved independence from France on 1 January 1960.¹ The Republic of Cameroon returned to multiparty politics in 1990.

2. The Quest for Political Pluralism

The ascendancy of Paul Biya to the presidency in 1982 has been described as a “great loss for the Grand North and a blessing for the rising Beti power which has continue to develop in leaps and bounds and appears to have adopted a kind of winner-takes-all attitude.” As Nzoh-Ngandembou and Adolf Dipoko have noted, “the apparent Beti domination in the administration, in the military, in important parastatals and financial institutions has been viewed by critics and cynics with suspicion that there is a secret Beti agenda which targets the exit of Biya”² The return to political pluralism in the 1990s was not easy because those in power did not want a change in the *status quo*. The transformation from a centralised

¹ Carlson Anyangwe, “Anyangwe Vows to Wage Liberation War”, *The Guardian Post*, No. 0278 of January 2008, p. 21-27, Yaoundé - Cameroon.

² Zachee Nzoh-Ngandembou and Adolf M Dipoko, “Whiter Cameroon After Biya?”, *Eden Newspaper*, No. 0156 of 5-7 March 2007, p. 3, Limbe - Cameroon.

authoritarian hegemonic governance to a people-oriented democratisation process was resisted with all forms of military arsenal. The formation of the Social Democratic Front (SDF) on 26 May 1990 saw the brutal killing of six unarmed innocent citizens.³ The Ghost Towns and Civil Disobedience campaigns launched by a coordination of opposition parties were intended to force Biya into introducing democratic reforms through a sovereign national conference. During this period the military engaged in direct confrontation with civilians.⁴

Although political pluralism exists in Cameroon today, in practice, it is still based on the centralised dictatorial and monolithic system of governance adopted by President Biya's predecessor – Ahmadou Ahidjo. While Cameroon's democratisation process since the 1990s has witnessed some progress, it has constantly suffered major setbacks. Multiparty elections conducted since the 1990s lacked fairness, transparency, and have been plagued by the government flagrantly abusing its position of player and constitutional judge. On many occasions, electoral victory did not depend on the votes of the people but the deftness at rigging by the Ministry of Territorial Administration and Decentralisation (MINATD) and its agents across the country.⁵ In essence, though Cameroon is said to be a place of peace and stability within a turbulent Central African sub-region, dark clouds of uncertainty looms heavily on the future of the country.⁶ It is clear that uncertainty breeds violence, which in turn beclouds

³ The Social Democratic Front (SDF) was one of the first opposition political parties launched in Cameroon in the early 1990s.

⁴ Peterkins Manyong, "Biya and the Military – A Dangerous Marriage", *The Post Newspaper*, No. 0916 of 14 December 2007, Buea: Cameroon, <http://www.postnewslines.com/2007/12/new-analysisbiy.html>, accessed in October 2008.

⁵ Hammadina Hamza, "Cameroon's Democracy Suffers Major Setbacks", *The Guardian Post*, No. 0276 of 7-13 January 2008, Special 2007 Retrospective Issue, Yaoundé: Cameroon.

⁶ Tazoacha Asonganyi, "Biya's New Year's Speech: The Gauntlet has been Thrown Down", *The Guardian Post*, No. 0276, Special 2007 Retrospective Issue of Monday 7-13 January 2008, p.10, Yaoundé – Cameroon. "It is usually said that if you dig into politics and their relationship to the military problems of the day, you will understand the nature of manoeuvre, of keeping options open, of always having a reserve plan in case the preferred tactic failed, of the nature and fallibility of human decisions and of the springs of ambition. Starting the 2007/2008 speech by invoking a military problem calls for deep reflection on the future of our country in the face of these manoeuvres towards the end of the reign in Cameroon politics." Perhaps with "avec un

Cameroon's national polity. Likewise, ethnic conflicts, flawed elections, weak and divided opposition parties, politics of exclusion, declining quality of livelihood, growing state of poverty, corruption and affluence juxtapose the political realities of a country endowed with vast potential resources.

3. Post-colonial Pessimism

Cameroon's post-colonial state was inappropriately crafted to meet the developmental challenges and needs of society. Internal contradictions backed by external pressures have contributed to crisis perverting the developmental process. As a result, democracy is either misunderstood or frequently undermined, and the rights and freedoms of the people constantly violated. The emergence of centralised authoritarian hegemonic regimes ferments widespread "Cameron-pessimism" of the state as the liberator of the people.

The euphoria for reunification in early 1960s later converged into frustration and despair particularly among Anglophones who were instrumental in reconstructing the nation after the United Nations plebiscite of 11 February 1961 which reunited the former UN Trust-territories under Britain and France. Even with the fresh wave of democratisation in the 1990s, the new optimism that emerged quickly brought about disappointment, destructive frustration, and betrayal. Multiparty elections of the early 1990s demonstrated the act of pathological violence against certain segments of society resurrecting the politics of hegemonic assimilation of the Anglophones into the French culture. As a result, the state was gradually losing its legitimacy, credibility, and capacity to govern and uphold its social contract obligations to its citizens. Likewise, the hope of the people for democratic governance and visionary leadership dwindled as the social fabric became constantly gripped by panic and uncertainty.

coup de tête tu n'es plus là" translated, 'with a nod of the head" Cameroon may be finished or prosper- following the famous first interview by the Head of State to Eric Chinje, News Editor of Cameroon Radio and Television (CRTV) in 1987."

Random or manufactured violence refers to instances of violence in the public realm that do not occur from the perspective of extrinsic motives such as robbery, financial, and gain.⁷ Manufactured violence could be seen in respect of structurally imposed different cultures and values on a people who share quite a different culture, moral, ethical, political, and administrative upbringing. The label manufactured institutionalised violence is indicative of an apparent lack of constructive democratic governance or culture backed by ignorance, fear and super-imposed or self-acclaimed superiority over other groups, especially minorities. One may also interpret the concept as an illustration of unwillingness of the majority to understand the underlying aspects of the basic tenets of the democratic value following their political upbringing.

The politics of assimilation practiced by the French in East Cameroon was a kind of “top-down” governance system. No one dared challenge state-authority. The politics of “indirect rule” practiced by the British in West Cameroon could be interpreted as a kind of “bottom-up” developmental approach, with grassroots participation in the developmental process. The reunification of the two Cameroons under different administrative structures out-rightly implied a clash of cultures and with the use of majority inherent rights to crush the minority.

To begin with, the establishment of the Federal Republic of Cameroon was wrongly negotiated. First, the political union of East and West Cameroons was to say the least, fraught with problems of an integrative nature from the very beginning. Second, the two Cameroons were very unequal in both size and population, hence the gap between the two contracting parties widened following the option and decision of British Northern Cameroon to join Nigeria thereby compromising the situation of West Cameroon.⁸ Third, West Cameroon was a

⁷ Joel Best, *Random Violence: How We Talk about New Crimes and New Victims* (1999), Berkeley: University of California Press; Willem Schinkel, “The Will to Violence”, *Theoretical Criminology*, Vol. 8, Iss. 1 (2004), p. 5-31.

⁸ Bongfen Chem-Langee, “Anglophone-Francophone Divide and Political Disintegration in Cameroon: A Psychohistorical Perspective” in Paul Nkwi and Francis Nyamnjoh (eds), *Regional Balance and National Integration in Cameroon: Lessons Learned and The Uncertain*

divided entity following the plebiscite results. It did not speak with one voice during the negotiation process.⁹ Fourth, those who supported the reunification did so with the understanding that the new nation-state would be a confederation bordering on the ideals of the Commonwealth and that the ensuing state would preserve their cultural heritage, identity, and language as well as promote the development of West Cameroon in all aspects of life. In fact, anything short of this was anathema to them and which could induce sentiments and actions of a reconsideration of the presence within the new political establishment.¹⁰

Circumstances leading to the reunification of the British and French Cameroons had inbuilt tendencies of manufactured and institutionalised conflict and violence. Tendencies of the acquisition of a new territory and extension of hegemonic domination loomed high among French Cameroon politicians and Francophones in general, who saw the creation of the new state as a means of transferring the subjection suffered under French colonial rule to the Anglophone population. Apparently, they were now the new colonial masters, setting new rules and forms of adherence to state system.

4. Manufactured and Institutionalised Violence

The path to state manufactured and institutionalised violence in Cameroon could be seen from the earlier phase of the return to political pluralism when leading members of the ruling party began perpetuating two fundamental divisive concepts “enemies in the house” and “return to where your belong.” These statements directed at the Anglophone community have never been rebuked by

Future, (1997), p. 88-99. Yaoundé: ICASSRT Monograph; Edwin Ardener, “The Nature of the Reunification of Cameroon” in Arthur Hazlewood (ed), *African Integration and Disintegration: Case Studies in Economic and Political Union* (1967), p. 285-237. London: Oxford University Press; Neville N Rubin, *Cameroon: An African Federation* (1971). New York: Praeger Publishers; Victor T. Le Vine, *The Cameroon Federal Republic* (1971). Ithaca: Cornell University Press.

⁹ John W. Forje, “Unification and After: A Study of the Federal Republic of Cameroon”, Masters Thesis, Lund University of Lund, Sweden (1972).

¹⁰ John W. Forje, “The One and Indivisible Cameroon: Political and Economic Integration in a Fragmented Society” *Department of Political Science* (1981), Lund: Lund University Press; See also Bongfen Chem-Langee (note 8 above).

the leader of the party and President of the country. Therefore, these statements can be postulated to have received the blessings of the ruling class. Manufactured violence was thereafter institutionalised by the state following the various events that ensued in the country. Events which could be described as fanning tendencies towards establishing a “mini-holocaust or genocide” directed at a people who engineered and shaped the new Cameroon nation.

