

CONSTITUTIONAL PROBLEMS IN THE CONSTRUCTION AND LEGALITY OF THE UNITARY STATE IN CAMEROON

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Abstract

The unitary state in Cameroon, or the existence of a single governmental authority controlling or directing the affairs of all the people in that country, refer to the present kind of union of the peoples of the two former UN trusteeship territories of British Southern Cameroons and French Cameroon, separately administered by Britain and France, that was formed in October 1961. It concerns first and only the coming together of Anglophone and Francophone communities beginning in that year, not the numerous ethnic entities in Cameroon. The issue of its constitutional legality or illegality can only be determined by knowing the legitimacy and legality of the process of setting it up. This article assess the legality and legitimacy of the unification processes in Cameroon, and that further steps adopted to obscure the former nature of the two Cameroons. The author argues that there exist in Cameroon a fundamental problem known as the Anglophone Problem and there is a need for dialogue to resolve this longstanding situation.

Keywords: Cameroon, constitutionalism, federation, trusteeship, referendum, Southern Cameroons, British Cameroon, Anglophone Problem.

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1. Introduction

Prime Minister Ahmadou Ahidjo of the French Cameroon and Prime Minister John Ngu Foncha of the British Southern Cameroons began to seriously discuss the possibility of the reunification of their two territories in 1959 when Foncha was elected into office. At that time, British Southern Cameroons was still being administered as an integral part of the Nigerian Federation, while the French Cameroon was already assured of independence the following year on January 1, 1960. Earlier in October 1958, Prime Minister Ahidjo who was only a few months in office “unequivocally endorsed the reunification and independence” of the two Cameroons.” He pointed out that “ if reunification was the wish of the British Cameroons, he could not object it” and “tacitly insulated reunification from party politics in the French Cameroons by getting Parliament ‘to approve a motion accepting’ it “whenever the Anglophones were ready”.¹ In the Southern Cameroons, Foncha’s KNDP had insisted in the January 1959 election that brought his KNDP to power that the Southern Cameroons would first secede from Nigeria, remain under British administration for some time, achieve independence, and then enter into negotiation about reunification with French Cameroon after their own independence.² French Cameroon became independent as La Republique du Cameroun on January 1, 1960 and Ahmadou Ahidjo was soon raised to the office of the President of the Republic.

2. The United Nations and Self-Determination in the Southern Cameroons

For reunification to take place the Southern Cameroons had first to separate from Nigeria. This was easy because throughout the forty-four years of its close administrative association with Nigeria, Southern Cameroonians were “uncompromising on matters of (their) identity and personality, and doggedly refused integration into that country even though both shared a common

¹ Nicodemus F Awasom, “The Reunification Question in Cameroon History: Was the Bride an Enthusiastic or Reluctant One?,” *Africa Today*, Vol 47, No. 2, Spring 2000, p. 107.

² *Ibid*, p. 106.

language, legal and educational system, culture, value system, administration and constitutional history”.³ Because opinion was sharply divided in the territory between members in the Southern Cameroons House of Assembly who favoured continuous association with Nigeria and those who favoured reunification, it was soon decided that the matter be put to the vote in a plebiscite to hold not later than March 1961.

Earlier in March 1959, a Communiqué had been issued at the UN stating that the plebiscite issue in British Cameroon would be dealt with simultaneously in Northern and Southern Cameroons on February 11, 1961. There would be two questions, namely whether to **gain independence by joining** the Nigerian Federation or **by joining** the Cameroon Republic. The self-determination of the Southern Cameroons was therefore not recognised by the universal organisation.

The so-called plebiscite ‘choices’ were false and incomplete. False, because the UN misrepresented the process as one that was to lead to real independence and not, as it turned out to be, a mere transition from dependence to dependence. Incomplete, because the option of separate independence provided under the UN Charter and the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, was unjustifiably withheld The Southern Cameroons was instead ordered by the UN to ‘join’ either Nigeria...or Republique du Cameroun.⁴

This decision taken with the connivance of the British to compel the inhabitants of an international trusteeship to gain independence **by voting to join** and not in their own right was the first illegal and unconstitutional act against Anglophone Cameroonians and a “betrayal of too trusting a people”.⁵

³ Carlson Anyangwe, “A Trust Betrayed by the United Nations and Great Britain: The Transfer of the British Southern Cameroons to a Successor Colonialist,” MS, Lusaka, 2005, p. 22; Bernard Fonlon, “The Language Problem in Cameroon: A Historical Perspective”, in Comparative Education, Oxford, February 1969, p. 25; Verkijika G Fanson, “Anglophone and Francophone Nationalisms in Cameroon”, in The Round Table Commonwealth Journal of International Affairs (1999), Issue 350, p. 283.