Manufactured and institutionalised violence can also be seen from the ideological orientation of the politics of divide and rule. Under this approach, the following elements play a vital role: (a) regional balance and national integration; (b) ethnic hegemonic factors influencing state-building and democracy; and (c) inclusive politics and the absence of shared prosperity. These factors continue to be of relevant particular interests to Cameroon’s changing political landscape and acquiring new urgency and dimensions in the aftermath of political dispensation and restructuring.¹¹ The notion of perceived manufactured institutionalised violence is itself the clearest expression of an underlying idea that violence grows for a number of reasons, including the actions of the government, perception of the people, increasing tension between and within people. This is also indicative of the idea that violence grows both qualitatively and quantitatively.

In Cameroon, violence has been continually perpetuated against vulnerable and marginalised group in a variety of forms with Anglophones as the main targeted group. New kinds of violence are appearing for varied reasons. Social, political and economic exclusion are used as tactical strategies designed to destroy the values of those who refuse to condone to malpractices or poor governance system. In the face of all these, many pertinent questions arises - what is the role of civil society in the process? How should the management of power be organized? Which political system should be adopted - unitary, centralised, confederation, regional or federal? Should we summon wisdom and courage to tackle the Anglophone problem once and for all? Should we have the temerity to

¹¹ John W. Forje, *Here The People Rule* (2008), Forthcoming - Nova Publishers.

redefine Franco-Cameroon relations against the current overdue French hegemony? Would the Centre-South-North concordat be maintained? How do we combat inertia in public life? Should we move from advanced to a functional democracy?¹²

Events since the reunification of Cameroon, the institutionalisation and collapse of the monolithic party system (1966-1990), and the return to political party pluralism in 1990 bring to fore vehement conflicts not only between East and West Cameroon, but also between and within various provinces and ethnic groupings in the country. Poor government policies are contributing factors to grievances and conflicts of various kinds within the society. Cameroon has had its share of violence since independence though not the scale as witnessed in other countries like Liberia, Sudan, Rwanda, Burundi and the Democratic Republic of Congo. No one entreats such outcomes for Cameroon, but the future cannot be predicted when policies are articulated on the premise of 'self-interests' and not the '*collective interest and common good*' of the people.

The absence of a democratic and developmental state, alongside leadership deficiencies, can be attributed to the dramatic increase of manufactured violence. Recourse to democracy, good governance, constructive and sustainable development in Cameroon is imperative for peace building and conflict resolution. In addition, emphasis on state-building and democracies rest on strong institutions and administrative capacity and capability. Cameroon needs to restore confidence and legitimacy of the state as the custodian not oppressor of the people. Institutionalised violence on the pretext of national security betrays the purpose as acts of violence are directed mostly against those who hold different political opinions to that of the ruling ethnic group and governing party. As Mkandawire notes, there is no shortage of things a state can do to curb manufactured institutionalised violence, especially effective protection of

¹² Zachee Nzoh-Ngandembou and Adolf M Dipoko (note 2 above), p. 3.

fundamental human rights and providing quality services delivery to citizens.¹³ Ultimately, state legitimacy must build on the foundations of democratic values, competitive political systems, empowerment, popular participation, and engagement of citizens in all matters of governance.

The return to political pluralism in Cameroon was marked by a series of manufactured institutionalised and ethno-social violence. Although the state has the responsibility to maintain law and order, the excessive use of force against unarmed and innocent population remained the stumbling block of government actions. The state used coercive force to molest opposition political leaders in order to frustrate political empowerment. Since supporters of political oppositions were seen as enemies to state-building, public authorities strategically developed “divide-and-rule” tactics to silence democracy advocates. Needless to say, institutionalised manufactured violence with the deployment of armed forces plays a significant role in the process of establishing a centralised hegemony. For those who have often adopted the stance of change through peaceful democratic process, this argument seems to be losing relevance in the growing wave of institutionalised state sponsored violence.¹⁴

In Cameroon, public policy and national development initiative are slow to implement. Interestingly however, the state is known for its rapid deployment of “*armed rapid intervention forces*” even against peaceful demonstrators. Meanwhile, acts of despise and violence against one ethnic group by another do not come under state scrutiny, especially when the perpetuating group provides reliable for support for political leaders. Though articulated by individuals motivated by self-interest and greed, such violence is “codified” state organs and other political elites in the name of national security. Given existing centralised

¹³ Thandika Mkandawire, “From Maladjusted States to Developmental States in Africa,” paper presented at the International Policy Conference on the Potentials for and Challenges of Constructing a Democratic Developmental State in South Africa, held in Magaliesburg - South Africa (June 2008).

¹⁴ As Carlson Anyangwe (note 1 above) state, there is a very strong and well-informed conviction by a large and active argument of our people that Cameroon Republic’s addiction to violence can only be cured by a commensurate response.

system of government in Cameroon with all the facets of institutionalised violence, only the principles of democratic governance, a strong independent professional apolitical bureaucracy under visionary leadership that serves the people can change the course and plight of what may rightly be described as a *requiem for democracy* in the country. Structural changes are also required to convert manufactured or institutionalised violence into developing the public service and administrative capacity of the state for sustainable development.

5. Democracy as an Imperative of Strong State Institutions

In democratic terms, a capable state requires a functional and accountable administrative system to oversee state activities in the general interest of the people, not the particular interest of individuals or political factions. Society needs “servant leaders” not “served leaders,” a vibrant civil society, and a productive and competitive private sector that enables the government to effectively transform society within a relatively short-time frame and for the common good. The trajectory of post-colonial democracy both towards dictatorship and new forms of democracy has also seen fundamental changes in the structure of Cameroonian institutions. In other words, the post-reunification Cameroon state was inappropriately structured to meet the challenges of addressing the plight of the people.

In this respect, Jua notes:

“The state in Cameroon is a hiatus between pre-colonial and the post-colonial state and the fixed, fast-frozen relations, with the train of ancient venerable prejudices, which from the colonial era were not thawed as a result of this. For instance, in the wake of independence the ruling class adopted a modernising discourse that was predicated on the secular discourse of reason positing a morality purportedly critical of the ‘pathological’ [in the Kantian sense] and stressing a new conception of individual rights... The ruling elite helped to endorse prevailing power structures by reproducing beliefs that provided the

social and political frames of intelligibility and allegiances necessary for their uncontested functioning.”¹⁵

The extractive institutions inherited from former colonial powers have influenced the current state of weak institutions, and have contributed to the unfavourable condition of economic growth and democratisation. Democracy and a functional government are the missing ingredients for sustainable growth in Cameroon. The current state system has mistakenly perceived authority for legitimacy, and has regularly invoked its purported authority as a licence to freedom of action. Yet, legitimacy only comes with consensus when the governed consent to the dictates of those at the helm through acclamation of their good governance, usually through democracy and free suffrage. It is earned and coercion can only bring further alienation of the governed. Adversarial contrivances like disenfranchisement before elections, marginalisation, gerrymandering, and ballot box stuffing remain the hallmarks of the current system of government in Cameroon. Therefore there is an urgent need to foster the creation of an independent, fair, open and inclusive government apparatus, supported by a vibrant civil society, an effective, productive, and competitive private sector to provide oversight of government policies and actions.

A politically oriented bureaucracy misguides the ruling power for its articulate interests. Cameroon leaders inherited a country through French machinations plagued with the problems of national integration, political and social malaise. Unfortunately, because of articulate self-interests (rather than collective interests) backed by neo-colonial dependent policies, the system adopted from colonial rule and perpetuated in Cameroon has failed to provide a constructive basis for engaging Cameroonians and foster transformational strategies to deal with problems of national integration, socioeconomic development, pervasive

¹⁵ Bernard N Jua, “Interested Meanings: Rulers, Subjects and National Integration in Post-Colonial Cameroon” in Paul N Nkwi and Francis B Nyamnjoh (eds) *Regional Balance and National Integration in Cameroon: Lessons Learned and the Uncertain Future* (1997), p. 63. ICASSRT Monograph 1. Yaounde: Cameroon.

corruption, cronyism, and election rigging. In addition, the state needs to strengthen its institutional capacity beginning with the restructuring of the public service. The development of a strong professional and apolitical public service is clearly a key imperative for a fragmented political entity like Cameroon.

A professional, merit-based bureaucracy is a key condition for preventing collaboration from degenerating into collusion and corruption. But such a bureaucracy must equally be stepped in a strong code of conduct and code of ethics. These codes need to be implemented and rigorously enforced. Cameroon needs strong institutions that will tear down the wall of manufactured institutionalised violence, exclusion and marginalisation; institutions that foster popular participation and empowerment and equitable shared prosperity. Kleptocracy at the top stunts the growth of poor countries including Cameroon. As Tim Harford notes, “it is not news that corruption and perverse incentives matter. But perhaps it is news that the problem of twisted rules and institutions explains not just a little bit of the gap between Cameroon and rich countries but almost the entire gap. Countries like Cameroon fall far below their potential even considering their poor infrastructure, low investment, and minimal education. Worse, the web of corruption foils every effort to improve the infrastructure, attract investment, and raise educational standards.”¹⁶ To hide the state of plutocracy, manufactured and institutionalised violence comes to play and labels like “enemies in the house”, or return to where you belong” or branding an opposition political party as ‘South West or North West’ party is tantamount to manufacturing institutionalised violence and creating a state of disunity among the population. Regarding the complexities of Cameroon’s problems, Harford observes that:

“We still do not have a good word to describe what is missing in Cameroon. But we are starting to understand what it is. Some people call it ‘social capital,’ or may be ‘trust.’ Others call it ‘the rule of law,’ or ‘institutions.’ But these are just

¹⁶ Tim Harford, “Why Poor Countries Are Poor: The Case of Cameroon - Bandits, Bandits Everywhere”, *EDEEN Newspaper*, No. 0178 of 28-30 of May 2007, p. 6-7.

labels. The problem is that Cameroon, like other poor countries, is a topsy-turvy place where it is in most people's interest to take actions that directly or indirectly damage everyone else. The incentives to create wealth are turned on their heads like the roof of the school library."¹⁷

6. Conclusion

In the context of the complicated, confusing, complex, and confronting historical past of Cameroon, the politics of assimilation entrenched a governance system that instils false values on the people, one of which is manufactured and institutionalized violence. Therefore a developmental state is needed in the country to confront and solve the key challenges of institutionalised violence, corruption, poverty, governance, peace, security and to hold the government accountable for its actions. The country needs strong institutions and a system of public service and administration that will allow the administrative apparatuses of the state to effectively play its role in the transformation of society.¹⁸ The current system of governance in Cameroon constructs hate not love, disintegration not unity or national patriotism. Cameroon must revert to democratic principles, virtues of moral, ethical standards, and the culture of choosing their leaders in a free, transparent and competitive electoral process. In addition, the building of accountable and effective strong public institutions will enhance the possibilities of moving Cameroon towards the path of political and economic development.