⁴ Carlson Anyangwe, *ibid*, p. 6.

⁵ *Ibid*, pp.5-15.

Did and does Article 76 of the UN Charter not specifically require of the Administering Authority of a trusteeship territory to promote the advancement of the inhabitants and “their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and ... the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement”? Was the plebiscite organized to decolonize the Southern Cameroons and grant it independence or to facilitate the territory’s annexation by a neighbouring country? In other words, did the British trusteeship agreement with the UN require of Britain to transfer the Trust Territory of Cameroon to a neighbouring country at independence? Any injustice done to a people deliberately or in ignorance requires correction when it is identified and pointed out.

The decision to pose only two questions was even taken without regard to the most popular opinion outside the House of Assembly **that the Southern Cameroons should be independent in its own right** without joining either country. As a matter of fact, during the Mamfe Conference of Southern Cameroons political and traditional leadership opinion was overwhelming, as expressed by the Fon of Bafut on behalf of all in this too-well-known quoted statement, that:

We rejected Dr. Endeley because he wanted to take us to Nigeria. If Mr. Foncha tries to take us to French Cameroon we shall also run away from him. French Cameroon is ‘fire’ and Nigeria is ‘water’. I support secession without unification.⁶

This was the declared wish of the people to be “independent or self-governing”. This declaration conformed to UN Resolution 1514 of 12 December 1960, barely three months before the Cameroon plebiscites, which proclaimed the rights of all trust territories and all non-self-governing peoples to end colonialism and declared the “transfer of all powers to the peoples of those territories without any

⁶ Bongfen Chem-Langhëë, *The Paradoxes of Self-Determination in the Cameroons Under United Kingdom Administration*, University Press of America, Inc., Lanham, 2004, pp. 119-120; Carlson Anyangwe, note 3 above, pp. 8-11.

condition or reservations ... in order to enable them enjoy complete independence and freedom.” But who cared about the fate of Southern Cameroonians? The number of registered voters for the plebiscite in the Southern Cameroons was 350,077. Of these the votes in favour of Integration with Nigeria were 97,741 and those in favour of Reunification were 233,571.

3. Ahidjo’s Assurances and the Vote

Before that vote, on October 1, 1960, British Cameroons as a whole had been separated from Nigeria to prepare for the plebiscites as that country gained independence as the Federal Republic of Nigeria. Any decision in British Cameroon to integrate with Nigeria or to reunify with the Republic of Cameroon would be to join a country that was already independent. The idea of achieving reunification through a plebiscite or a vote to join was neither the wish of Southern Cameroonians nor an imposition of French Cameroon. It was rather an imposition of the United Nations.

A little earlier on May 31, 1960 the UN Trusteeship Council had issued a resolution requesting Britain to take appropriate steps to ensure that the people of British Cameroon were fully informed about the constitutional arrangement that would follow after the plebiscite results for the implementation of the decision. **A clear statement about the form of reunification** was therefore required similar to what was already known about the place of the Southern Cameroons in Nigeria in the event of a vote in favour of integration.⁷

President Ahidjo during a visit to beef up Foncha’s reunification campaign effort assured Southern Cameroonians at Tiko on July 17, 1960 that ‘reunification’ would not mean the annexation of their territory; it would be achieved in an

⁷ For the status of Southern Cameroons in Nigeria in the event of a vote in favour of Integration, see Bongfen Chem-Langhëë, *ibid*, pp. 140-143.

atmosphere of equality between the representatives of the two territories.⁸ The two territories would form a federal union of two states, **legally equal** in status. Ahidjo and Foncha soon issued a joint communiqué to the effect that **reunification would be on a federal basis** adaptable to conditions peculiar to all sections of Cameroon. In October the two leaders agreed that minimum powers would be allocated to the federal state and that no measure contrary to the interest of one state would be imposed upon it by the majority in the other state. Ahidjo's "speeches appealed to many who had had different opinions" on the reunification of the Southern Cameroons, and particularly overwhelmed Foncha with joy.⁹