¹⁷ Ibid.

¹⁸ Harford notes that unfortunately, "Government banditry, widespread waste, and oppressive regulations are all elements in that missing piece of the puzzle. During the last 10 years or so, economists working on development issues have converged on the mantra that 'institutions matter. Of course, it is hard to describe what an 'institution' really is. It is even harder to convert a bad institution into a good one."

DÉCENTRALISATION PARTICIPATIVE ET GOUVERNANCE SPATIOLOCALE AU CAMEROUN

Goulongo MBARA GUERANDI*

Abstract

Decentralization in Cameroon is governed by Law N°96/06 of 18 January 1996 relative to the revision of the June 1972 Constitution. In spite of the existing legal framework, decentralization did not receive any official sanction until Paul Biya's recent Executive Order (Decree N° 2008/376) of 11-12-2008. A close reading of the alleged text is nothing but a clear refusal of the ruling class to carry out decentralization of local communities in the strict sense of the word for the common good. Yet, there are substantial limits with regard to the effectiveness of the said decree. This inquiry rethinks administrative, economic, financial, and territorial decentralization as the cornerstone of participative democracy. This implies that decentralization of local communities should be portrayed as the stronghold of good governance and community development. In the Cameroonian context, factors that undermine the full implementation of decentralization include the confiscation of political power, excessive administrative centralization, and poor democratic governance. As a result, "decentralization by default" has failed to deliver both short and long term results for the political market and the forgotten grassroots.

Keywords: decentralization, centralization, regional-autonomy, democracy.

* Docteur es Science Politique, Université René Descartes, Paris V (1997), Spécialisations Géopolitique et Géostratégie; DEA, Relations Internationales et Economie de Développement, Université René Descartes, Paris V (1995); DESS, Etudes Diplomatiques et Stratégiques, Institut des Hautes Etudes Internationales, Paris, CEDS (1994). Professeur des Relations Internationales et Consultant d'institutions internationales. Enseignant à L'Institut Diplomatique et des Relations Internationales (IDRI), L'Institut Africain du Management (IAM), et à l'Ecole Nationale d'Administration et de Magistrature (ENAM), Ouagadougou (Burkina Faso).

1. Introduction

L'organisation administrative, économique et spatiale d'un Etat peut être à géométrie variable suivant les options de la gouvernance. Il existe des règles d'organisation qui vont de la décentralisation à la fédération. Entre les deux formes organisationnelles, on peut citer la déconcentration, la centralisation et l'autonomisation régionale. Concernant les stratégies spatiales et territoriales en général, et celles locales en particulier, le processus de décentralisation dans les pays africains est ambivalent. D'un côté, il se caractérise par une multiplicité d'acteurs et d'associations faisant de la gestion participative. Il répond aux défaillances des monopoles publics et introduit généralement plus d'efficacité dans la gestion. Mais de l'autre, il conduit à l'abandon des services publics ou d'intérêt général. Il s'accompagne d'une privatisation excluant les populations non solvables. Dans de nombreux pays d'Afrique, les autorités locales sont démunies de moyens et se "déchargent" de l'essentiel des services urbains (eau, électricité, voirie, sécurité, traitements des déchets, transports) sur le secteur privé pour les populations solvables et sur les ONG ou les associations pour les plus pauvres. C'est de la "décentralisation par défaut."

Au Cameroun, la décentralisation est prévue par la loi No. 96/06 du 18 janvier 1996 portant révision de la Constitution du 02 juin 1972. L'article 1, alinéa 2, et le titre X -Art. 16, 17, 55 et 61- traitent des collectivités territoriales décentralisées faisant du pays "un Etat unitaire décentralisé." Dans ce cas, la décentralisation implique un transfert des compétences de l'Etat vers les collectivités créées. Il s'agit en d'autres termes d'une libre administration prescrite par la Loi No. 2004/017 du 22 juillet 2004 d'orientation de la décentralisation. En scrutant le décret No. 2008/376 du 12-11-2008 signé par M. Paul Biya, on peut douter que le Cameroun opère une avancée dans le processus de décentralisation. Le texte portant organisation administrative de la République du Cameroun transforme les provinces en région et supprime les districts qui muteront en sous-préfectures. Désormais, il y aura trois types de circonscriptions: la province, le

département, les arrondissements. En fait, ce n'est qu'une transcription de la Constitution.

Au regard de multiples défis à relever, la décentralisation doit permettre d'instaurer la paix des cœurs et des esprits dans toutes les régions du pays en général et dans le "West Cameroon" en particulier. Il importe de passer de cette "décentralisation par défaut" à une décentralisation active mobilisant les différents acteurs locaux. Grâce à la démocratie participative, des mécanismes de péréquation seront mis en œuvre au niveau national. En conséquence, notre démarche vise à reformuler la norme collective en instaurant la décentralisation administrative, économique, financière et territoriale comme politique centrale de la démocratie participative -démocratie délibérative et dialogique, administrative et locale- pour plus d'espaces de liberté, de responsabilité et de construction du bien-être individuel et collectif au Cameroun. Comment procéder à la refondation de l'Etat postcolonial –*failed State* au Cameroun- et opérer une ingénierie adéquate et un design administratif sans tenir compte de la décentralisation sous-tendue par (i) le concept, (ii) l'orientation, (iii) les entités et les compétences, (v) les instruments, les mécanismes et les moyens d'action ?

2. Le Concept

La centralisation ou exercice du pouvoir par une structure unique procède du souci d'unité ou d'unification qui semble sous-tendre le concept de "nation une et indivisible." La déconcentration s'impose au pouvoir centralisé comme un moyen d'accroître l'efficacité de son action, en mettant en place, sur l'étendue du territoire, des relais chargés, sous son contrôle, de la mise en application des directives et programmes. Elle s'applique essentiellement aux structures et organismes administratifs et techniques et n'implique pas les populations. Par contre, la "Décentralisation des collectivités territoriales" (DCT) tend vers la réalisation de l'idéal démocratique, c'est-à-dire le gouvernement du peuple, par le peuple et pour le peuple. Elle se traduit par l'abandon de certaines prérogatives par le pouvoir central au profit de collectivités à la base et l'entière

responsabilité de celles-ci dans la conception et l'exécution des actions de développement.

L'objectif de la DCT est de permettre un partage de responsabilités verticales et horizontales dans la scène étatique. Par conséquent, elle exprime la responsabilisation des collectivités territoriales et constitue un moyen de la dynamisation de l'activité et de la vie nationale. En accordant aux entités territoriales et aux populations le pouvoir de concevoir, de planifier et d'exécuter, la DCT permet la mise en place de programmes réalistes de développement, basés sur les problèmes et besoins réels des populations. En réduisant la centralisation du pouvoir, elle rend plus fluide la circulation des informations, facilite la concertation et crée l'enthousiasme. La DCT apparaît ainsi comme un moyen d'adaptation et de rationalisation des plans et programmes de développement humain et durable. Enfin, par la naissance d'un esprit de saine compétition instauré entre les différentes collectivités, elle favorise le processus de changement socio-économique.

Sur le plan des collectivités, la décentralisation permet l'apparition d'organisations de type nouveau, la participation populaire à la vie politique, économique, sociale, culturelle, écologique, scientifique et technologique. Par conséquent, elle contribue à l'émergence d'élites choisies par les populations pour animer la vie de la collectivité ; choix devant correspondre à un minimum de compétences techno-professionnelles. Afin d'assurer pleinement leur responsabilité dans tous les domaines, les populations s'organisent pour concevoir et conduire des activités au bénéfice de leur collectivité. Ainsi, la DCT créera un cadre approprié d'initiation du citoyen à la gestion de sa collectivité. Cette structure favorisera l'identification par la population des problèmes locaux, régionaux, nationaux et internationaux. Par la pratique démocratique, celle-ci développera de nouveaux comportements et attitudes à l'égard d'autres citoyens.

La DCT pourrait induire un processus d'auto-développement de la collectivité; développement endogène basé sur le *self reliance*, c'est-à-dire le principe “de ne d'abord compter que sur ses propres forces.” Par la nature de ses objectifs essentiellement orientés vers la satisfaction des membres, la force communautaire de ses actions repose sur l'engagement volontaire de chacun et de tous. Elle crée et consolide la cohésion de la collectivité. Elle développe surtout la solidarité et l'entraide entre les membres de celle-ci. La DCT permet la mise en place de structures régionales et communales et, veille à l'élection de leurs membres. Bien plus, elle vise fondamentalement l'engagement de chacun et de tous d'agir dans le sens du bien-être général. La DCT apparaît alors comme un processus d'apprentissage de la Démocratie Participative. Elle exige des attitudes, des comportements et des mentalités pour la promotion d'une communauté solidaire et responsable.

La DCT n'est pas seulement un transfert de compétences du pouvoir central à une collectivité, elle correspond à la manière dont celle-ci s'organise pour permettre à chaque citoyen de participer et de contribuer au développement local. Le pouvoir d'une collectivité doit être “décentralisé” en vue d'une autonomie légale sur les plans décisionnel et organisationnel donnant à l'amélioration des conditions de vie des habitants. Une motivation importante de la décentralisation concerne l'ouverture sur l'extérieur dans le cadre de la coopération décentralisée. En tant qu'espace de viabilisation socio-économique, la région pourra mieux aider le Cameroun à entrer dans la modernité. D'une part, elle réconcilie l'ancrage identitaire et l'ouverture au monde. D'autre part, elle représente un lieu privilégié d'innovation, d'expérimentation et de la subsidiarité.

A cet effet, on distingue plusieurs orientations dans les politiques régionales:

- L'aménagement du territoire pour un rééquilibrage des zones géographiques grâce aux grands travaux d'infrastructures à vocation internationale;

- Le développement touristique dont l'arrimage avec les terroirs, en particulier ruraux, et l'ouverture vers l'extérieur;
- Le développement culturel pour accroître la visibilité et l'attractivité extérieure de notre pays;
- Le développement urbain devant faire de nos villes des poumons de développement national grâce à des prototypes, une âme et une identité qui reflètent les valeurs du terroir;
- La formation orientée vers l'adéquation emploi/développement;
- Le développement agricole permettant une production de qualité et en quantité suivant un label favorable à nos exportations agro-alimentaires.

La région s'affirme comme atout et potentiel multiforme pour le Cameroun. A l'image de plusieurs pays performants sur le plan économique et harmonieux sur le plan social, le développement régional camerounais sera fondé sur la valeur de nos territoires ; valeur en termes de richesses, d'énergies et de mobilisation. Face aux difficultés de notre pays à tirer parti des avantages comparatifs sur le plan international, le développement régional représente une voie privilégiée.

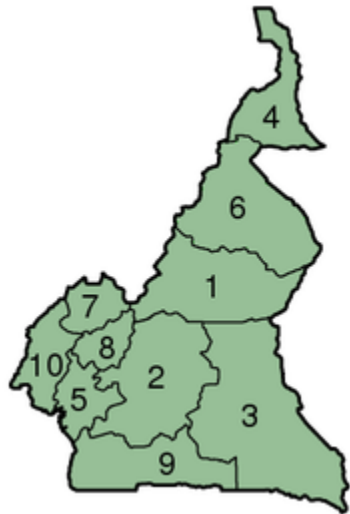
Toutefois, des dérapages à éviter sont les suivants:

- Les ingérences du pouvoir central dans la gestion des collectivités territoriales;
- La confiscation du pouvoir par des groupes d'intérêt ou de pression;
- La crainte d'action de certains groupes économiques, ethniques, et politiques contre le processus de mise en place d'une démocratie participative;
- Les interprétations erronées de la décentralisation; celle-ci devant se concevoir comme un partage vertical et horizontal des responsabilités de la gouvernance.

Il est donc impératif de définir les responsabilités et les domaines de compétences à transférer aux régions et aux communes, et ceux réservés au

pouvoir central, afin de mettre en place les mécanismes permettant une action globale orientée vers le progrès des collectivités locales et le développement de la nation. Par ailleurs, la DCT devrait se traduire au sein des collectivités régionales ou locales par la mise en place de dispositions propres à susciter et à stimuler l'engagement de tous les individus au processus. En d'autres termes, la réussite de la décentralisation doit combiner décentralisation spatiale, décentralisation économique, décentralisation financière et décentralisation administrative.

Les régions du Cameroun selon le décret présidentiel du 12-11-2008			
n°	Région	Capitale	Départements
1	<u>Adamaoua</u>	<u>Ngaoundéré</u>	5
2	<u>Centre</u>	<u>Yaoundé</u>	10
3	<u>Est</u>	<u>Bertoua</u>	4
4	<u>Extrême-Nord</u>	<u>Maroua</u>	6
5	<u>Littoral</u>	<u>Douala</u>	4
6	<u>Nord</u>	<u>Garoua</u>	4
7	<u>Nord-Ouest</u>	<u>Bamenda</u>	7
8	<u>Ouest</u>	<u>Bafoussam</u>	8
9	<u>Sud</u>	<u>Ebolowa</u>	4
10	<u>Sud-Ouest</u>	<u>Buéa</u>	4



The map shows the geographical layout of the 10 regions of Cameroon. Region 1 (Adamaoua) is in the north-central part. Region 2 (Centre) is the largest, surrounding Yaoundé. Region 3 (Est) is on the eastern coast. Region 4 (Extrême-Nord) is in the far north. Region 5 (Littoral) is on the northern coast. Region 6 (Nord) is in the north. Region 7 (Nord-Ouest) is in the northwest. Region 8 (Ouest) is in the west. Region 9 (Sud) is in the south. Region 10 (Sud-Ouest) is in the southwest.

3. L'Orientation de la DCT

Les idées émises relatives aux collectivités territoriales déterminent le futur *Code des Collectivités Territoriales* sous-tendu par les axes suivants : l'orientation de la décentralisation, les compétences et les moyens d'action des collectivités territoriales, les organes et l'administration des collectivités territoriales, les communes à statut particulier. Ainsi, la décentralisation consacre le droit des

collectivités territoriales à s'administrer librement et à gérer les affaires territorialisées en vue de promouvoir le développement à la base et de renforcer la gouvernance locale. La décentralisation est accompagnée d'une déconcentration des services de l'Etat, d'une gestion économique et spatiale dans le but de renforcer les capacités d'action des collectivités territoriales.

La représentation de l'Etat sur le territoire national s'effectue à travers des circonscriptions administratives. Le processus et la mise en œuvre de la décentralisation se feront en combinant la règle de la progressivité, le principe de subsidiarité, la théorie du fédéralisme fiscal et le théorème de la décentralisation. L'Etat est garant de la solidarité nationale et l'organise avec les collectivités territoriales. L'orientation de la décentralisation se conçoit à partir des principes généraux de l'organisation du territoire, des rapports entre l'Etat et les collectivités territoriales et de sa mise en œuvre. Les principes généraux de l'organisation du territoire ont trait à l'organisation du territoire, aux collectivités territoriales (région et commune) et aux modalités de transferts de compétences. Une organisation en collectivités territoriales est l'option préférable pour le Cameroun. La collectivité territoriale est une subdivision du territoire dotée d'une personnalité juridique et de l'autonomie financière. Elle constitue une entité d'organisation et de coordination du développement démocratique, économique, culturel, environnemental et social. Les collectivités territoriales sont : la région et la commune.

Les principales attributions d'une collectivité territoriale correspondent aux objectifs ci-après:

- Entreprendre des actions en vue de promouvoir le développement économique, social, culturel, environnemental et participer à l'aménagement du territoire;
- Passer des contrats avec des personnes physiques ou morales, privées ou publiques, dont l'Etat, les autres collectivités territoriales et les établissements publics dont l'expertise est requise;

- Entreprendre dans les conditions prévues par la loi, dans le cadre de leurs compétences propres, et du respect de la souveraineté et des intérêts de la nation, des actions de coopération qui donnent lieu à des conventions avec des collectivités territoriales d'autres pays ou organismes internationaux publics ou privés œuvrant dans le développement;
- Créer ou acquérir des établissements dans les domaines socioculturels et économiques et dans les juridictions supérieures;
- Octroyer des terrains pour les constructions d'équipements et des services socioculturels (bibliothèques, piscines, parcs, marchés, aires de jeux, etc.);
- Acquérir des actions ou obligations dans des sociétés ayant pour objet l'exploitation de services locaux ou de services nationaux ouverts à la participation des collectivités territoriales dans le cadre de l'actionnariat populaire.

Le conseil de la collectivité territoriale peut créer des organes de concertation (avec un rôle consultatif) sur toute question d'intérêt local. Lesdits organes intègrent les représentants des associations et notabilités locales et des experts dans les domaines traités. La création, la dénomination, la détermination du chef-lieu, la fixation des limites territoriales, la suppression, la fusion ou la scission, l'organisation et le fonctionnement de la collectivité territoriale, ainsi que le régime électoral applicable, sont déterminés avec la participation des populations concernées au sein de larges débats démocratiques, dans le respect des principes palabriques.

4. Les Organes et L'administration des Collectivités Territoriales

Les collectivités territoriales s'administrent librement dans le strict respect de l'intégrité territoriale et de l'unité nationale, de l'identité et de l'autonomie. Elles sont dirigées par des *conseils élus* qui règlent les affaires locales par des délibérations responsables.

D'une part, la *région*, territoire constitué par les entités communales, a vocation à être un espace économique et un cadre d'aménagement, de planification et de coordination du développement durable. La région a pour organe délibérant le Conseil régional et est administrée par le président du conseil régional assisté. D'autre part, la commune, collectivité territoriale de base organisée en quartiers et/ou en villages avec comme organe délibérant le conseil municipal, est administrée par un maire, assisté des conseillers spécialisés dans divers domaines de juridiction communale. La candidature à l'élection d'un maire requiert un minimum de compétences dans le développement territorial et la gouvernance locale.