Following the massive vote in favour of reunification, steps began to be taken towards drawing up a Federal Constitution that would ensure the functioning of the Cameroon State. From June 26 to 28, the Southern Cameroons representatives of political parties, Native Authorities and Members of the House of Assembly and House of Chiefs met at Bamenda to agree on proposals to be tabled at the forthcoming talks with the delegation from Cameroon Republic at Foumban. In spite of the undertaking given by the British at the UK-Southern Cameroons Talks in London from October 10 to 13, 1960 that the United Nations and the United Kingdom would be associated with constitutional talks between the Southern Cameroons and the Cameroon Republic after the plebiscite, "to the consternation and utter discomfiture" of Southern Cameroonians, neither the UN nor the UK bothered to show up at the Foumban Constitutional Conference. Both refused to give the inhabitants of the territory the much needed constitutional expertise, the UN pleading 'financial constraint' and the UK that it was not its responsibility to obtain for Southern Cameroonians the best terms possible from the Cameroon Republic.¹⁰ This attitude of the British was not surprising because, from the time of the partition of German Cameroon in 1916 and throughout the

⁸ Joseph Ebune, "The Making of the Federal System," in Victor Julius Ngoh, ed., *Cameroon: From Federal to Unitary State 1961-1972*, Design House, Limbe, 2004, p.53.

⁹ Ibid, p. 54.

¹⁰ Carlson Anyangwe, note 3 above, p. 7.

forty-five years of their administration, British interest in Cameroon was tied to Nigeria.¹¹ The vote in favour of reunification was against their expectation and manoeuvres.¹²

The Fouban Constitutional Talks were held from July 17 to 21, 1961 between representatives of the Cameroon Republic and the Southern Cameroons. The outcome was a highly centralised Federal Constitution, as opposed to a loose type of con-federal constitution expected by Southern Cameroonians that would come into effect on October 1, 1961, the Independence Day for the Southern Cameroons and the Reunification Day for the two Federated States. La Republique du Cameroun would become the Federated State of East Cameroon and the Southern Cameroons would become the Federated State of West Cameroon.

The Constitution produced at Fouban greatly favoured President Ahidjo's wish to work towards setting up a unitary state in the future. The power to initiate its revision lay in the hands of the President and proposals for a revision would be adopted by a simple majority of the Federal Assembly, which should comprise the majority of each State's representatives. Revenue allocation was not discussed and included in the Constitution, in spite of the fact that West Cameroon would give up its sources of customs and other revenue and be financed by federal subventions until a formula for allocation could be fixed.

4. Undermining the Autonomy of the Federated States

Immediately after reunification, President Ahidjo divided the Federation into six Federal Administrative Regions, with West Cameroon constituting a single region, and placed each under a Federal Inspector who represented and was directly accountable to him. The division of the country into administrative regions

¹¹ Emmanuel Chiabi, *The Making of Modern Cameroon: A History of Sub state Nationalism and Disparate Union, 1914-1961*, University Press of America, Inc., Lanham, 1997, p. 25.

¹² Nicodemus F Awasom, note 1 above, p.91.

considerably undermined the powers and authority of the Federated States and of the Prime Ministers, especially that of West Cameroon. Of course, this could not “provide for equal partnership of both parties”, as was expected, “let alone for the preservation of the cultural heritage and identity of each”, but would turn out “to be merely a transitory phase to the total incorporation of the Anglophone region into a strongly centralised, unitary state.”¹³ Ahidjo was to say later, in answer to West Cameroonians who were opposed to over centralisation that the people of Southern Cameroons had voted for reunification and not for federation. That was a great lie. How could he say that? He had personally and categorically promised the people a federation before the vote. Only he alone knew all along that the federation was a temporal arrangement that would in the nearest convenient future convert to a unitary state.