On retient deux types de communes : la commune urbaine et la commune rurale. Ainsi, l'aménagement du territoire de la commune urbaine est soumis aux dispositions de la *Loi du développement urbain camerounais* (LDUC) et par la *Loi du développement rural camerounais* (LDRC) en tenant compte de celle du développement foncier national. La commune urbaine peut être érigée en commune à statut particulier, soumise aux règles générales applicables aux communes.

Le territoire de la commune rurale est organisé suivant les dispositions légales sur le zonage :

- Une zone résidentielle,
- Une zone commerciale,
- Une zone de production agricole,
- Une zone récréotouristique,
- Une zone industrielle,
- Une zone protégée ou de conservation et de protection des ressources naturelles.

Concernant les modalités de transfert de compétences et des moyens, la collectivité territoriale régionale reçoit des compétences transversales. Les

transferts de compétences par l'Etat doivent être accompagnés du transfert aux collectivités territoriales des moyens et des ressources nécessaires à l'exercice de leurs responsabilités. Leurs ressources financières sont constituées de recettes propres, de dotations budgétaires de l'Etat, de mesures de péréquation et de toutes autres contributions locales et externes. Les rapports entre l'Etat et les collectivités territoriales restent contractuels, d'assistance de réglementation, de partenariat, de coopération et de contrôle.

5. Les compétences et les moyens d'action des collectivités territoriales

Les collectivités territoriales concourent avec l'Etat, à l'administration et à l'aménagement du territoire, au développement économique, social, éducatif, sanitaire, culturel et scientifique, ainsi qu'à la protection, à la mise en valeur des ressources naturelles et à l'amélioration du cadre de vie. Elles peuvent se regrouper suivant les intérêts locaux ou l'intérêt général pour réaliser des activités de développement ou de bien-être. En plus, des cadres légaux, lois camerounaises du Développement foncier (LCD), régional (LCDR), urbain (LCDU), culturel (LCDC), les compétences des collectivités territoriales sont orientées par des textes spéciaux relatifs à l'équipement des régions. Les recettes ordinaires ou de fonctionnement proviennent principalement de la fiscalité, de l'impôt foncier et des services locaux, des subventions, des ristournes accordées par l'Etat ou d'autres collectivités publiques sur le montant des taxes recouvré à leur profit, des financements temporaires ou ponctuels et de la répartition annuelle des fonds de dotation.

Les relations entre collectivités territoriales concernent essentiellement l'entente, la coopération et le jumelage de communes. Une saine compétition est essentielle. Des structures de concertation, de coopération et des groupements d'intérêt public (G.I.P.) assurent les interactions intercommunales. Nos collectivités territoriales peuvent instituer entre elles et avec des personnes

morales de droit public ou privé, nationales ou étrangères, des structures de concertation et de coopération sur des questions d'intérêt commun.

Dans les communes rurales, il est institué dans chaque village autre que le chef-lieu un Conseil Villageois de Développement (CVD). Le conseil de la collectivité territoriale supervise la mise en place des CVD. Les membres du conseil municipal ne peuvent pas être membres dirigeants des CDV. Sous l'autorité du conseil municipal, le CDV est chargé de:

1. Contribuer à l'élaboration et à la mise en œuvre des plans communaux de développement; et
2. Participer aux activités des différentes commissions mises en place par le conseil municipal pour la gestion et la promotion du développement local.

6. Les instruments et mécanismes de la DCT

La Décentralisation des Collectivités territoriales (DCT) repose sur les considérations économiques, culturelles ou politiques selon leur degré d'homogénéité et de leur disponibilité en ressources naturelles. La mise en œuvre de la décentralisation nécessite une préparation méthodique au sein d'un organe appelé Commission Nationale de Décentralisation (CND). Il s'agit d'un organe d'impulsion du processus de Décentralisation intégrale à travers un travail de réflexion et de recherche en vue de l'élaboration d'un avant-projet de texte d'orientation.

La mission principale de la CND est donc de produire et de proposer les directives d'un modèle de décentralisation camerounais - le Texte d'Orientation sur la Décentralisation (TOD) - en définissant la typologie des forces d'implication, les composantes politiques, administratives, environnementales, économiques et techniques. A côté de cette mission principale et dans le cadre d'une réflexion préliminaire, la CND évalue les potentialités économiques, financières et fiscales des collectivités locales. La CND propose également une approche de répartition des compétences entre l'Etat et les collectivités

territoriales, et les textes législatifs et réglementaires y relatifs. En outre la CND fait des propositions pour guider le gouvernement dans la mise en œuvre de la décentralisation. En lien avec les centres universitaires et de recherche, elle est chargée de la création d'une banque de données sur les collectivités locales.

Dans l'optique de diligenter le processus de décentralisation, la CND dispose d'une "Cellule Stratégie et Méthode" composée de personnes ressources avec des compétences et des expériences en matière de décentralisation, ainsi que des assistants techniques permanents qui sont responsables des secteurs spécifiques comme la formation des représentants locaux, les aspects socio-économiques et culturels, la question féminine et la communication. Ainsi donc, en plus des aspects procéduraux, il s'agit d'un travail d'évaluation des potentiels et contraintes, et des opportunités et menaces en vue du développement équilibré du Cameroun aussi bien sur le plan infrastructurel que sociodémographique et de la qualité de vie des populations.

Les mécanismes d'appuis financier et technique sont élaborés par la CND, à l'exemple du Fonds d'Investissement des Collectivités Décentralisées (FICOD). La CND étudie la meilleure formule pour mettre en place un fonds d'investissement local qui permettra la prise en compte de la dynamique rurale. Enfin, il est question du recouvrement des budgets communaux, de la valorisation des ressources communales, de la prise en charge des collectivités locales dans la promotion d'un développement à la base d'une démocratie locale. Sur le plan économique, la mesure du degré de la décentralisation est possible en tenant compte des indicateurs tels que la dépense financière et le contrôle des dépenses sociales. Quant au financement de la décentralisation, l'adoption de la politique de décentralisation affecte à la fois les dépenses et les recettes publiques. Elle peut autoriser le prélèvement d'impôts locaux plus élevés si les contribuables sont convaincus que leur argent profitera effectivement à leur collectivité. Les principaux mécanismes permettant

d'accroître les recettes locales sont les impôts, la tarification des services, les contributions volontaires et l'emprunt.

7. Conclusion

La décentralisation est un système permettant à une collectivité humaine (décentralisation territoriale) ou à un service (décentralisation technique) de s'administrer elle-même en fonction des lois du marché (décentralisation économique et financière) sous le contrôle de l'Etat. Dans ce contexte, L'Etat dote ces agences d'une personnalité juridique, d'autorités propres et de ressources suivant certains principes scientifiques. La décentralisation territoriale permet la création en marge de l'Etat des collectivités dotées d'une personnalité juridique, habilitées à s'administrer elles-mêmes dans des conditions de relative autonomie par rapport aux gouvernants et aux organes centraux.

Pour nous, il est question de présenter une vision active de la décentralisation des collectivités territoriales comme base d'une gouvernance spatilocale. Il s'agit aussi de questionner l'approche et le processus de M. Paul Biya et du Rassemblement Démocratique du Peuple Camerounais (RDPC) relatifs à ce facteur fondamental du vivre-ensemble. Un handicap majeur—l'absence de l'Etat de droit et la mal gouvernance—pénalise la méthodologie utilisée par le régime dictatorial de Yaoundé pour instaurer leur “décentralisation par défaut.” L'Etat de droit est une quête permanente et c'est aux Camerounaises et aux Camerounais de trouver des solutions consensuelles et patriotiques pour son instauration afin de conquérir par tous les moyens et vivre la démocratie participative au plan national et local.

Le succès de notre démarche dépend du respect de l'éthique de la démocratie participative. Dans la même optique, d'autres conditions fondamentales sont à considérer:

1. La refondation de l'Etat actuel pour en faire un Etat de droit moderne, républicain, fort et prospère;

2. La prise en compte du paradigme politique qu'est la Palabre dans la Démocratie participative (démocratie délibérative, dialogique, administrative et locale);
3. La réingénierie de l'Administration publique;
4. La réinstauration de la planification stratégique et indicative;
5. L'instauration et la pratique de la Politique de développement local (PDL) et la gestion des terroirs;
6. La responsabilisation et le contrôle à la base comme principes essentiels de l'éthique de la décentralisation.

Décentraliser les collectivités territoriales, c'est avant tout responsabiliser les citoyens à la base; c'est un principe essentiel et un grand pas vers le bien-être (développement) qui répond aux besoins du présent sans compromettre les capacités des générations futures à répondre à leurs propres besoins. Ainsi, nous pourrions sortir du processus relatif, répétitif et régressif d'un ensemble de variables politiques et socio-économiques dont la dynamique interdépendante au Cameroun ne permet de respecter la solidarité intergénérationnelle et l'autonomie sociale, valeurs essentielles au bien-être durable, c'est-à-dire à l'équilibre et à l'interaction entre l'économie, le social, et l'environnement.

INTERNATIONAL STANDARDS ON JUVENILE JUSTICE: IMPLICATIONS OF THE NEW CRIMINAL PROCEDURE CODE ON THE ADMINISTRATION OF JUVENILE JUSTICE IN CAMEROON

Eric NGONJI NJUNGWE*

Abstract

On 1 January 2007, a new Criminal Procedure Code became effective in Cameroon. Prior to this date, several pieces of legislations guided the administration of juvenile justice in Cameroon, making the process incoherent and ineffective. The new Criminal Procedure Code is comprehensive in its description of the criminal justice process including the administration of juvenile justice. It also guarantees the protection of human rights recognized under international conventions ratified by Cameroon. This paper explores international standards on juvenile justice and how Cameroon has incorporated these standards into its domestic legislations and practice. While the focus of the paper is the new Cameroon Criminal Procedure Code, a description is provided of the juvenile justice standards in relevant United Nations and African Union treaties, as well as the Cameroon Penal Code.

Keywords: juvenile, justice, international standards, human rights, Cameroon criminal procedure code.

* LLB (Buea); LLM (Pretoria); MSN (UMB); Human Rights and Social Justice Advocate. President and Executive Director, Progressive Initiative for Cameroon (PICAM).

1. Introduction

Juvenile justice refers to mechanisms; legislative, institutional, and procedural, specifically dealing with juvenile offenders or children in conflict with the law. The terms 'juvenile offenders' and 'children in conflict with the law' refers to persons below the age of 18.¹ Although international law defines a child with respect to age, the definition of juveniles provided for in the UN Standard Minimum for the Administration of Juvenile Justice (The Beijing Rules),² reveal that the term juvenile does not necessarily correspond to the concept of age. Rule 2(2)(a) of the Beijing Rules defines a juvenile as a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult. Hence, it is the way in which the law is applied which dictates whether a young offender is also a juvenile for purposes of the law.³ This is an important criminal justice aspect because in some jurisdictions, a person below age 18 may be tried as an adult for the commission of a grave offense.

1. International Mechanisms on Juvenile Justice

The end of the Second World War saw the establishment of the present international human rights regime with the adoption of the Universal Declaration of Human Rights (UDHR).⁴ The UDHR has been very instrumental as it laid down the framework for specific human rights conventions, addressing different rights interests.⁵ Until the adoption of the International Covenant on Civil and Political Rights (ICCPR)⁶ in 1966, specific provisions regulating the administration of

¹ Convention on the Rights of the Child (CRC), article 1.

² UN Standard Minimum for the Administration of Juvenile Justice (The Beijing Rules) - UN General Assembly resolution 40/33 of 29 November 1985.

³ Geraldine Van Bueren, *The International Law on the Rights of the Child* (1995), p. 169. Netherlands: Martinus Nijhoff Publishers.

⁴ Universal declaration of Human Rights (UDHR), UN General Assembly resolution 217 A (III) of 10 December 1948.

⁵ International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), etc.

⁶ International Covenant on Civil and Political Rights, UN General Assembly resolution 2200A (XXI) of 16 December 1966, and entered into force on 23 March 1976.

juvenile justice had not been enshrined in a global treaty.⁷ In the 1980s however, international law began to develop in a constructive manner which acknowledged that children in conflict with the law could benefit from being separated from adults in the administration of justice.

The Convention on the Rights of the Child (CRC)⁸ was the first international instrument to adopt a coherent child rights approach to the international legal regulation of the deprivation of liberty for children.⁹ It recognised that separation in the justice system for adult and children can only occur if the system of justice to which children are subject observes the safeguards which are incorporated into international human rights law.¹⁰ Interestingly, African States, under the human rights regime established with the adoption of the African Charter on Human and Peoples' Rights (African Charter),¹¹ adopted in 1990, the African Charter on the Rights and Welfare of the Child (African Children Charter).¹² This has complemented and strengthened the international regime of the UN.

2. Standards for the Administration Juvenile Justice under the United Nations Human Rights System

The ICCPR adopted in 1966 incorporated aspects on juvenile justice aimed at providing special protection for young offenders. The ICCPR provides that the death penalty should not be imposed for crimes committed by persons below 18 years of age;¹³ that juveniles accused of criminal offence should be separated

⁷ Juvenile justice did not constitute part of the 1924 or the 1959 Declarations of the Rights of the Child.

⁸ CRC, UN General Assembly resolution 44/25 of 20 November 1989 and entered into force on 2 September 1990.

⁹ Ralph Krech, "Implementation of the United Nations Juvenile Justice Instrument" in Eugene Verhellen (ed) *Understanding Children's Rights*; (1998), p. 416. Ghent, Belgium: Children's Rights Centre.

¹⁰ Geraldine Van Bueren (note 3 above), p. 169.

¹¹ Adopted by the OAU Assembly of Heads of States and Governments in 17 July 1981, and came into force on 21 October 1986.

¹² Adopted by the OAU Assembly of Heads of States and Governments on 11 July 1990, and it entered into force on 29 November 1999.

¹³ ICCPR, article 6(5).

from adults and tried quickly;¹⁴ that juvenile offenders be accorded treatment appropriate to their age and legal status;¹⁵ and that the trial procedures for juveniles should take account the desirability of promoting their rehabilitation.¹⁶

In 1985, the UN General Assembly adopted the Beijing Rules,¹⁷ which sets out minimum guarantees for the administration of juvenile justice. These Rules are comprehensive and provide guarantees to the juvenile offender at all stages of the of criminal justice process. Most important, the Beijing Rules encourages the use of alternatives to the judicial process and stipulates that detention of juveniles should be used only as a last resort and for the shortest time possible. However, the Beijing Rules did not have the binding force of a convention and there was still a need for a legally binding document to protect juvenile offenders.

The ‘universally’ ratified 1989 CRC¹⁸ provided the much-needed framework for the administration of juvenile justice. Specifically, articles 37 and 40 address the issue of children in conflict with the law. Article 37 of the CRC guarantees the juvenile offender the right to be protected against torture, inhuman or degrading treatment; capital punishment; and life imprisonment.¹⁹ It bars unlawful arrest or arbitrary deprivation of liberty, and that imprisonment of young offenders should only be used as a matter of last resort and for the shortest period of time possible.²⁰ It also lays down conditions for the arrest, detention, and imprisonment of young offenders such as respect for the child’s inherent dignity, separation from adult offenders while in custody, maintaining contact with family,²¹ access to legal assistance, access to court, and a quick trial.²²

¹⁴ ICCPR, article 10(2)(b).

¹⁵ ICCPR, article 10(3).

¹⁶ ICCPR, article 14(3).

¹⁷ See note 2 above.

¹⁸ As of 2008, all members of the UN, but for the US and Somalia had ratified the CRC.

¹⁹ CRC, article 37(a).

²⁰ CRC, article 37(b).

²¹ CRC, article 37(c).

²² CRC, article 37(d).

Article 40 of the CRC incorporates most of the essential principles of the 1985 Beijing Rules, indirectly making the Rules legally binding on all CRC State parties. It also extends a number of legal guarantees mentioned in article 14 to 17 of the ICCPR.²³ Article 40 is very protective of juvenile offenders as it covers treatment from time of allegations through investigation, arrest, charge, trial, and sentencing. It details out a list of minimum guarantees for young offenders among others the obligation on state parties to set a minimum age of criminal responsibility²⁴ and to provide alternative measures for dealing with children who infringe penal laws without necessarily resorting to judicial proceedings.²⁵ States parties are equally required to establish and promote distinctive juvenile justice mechanisms for children with specific emphasis on positive rather than punitive aims, such as institutional care for rehabilitation.²⁶

The above described provisions on juvenile justice (the CCPR, the Beijing Rules, and the CRC) have further been strengthened and complemented by other UN resolutions. In 1990, the UN General Assembly adopted the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).²⁷ It covers all levels and forms of prevention of juvenile delinquency, including social reintegration. It provides an enlightened conceptual framework approach and vision with respect to progressive delinquency prevention policy and promotes desirable action to be pursued by the world community.²⁸ The Guidelines call for a 'child centred' orientation and child developmental perspective to delinquency prevention, as an integral part of juvenile justice

²³ This include the non-applicability of retroactive laws (CRC, art; 40(2)(a)); the presumption of innocence (art; 40(2)(b)(i)); the right to receive prompt information of charge (art; 40(2)(b)(ii)); the right to legal assistance and the right to determination of the matter by a competent, independent and impartial authority or judicial body (art; 40(2)(b)(iii)); not to be compelled to give testimony or confess, the right to examine and have examined adverse witnesses (art; 40(2)(b)(iv)); the right to have the case reviewed by a higher competent, independent and impartial authority or judicial body (art; 40(2)(b)(v)); the right to free interpreter if the child cannot understand or speak the language used (art; 40(2)(b)(vi)); and the right to privacy at all stages of the proceedings (art; 40(2)(b)(vii)).

²⁴ CRC, article 40(3)(a).

²⁵ CRC, article 40(3)(b).

²⁶ CRC, article 40(4).

²⁷ UN General Assembly Resolution 45/112 of 14 December 1990.

²⁸ Ralph Krech (note 8 above), p. 415.

administration.²⁹ Still in 1990, the General Assembly adopted the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.³⁰ This rules set out standards applicable when juveniles are confined to any facility whether penal, correctional, educational or protective, and when children are simply deemed to be 'at risk' on grounds of conviction or suspicion for an offence. Another complementary resolution of the UN on juvenile justice is the 1997 Guidelines for Action on Children in the Criminal Justice Systems.³¹

3. Standards for the Administration Juvenile Justice under the African Union Human Rights System

3. 1. The African Charter on Human and Peoples' Rights

The African regional human rights regime was established with the adoption of the African Charter on Human and Peoples' Rights (African Charter).³² The African human rights system operates within the institutional framework of the African Union (AU).³³ The African Charter makes only one mention to the child in its provisions. Article 18(3) of the African Charter provides that states parties should ensure the protection of the rights of the child as stipulated in international declarations and covenants. By this therefore, the African Charter effectively endorses internationally adopted principles on children's rights, including all provisions on the administration of juvenile justice.

Although the African Charter makes only one mention to the child, suffice to say that the African Charter itself effectively provides for protection of children. It deals with the rights of 'every individual', 'human beings', 'every citizen', and 'all peoples' under the jurisdiction of states. A plain language interpretation of these

²⁹ Ibid

³⁰ UN General Assembly Resolution 45/113 of 14 December 1990.