Soon after the Federal Constitution came into force, Ahidjo began moving rapidly towards setting up a unitary system. In 1962 the CFA franc was introduced into West Cameroon and the West African sterling squeezed out of the territory. In 1964 the metric system replaced the imperial system of weights and measures. In 1965 S. T. Muna’s newly formed political party, the Cameroon United Congress (CUC), pledged support for the Federal Constitution and at the same time advocated the creation of a single political party and a unitary system for the whole country. Muna thus singled himself out as the proper person that would satisfy Ahidjo and work with him as leader of West Cameroon, not Prime Minister A. N. Jua or Vice President John Ngu Foncha, both of whom were opposed to over centralisation and anything that threatened the federation.

In June 1966, Ahidjo took a giant and effective step to end political pluralism in West Cameroon where multi-partyism was vibrant. Following an apparently hurried meeting at the presidency of a few members of his party and the leaders of the three existing political parties in West Cameroon, they agreed to dissolve

¹³ Piet Konings and Francis Nyamnjoh, “The Anglophone Problem in Cameroon”, *The Journal of Modern African Studies*, Vol. 35, No. 2. (1997), p. 207.

all their political organisations in favour of a **unified party** to be known as the Cameroon National Union (CNU). By the end of August the four parties had been dissolved and on September 1, the CNU became the sole official party. On that day Ahidjo invited all Cameroonians to join the party in order to consolidate the country's unity. Ahidjo became head of the sole party in East and West Cameroon, in addition to being head of the federal government and head of state. He now had power to make his supporters and collaborators prominent and to unmake those who opposed his moves towards setting up a unitary state.

Under the CNU, elections to the Federated State Assemblies and to the Federal Assembly were single slated with no room for competition or choice. On January 11, 1968 Ahidjo, without consulting the State Assembly, appointed Muna who was not an elected member of the Assembly, to replace the popular pro-federalist Jua as Prime Minister of West Cameroon. In 1970 he over-rode the clause in the Federal Constitution, which barred one and the same person from simultaneously occupying the posts of Prime Minister in West Cameroon and Vice President of the Federal Republic, and appointed Muna to be his running mate. Foncha, the father of reunification, was thus elbowed out and the way made clear for the introduction of the unitary system in Cameroon.

5. The Referendum: Violation of Constitution and Betrayal of Trust

On May 6, 1972 President Ahidjo informed the Federal Assembly in Yaoundé that he would consult the sovereign people of Cameroon who were masters of their destiny through a referendum on the question of instituting a unitary state. He explained that the Cameroon Federation with four assemblies, three governments and duplication of posts in East and West Cameroon was too expensive to run and was draining the country of huge sums that could be used for its development. He cited Article 2, which empowered the Members of the Federal Assembly and the people to revise the Federal Constitution, without mentioning Article 47, which warned against any threat to the continuation of the federation. While Article 2 favoured the revision of the Federal Constitution,

Article 47 was against any revision that would abrogate the federal system: **“No proposal for the revision of the constitution which impairs the unity and integrity of the Federation shall be admissible.”**

The referendum campaign was short and one-sided in favour of the “Yes” choice that Ahidjo wanted. There was no debate and no time to explain the implications of the decision the people were about to make. The referendum was to hold on May 20 at which the people would cast their votes for or against the draft constitution instituting the one and indivisible United Republic of Cameroon. The referendum was flawed. No one in Cameroon openly opposed Ahidjo’s moves after the CNU was formed, when the President had become the ‘all powerful’. “There was no published list of voters or list of polling stations. The exact number of registered voters and percentage of actual voters could not be determined. La Republique du Cameroun made it an offence of subversion for anyone to campaign for a negative vote. Intimidation was rife”.¹⁴ It was, as Chem-Langhëë confirms, politically unwise and even suicidal to try to express views contrary to those of the President on any issue. No wonder that those who were forcefully silenced in the process are now agitating as SCNC or whatever against the annexation and for the autonomy of their territory. When the vote was counted, if at all it was in many places, the result was a landslide, a massive 99.99 per cent in favour of the United Republic.

The Federation was immediately dismantled by the same Ahidjo who had assured the UN on February 25, 1959 that French Cameroonians would never “impose a unitary system” on the inhabitants of Southern Cameroons if they voted in favour of Reunification.¹⁵ In 1984, President Paul Biya consolidated Ahidjo’s handiwork by changing the name of the country from United Republic to simply La Republique du Cameroun, the name French Cameroon had adopted at independence in 1960. Thus, the former Southern Cameroons, the actual

¹⁴ Carlson Anyangwe, note 3 above, p. 24.