³¹ Annexed to Economic and Social Council resolution 1997/30 of 21 July 1997.

³² See note 11 above.

³³ Formerly Organisation of African Unity (OAU). The Constitutive Act of the African Union was adopted at the 36th ordinary session of the Assembly of Heads of State and Government of the OAU held in Lome, Togo on 11 July 2000. The AU became effective on 26 May 2001 when the Constitutive Act entered into force.

phrases would support the logical conclusion that children are also protected both as individuals, as human beings, as citizens, and as members of a group (peoples).³⁴ In this light therefore, the guarantees provided for under the African Charter with respect to the administration of justice equally applies to the administration of juvenile justice. Article 7 of the African Charter guarantees every individual (including juveniles) the right to have his or her case heard by a competent national organ;³⁵ the right to presumption of innocence until proven guilty;³⁶ the right to be defended by a counsel of his or her choice;³⁷ and the right to be tried within a reasonable time by an impartial court.³⁸

3. 2. The African Charter on the Rights and Welfare of the Child

Work on the rights of children in African extends as far back as 1979, the International Year of the Child when the OAU passed the Declaration on the Rights and Welfare of the African Child.³⁹ This declaration recognised the need to take all appropriate steps to protect the rights of children. As a declaration however, it had no legal binding force. Barely a year after the CRC was adopted, the African Charter on the Rights and Welfare of the Child (African Children's Charter)⁴⁰ was adopted as an African titivation to the CRC. Politico-legal reasons are often advanced for the adoption of the African Children's Charter.⁴¹

Politically, African patriotism and perceived Eurocentrism in the drafting of the CRC was an influential factor. The OAU reaction stemmed from a perception of exclusion or marginalization of African States in the drafting process of the CRC

³⁴ Frans Viljoen, "The African Charter on the Rights and Welfare of the Child" in C J Davel (ed) *Introduction to Child Law in South Africa*, (2000), p. 216.

³⁵ African Charter, article 7(a).

³⁶ African Charter, article 7(b).

³⁷ African Charter, article 7(c).

³⁸ African Charter, article 7(d).

³⁹ AHG/ST.4 Rev.1 of 20 July 1979; Garton S Kamchedzera, "The Complementarity of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child" in Eugeen Verhellen (ed) *Understanding Children's Rights* (1998), p. 550.

⁴⁰ See note 12 above.

⁴¹ Frans Viljoen (note 30 above), p. 218.

since African involvement in the drafting process was limited.⁴² Legally, African critics of the CRC and supporters of the African Children's Charter have pointed to the fact that as a global instrument, numerous compromise had to be made, thus sacrificing regional specificities on the alter of consensus. Hence there was the need for a regional instrument that would take into account the peculiar needs and issues pertinent to the African child.⁴³

The African Children's Charter defines a child as every human being below the age of 18 years.⁴⁴ Of particular importance is article 17 which deals with the administration of juvenile justice. It guarantees special treatment for children accused of or found guilty of crimes, including respect for their inherent dignity and fundamental rights.⁴⁵ State parties have an obligation to ensure that detained or imprisoned children are separated from adults⁴⁶ and not subjected to torture, inhuman and degrading treatment.⁴⁷ Children accused of crimes are also guaranteed the right to presumption of innocence;⁴⁸ to be informed promptly of the charge and be entitled to an interpreter if the child cannot understand the language used;⁴⁹ to be afforded legal and other appropriate assistance in the preparation and presentation of his or her defence;⁵⁰ to be given a speedy trial and be accorded the right to appeal;⁵¹ and prohibits the press and the public from trials involving a child.⁵² Article 17 further provides that the essential aim of the treatment of a child either during the trial or after the child has been found guilty should be his or her reformation and reintegration into the family and social

⁴² Only three Africa States participated in the drafting process for at least five out of the nine years that the working group took to draft a final proposal. However, by 1989, nine African States were participating in the activities of the working group. Frans Viljeon (note 30 above) citing Le Blanc, *The Convention on the Rights of the Child*, p. 30.

⁴³ See preamble, para 3 for some of these specific situations.

⁴⁴ African Children's Charter, article 2. This definition conforms to that provided for in art; 1 of the CRC, although the CRC definition is subjected to national legislations.

⁴⁵ African Children's Charter, article 17(1), and CRC articles 37(c) & 40(1).

⁴⁶ African Children's Charter, article 17(2)(b); CRC article 37(c).

⁴⁷ African Children's Charter, article 17(2)(a); CRC article 37(a).

⁴⁸ African Children's Charter, article 17(2)(c)(i); CRC article 40(2)(b)(i).

⁴⁹ African Children's Charter, article 17(2)(c)(ii); CRC articles 40(2)(b)(ii) & (vi).

⁵⁰ African Children's Charter, article 17(2)(c)(iii); CRC articles 37(d) & 40(2)(b)(ii).

⁵¹ African Children's Charter, article 17(2)(c)(iv); CRC article 40(2)(b)(i).

⁵² African Children's Charter, article 17(2)(d); CRC article 40(2)(b)(vii).

rehabilitation;⁵³ and obliges States to set a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.⁵⁴

4. Administration of Juvenile Justice in Cameroon

Cameroon ratified the CRC on 11 January 1993, the African Charter on 20 June 1989, and the African Children's Charter on 5 September 1997. The 1996 Constitution of Cameroon as amended in 2008 also recognise and guarantee to all, the fundamental human rights provided for in international human rights instruments⁵⁵ (including those on the administration of juvenile justice). In addition, article 45 of the constitution provides that duly approved or ratified treaties shall, following their publication, override national laws. In essence, Cameroon's ratification of the above mentioned conventions requires mandatory adherence to their provisions. Prior to the coming into force of the new Criminal Procedure Code in Cameroon,⁵⁶ an indefinite number of legislations, ordinances, decrees, and circulars guided the administration of juvenile justice in Cameroon.⁵⁷ Apart from for the Penal Code⁵⁸ all formerly applicable laws have been effectively repealed by the new Criminal Procedure Code.⁵⁹

⁵³ African Children's Charter, article 17(3); CRC article 40(1).

⁵⁴ African Children's Charter, article 17(4); CRC article 40(3)(a).

⁵⁵ Preamble to the Cameroon Constitution, Law No. 96-6 of 18 January 1996 to amend the Constitution of 2 June, 1972.

⁵⁶ Cameroon Criminal Procedure Code, Law No. 2005 adopted by the Cameroon National Assembly on 27 July 2005 and became effective on 1 January 2007.

⁵⁷ The Decree of 30 November 1928 establishing special courts and the probation system for minors; The Decree of 30 October 1935 on the protection of children; Juveniles Courts Rules, CAP 32 of the 1958 Laws of the Federation of Nigeria; Ordinance of 23 December 1958 on the protection of children and young people at risk; Circular No. 9062/DJAS of 15 July 1967 on pre-trial detention of minors; Circular No. 300018/DJAS/of 8 July 1968 on juvenile delinquents and runaway children; Circular No. 66/5435/PGY of 30 June 1969 on juvenile delinquency and placement in the Cameroonian Juvenile Institute in Betamba; Decree No. 73/115 of 22 March 1973 on the organization and operation of the Buea Borstal Institute; Decree No. 73/333 of 25 June 1973 on the organization and operation of the Cameroon Juvenile Institute (ICE) in Betamba; Circular No. 9062/MINJUSTICE/DAJS of 18 October 1989 providing for the reduction of pre-trial detention for minors to a minimum; Decree No. 90/524 of 23 March 1990 establishing the National Commission to Protect Children at Risk, Juvenile Delinquents and Abandoned Children; Decree No. 92/052 of 27 March 1992 on the prison system in Cameroon. Circular No. 0007/7128/DAJS of 27 January 1995 on pre-trial detention of minors.

⁵⁸ The Penal Code: Acts of 12 November 1965 and 12 June 1967, as subsequently amended.

⁵⁹ Criminal Procedure Code, Part XVII, Section 746.

4.1. The Cameroon Penal Code

The Penal Code provides different treatments to children depending on whether they are below 10 years of age, between 10-14 years, or between 14-18 years. Minors below the age of 10 are considered *doli incapax*, that is, totally without criminal responsibility and can never be brought before a judge for sentencing. Their parents alone can be sentenced to provide compensation for the harm caused to the victim pursuant to the rules relating to civil liability. A child between 10-14 years of age is considered criminally responsible but only one of the special measures provided for by the law can be imposed on him if found guilty. These measures include returning the child to his or her family; putting the child on probation; or placing the child, for a period not extending beyond the attainment of his civil majority, in the home of a trustworthy person or in an appropriate boarding school or charitable institution. The Penal Code provides that children between the ages of 14-18 years can be subject to the lenient measures provided for those between 10-14, but also provides for their possible sentencing. The measures and the sentence can run consecutively.