¹⁵ Bongfen Chem-Langhëë, note 6 above, p. 136.

autonomous Federated State of West Cameroon, was completely annexed in the process of setting up the unitary state. Some Anglophones have interpreted the 1984 act as the secession from the federal union of La Republique du Cameroun, which should not drag their dear state of Southern Cameroons along.

The legal basis of the unitary state of Cameroon as it exists today is therefore seriously in question. This is because every major step towards setting it up was either a violation of a solemn declaration that the people of Southern Cameroons were made to accept and believe as a matter of faith, a violation of the Constitution, or a lone application of a hidden agenda and “betrayal of trust”. If people are deceived or fooled by their leader or leaders to take a major decision for life on a false premise, that decision is illegal for as long as the situation lasts. If husband and wife make public declarations that they love each other and get married when deep in their hearts there is no love, that marriage is null and void, even if there are children in it. So is the unitary state in Cameroon.

6. Legal Basis of Unitary State

There have been a number of major decisions, each of which was a violation of the sacred trust of the people of Southern Cameroons, the only component that was used in setting up the unitary state in Cameroon. On March 13 and October 16, 1959 the UN passed illegal Resolutions 1350 and 1352 against the UN Charter or Constitution, imposing plebiscites and the plebiscite questions respectively on the people of British Cameroon as the way for them to determine their future **of joining** to gain independence. On December 24, 1960 President Ahidjo of La Republique du Cameroun and Prime Minister Foncha of Southern Cameroons agreed in an official “Note” to the Administering Authority (the British), which they requested to be considered as their final position, in the event the plebiscite vote favoured reunification, that the two territories would unite as equals in a new Federal United Cameroon Republic, each continuing to conduct its affairs consistently with its inherited state culture, with only a limited number of

subject matters conceded to the central government.¹⁶ The British publicised this agreement, which Foncha's party used in the campaign before the vote. Ahidjo's subsequent moves showed that he never ever believed in that Joint Communiqué, which he and Foncha had issued. He had deceived the UN, the British, Foncha and, worse of all, the people of Southern Cameroons. They were deceived to vote for a federation that was not going to last.

Whatever, in 1961 at Foumban, Ahidjo again manipulated the Southern Cameroons delegation and issued a highly, instead of a loose federation he and Foncha had promised the people of that state in 1960 would be the basis of Reunification. In spite of that that Federal Constitution still had in it Article 47, as already mentioned, that contained an important safeguard against revision. When Ahidjo announced the referendum on May 20, 1972 he should have known that he was violating the Federal Constitution and imposing an illegal unitary system on the people of West Cameroon. They alone voted to bring about the reunification of the two territories, and only they alone could vote to change it. Keeping away many other important facts and arguments against the UN organised plebiscite, which violated the UN Charter by asking the autonomous people of Southern Cameroons to gain independence **by joining**, the referendum, which violated the Fouban Constitution, and the dismantling of the Federation, which violated Article 47, we can say in our right senses and in all honesty and truthfulness that the unitary state of Cameroon does not exist in legality.

It may be necessary to clarify the misunderstanding that many Francophone Cameroonians have been made to believe about **the Anglophone Problem** by some scholars and politicians. The Anglophone Problem is easily dismissed as a minority problem. It is not. Those who say so say it is the same as the Bamileke or Kotoko or any other ethnic problem. This is ridiculous; it is reducing the

¹⁶ Carlson Anyangwe, note 3 above, p. 4.

Anglophones of the North West and South West Regions into an ethnic group. Which other ethnic group came into the Cameroon union by voting in a plebiscite? The **Anglophone Problem is a constitutional and self-determination problem**. When Southern Cameroonians voted to reunite, they knew they would constitute a minority in the federation. That is why they demanded and received categorical assurances before casting their votes that Reunification would be on no other basis, but a federation of two equal states.

7. Conclusion: The Way Forward

The solution to this constitutional and self-determination problem that is bound to affect the development of Cameroon negatively forever is a round table discussion by Anglophone and Francophone experts and a return to constitutional legality in a federation. The UN should take its responsibility seriously, revisit the Anglophone problem in Cameroon, and respect its own Charter. Anglophones have to use either or both of these pathways as they seek a solution to their problem.