The different classifications provided in the Penal Code are aimed at excluding children from prosecution or sentencing. The Penal Code also provides that being a minor is an automatic ground for mitigation in favour of any minor liable to a sentence.⁶⁰ The effect of this provision is to substantially reduce the penalty provided for by law and to avoid, as much as possible, imprisoning children. The impact of mitigation for minors is again evident in article 87, which stipulates that when the law provides for mitigation, the penalties are reduced as follows: (a) if the death penalty or life imprisonment has been incurred, the penalty is reduced to loss of liberty of from 2 to 10 years; (b) if a period of imprisonment has been incurred in the case of a felony, the penalty is reduced to loss of liberty of from 1 to 5 years; (c) in the case of a misdemeanour, the maximum loss of liberty or

⁶⁰ Cameroon Penal Code, article 80.

maximum fine is reduced by half and the minimum is brought down to five days or a fine of one franc.⁶¹

4. 2. The Cameroon Criminal Procedure Code

The Cameroon Criminal Procedure is a revolutionary document and without doubt, one of the most important pieces of legislation passed by the Cameroon Parliament within the last decade. It overhauls the criminal justice system by harmonizing in one law, many different legislations governing the administration of criminal justice in Cameroon. It also lays down clear procedures and protects the rights of suspects and detainees. On a broader basis, the new law lays down conditions governing arrest detention, and bail; the investigation of offences; the search and identification of offenders; the method of adducing evidence; the powers of prosecutors; the organization, composition, and jurisdiction of courts; verdict; sentencing; the setting aside of judgements in default and appeals; the methods of executing sentences, the administration of juvenile justice; and the rights of suspects and convicted person including communication, visitation, medical care, legal representation, appeal, and review procedure.

The administration of juvenile justice is extensively covered under Book IV, Part XV of the Criminal Procedure Code.⁶² The Code recognizes that a minor or juvenile is any person aged less than eighteen (18) years.⁶³ In Cameroon, the Court of First Instance has jurisdiction to try all felonies, misdemeanours, and simple offences committed by minors aged more than ten (10) years but less

⁶¹ Cameroon Penal Code, article 87.

⁶² Book IV, Part XV of the Criminal Procedure Code is entitled Prosecution and Trial of Juveniles. Chapter I deals with institution of prosecution; Chapter II deals with temporary detention of juveniles; Chapter III deals with composition of the Court of First Instance sitting in cases of juvenile delinquency; Chapter IV deals with jurisdiction of the Court of First Instance; Chapter V deals with trial of juvenile; Chapter VI deals with application measures and penalties; Chapter VII deals with simple offences; Chapter VIII deals with probation of the juvenile; Chapter IX deals with review of probation measures; Chapter X deals with setting aside of judgments in default and appeals; Chapter XI deals with the Court of Appeal sitting on cases of juvenile delinquency; Chapter XII deals with criminal record in respect of juveniles; Chapter XIII deals with the costs arising from measures for the protection of juveniles.

⁶³ Criminal Procedure Code, section 700(1).

than eighteen (18) years of age.⁶⁴ If a minor's accomplice or co-offender is an adult, then the case is subject to the jurisdiction of the ordinary law courts.⁶⁵ Meanwhile, a State Counsel or an Examining Magistrate may only bring legal actions against a juvenile by informing the juvenile's parents, guardian, or custodian of the proceedings.⁶⁶ However, if the case against a juvenile is a simple offence then a juvenile proceeding may be initiated by direct summons.⁶⁷

In compliance with internationally recognized principles, the Cameroon Criminal Procedure Code makes imprisonment for minor as a last resort. In this regard, Examining Magistrates are empowered to involve the social welfare services or request medical and psychiatric evaluations of a minor so as to adequately consider the best interest of the juvenile offender in temporary detention, custody, and sentencing.⁶⁸ Regarding temporary confinement measures, imprisonment of persons between 12-14 years is prohibited, except in cases of capital murder or of assault that leads to death.⁶⁹ Juveniles between 14-18 years may only be imprisoned if imprisonment is considered indispensable.⁷⁰ Where detention of juveniles is necessary, such must be in Borstal institutions; a special section of the prison meant for the detention of minors; or separate from adults in situation where there is no Borstal institution or special section of a prison.⁷¹

Where a guilty verdict is entered against a juvenile aged 14 years or less, the court has the authority to reprimand the juvenile offender before ordering one of several measures including entrusting the minor offender to the custody of his parents, guardian, custodian, or to any trustworthy person; placing the minor on probation; in a vocational or health centre; in a specialised institution; or requiring

⁶⁴ This provision of the Criminal procedure Code is in line with the Penal Code which recognizes that minors below the age of 10 cannot be held criminal responsibility.

⁶⁵ Criminal Procedure Code, section 713.

⁶⁶ Criminal Procedure Code, section 700(4).

⁶⁷ Criminal Procedure Code, section 700(3).

⁶⁸ Criminal Procedure Code, sections 701, 702, 724.

⁶⁹ Criminal Procedure Code, sections 704.

⁷⁰ Criminal Procedure Code, sections 705.

⁷¹ Criminal Procedure Code, sections 706.

the minor to enter into a preventive recognizance.⁷² Persons between 14-18 years found guilty of an offence may at the discretion of the court be subject to the above measures provided for person aged 14 years or less; be placed on probation; or sentenced according to articles 80 (3) and 87 of the Penal Code.⁷³

The principle of fair hearing is also adequately protected in the new Cameroon Criminal Procedure Code. The law provides that children charged with offenses have the right to legal representation, and if the child cannot afford counsel representation, then the court shall assign a counsel to the minor.⁷⁴ To protect the identity of a juvenile offender, the only persons entitled to attend the trial is limited to the juvenile's parents, custodian, guardian, witnesses, counsel, probation officers, and the representatives of services or institutions dealing with problems relating to children.⁷⁵ Meanwhile, where the judgement against a minor is publicly published, no mention of the minor's name, initials, personal or family particulars may be disclosed.⁷⁶

5. Weaknesses of the Cameroon Juvenile Justice Mechanism

Although Cameroon has an obligation to observe all the international standards on juvenile justice examined above,⁷⁷ implementation of these principles in the domestic legal system reveal serious deficiencies. It is clear that the applicable national laws guarantee to juvenile offenders the right to fair hearing, protection of identity, equality before the law, non-retroactive criminal law, the presumption of innocence, right to interpreter, right to appeal, and the right to legal representation. In practice however, juveniles are yet to experience some of these rights. Key issues such as the deprivation of liberty as a measure of last resort; diversion of juvenile offenders from the criminal justice system; the right of

⁷² Criminal Procedure Code, sections 724.

⁷³ Criminal Procedure Code, sections 724. See contents referenced in notes 57 and 58 above for a description of sentencing measures for minor in Cameroon.

⁷⁴ Criminal Procedure Code, sections 719.

⁷⁵ Criminal Procedure Code, sections 720(2).

⁷⁶ Criminal Procedure Code, sections 721(2).

⁷⁷ CCPR (Cameroon on 27 June 1984); CRC (Cameroon on 11 January 1993); African Charter (Cameroon on 20 June 1989); African Children Charter (Cameroon on 05 September 1997).

convicted children to be separated from adults; and the protection of the identity of juvenile offenders have been completely neglected.

There is an administrative unit under the auspices of the Ministry of Social Affairs to tackle cases of social maladjustment. It acts to prevent behavioural problems and provide for the rehabilitation of juvenile delinquents and children at risk. However, this structure has been ineffectual because it has actually done very little measurable work. Most of the work being done to cater for juvenile delinquents continues to be the initiative of non-governmental organisations. The penitentiary system as a whole has serious shortcomings. There is overcrowding in prisons, shortage of social and educational support for children in prisons, and the absence of special quarters for juveniles in most prisons. Even where juvenile sections exist in prisons, the conditions are no better from those of their adult counterparts. For instance, incarcerated juvenile offenders usually take part in compulsory no-pay prison labour, a routine for most adult prisoners. Overall, the Cameroon penitentiary system currently does not have the capacity to satisfactorily discharging its mission to protect children, rehabilitate them, and return young delinquents to society as provided for by the current laws in force.

The new Criminal Procedure Code lays down a comprehensive normative framework in the administration of juvenile justice in Cameroon. It provides definitions which to a greater degree satisfy the requirements of international standards on juvenile justice. It also spells out in great details the implementation mechanisms geared towards encouraging and promoting the well being of children who break the law. It requires that accused or convicted children are treated in a manner consistent with the promotion of their sense of dignity and respect for their rights. Such treatments should take into account the child's age and the desirability of promoting their rehabilitation, reintegration, and their assumption of a constructive role in society.⁷⁸ While the legislative framework on the administration of juvenile justice may currently be adequate, implementation

⁷⁸ See in this regard arts; 40 (1) CRC & 14 (4) CCPR.

requires the existence of the necessary structures and awareness of the laws in place by law enforce, judicial, and social welfare officials. Since the new Criminal Procedure Code recently became effective, its provisions are still largely unfamiliar with stakeholders, charged with its execution.

6. Conclusion

The international community has an important role to play in setting out widely accepted guidelines. Once general principles are set out in international treaties, the responsibility for realising human rights rests with national governments.⁷⁹ When States undertake obligations to honour particular human right conventions by becoming ratifying international conventions, they are expected to elaborate their understanding of those obligations by spelling them out in their own national law.⁸⁰ The implementation of that national law then becomes the primary mechanism through which human rights are realised.⁸¹

The new Cameroon Criminal Procedure Code is an admirable exemplification of this obligation on state parties to international treaties. It clearly sets out the legal framework and implementation mechanisms. However, its enforcement, especially with regards to juvenile justice faces serious limitations. Not only are its provisions largely unknown to those charged with its enforcement, the lack of the prescribed juvenile justice structures continues to be a serious challenge facing the administration of juvenile justice in Cameroon. Therefore Cameroon should rapidly embark on establishing the structures provided for in the Criminal Procedure Code and provide officials with the requisite specialized training to acquaint them with the necessary skills for dealing with juvenile offenders, and ensure efficiency in the enforcement of juvenile justice in the country so as to overcome the current weakness that the system is experiencing.

⁷⁹ George Kent, "Realising International Children's Rights Through Implementation of National Law" *The International Journal of Children's Rights*, vol. 5 (1997), p. 439.

⁸⁰ *Ibid*, 439.

⁸¹ *Ibid*, 440.

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