

## **MECHANISMS TO ENHANCE PUBLIC ACCOUNTABILITY WITHIN THE FORCES OF LAW AND ORDER IN CAMEROON**

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### **Abstract**

In Cameroon like in all other states in transition to democracy, the provision and governance of security and as well as insecurity is by both public and private institutions. The state police including the gendarmerie and the military are some of the public bodies with constitutional authority to provide internal and external security vital to the development of a sustainable democracy. In order to perform their duties, these bodies are vested with a wide array of power, which can be used to abusively encroach on the liberty and property of individuals if left unchecked. Primarily this paper evaluates the role that the military and the police play in the democratization process in Cameroon and there after looks at the framework and limitations of democratic mechanisms that render the police and the military accountability in Cameroon. While drawing inspiration from more functional democracies it offers recommendations for the improvement of mechanisms of accountability with the view to enhancing security sector governance that would contribute to the development of a sustainable democracy in Cameroon.

**Keywords:** accountability, security, insecurity, abuses, democracy, governance, police, military, gendarmerie.

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## 1. Introduction

Since 1990, Cameroon has suffered from great deal of domestic insecurity in an attempt to change over from an authoritarian to a democratic model: high crime rates, increases in political violence, and frequent disruptions of basic services to redefine the identity of the political unit.<sup>1</sup> In 1990-91 a civil disobedient campaign that resulted in a “ghost town operation” prompted the authorities to deploy the police to forcefully bring the runaway situation under control. Thereafter, a spiral of violence all over the country led to the declaration of a state of emergency and an increase of police powers in the creation of joint police, gendarmerie and military task force as the “*Commandement Oprationnel*”.<sup>2</sup> In the early part of 2008 while international attention was directed to President Robert Mugabe of Zimbabwe, Paul Biya of Cameroon was busy changing the constitution to take away article 6(2) of the constitution limiting the presidential mandate so that he could continue to rule after the expiration of his second and last term in 2011.

This move sparked an uproar where ordinary citizens took to the streets in protest. Again the police and the armed forces were deployed to forcefully put the situation under control. All these issues originate from the government’s overarching ambition to minutely control members of the Cameroonian society.<sup>3</sup> This thorough control machinery has been employed to impose constraints, exactions, terror and coercion within the population. The police and the military as agents of this machinery have as a result benefited from constitutional and unconstitutional immunities for atrocities committed against the people, leading to excessive unaccountability within the forces of law and order in Cameroon.<sup>4</sup>

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<sup>1</sup> Tatah Mentah. E, Colonial legacies, democratisation and the ethnic question in Cameroon. (2003, Publications du CIREPE, n°1).

<sup>2</sup> Juene Afrigue, No 1586,22-28 May 1991, p. 6.; see also *Commandement Operationnels* created by decree No 2000/02 of 20<sup>th</sup> February 2000

<sup>3</sup> Most remarkable are the *Commandement Operationnels*. The first created by decree No 2000/02 of 20<sup>th</sup> February 2000.

<sup>4</sup> Tatah Mentah. E, Colonial legacies, democratisation and the ethnic question in Cameroon. (2003, Publications du CIREPE, n°1).

## 2. Lack of Accountability of Uniform Services in Cameroon

The biggest paradox in regard to enhancing democratic control of the military is that, by its nature, the military is undemocratic. It is a hierarchical institution, which does not lend itself to inner democracy. Junior officers, according to military discipline, are expected to obey orders without question. However, democratisation and militarisation form an important dialectic in the process of good governance. Democratic control of the military and other security institutions presents itself in three important trajectories. First, it is common for democratic governments often to use their security apparatus to suppress their own people. Second, it is the security sector that holds the monopoly on public violence and has an intimate relationship with political power. Third, the proper governance of security or insecurity may be generated by democratisation, and, as such, it is necessary to democratically control the providers of security<sup>5</sup>.

However, the inability of the Cameroonian masses to get the police and the military to account for their actions has resulted in a severe loss of confidence in them. The result has been an explosion of societal ills from instant or mob "justice"<sup>6</sup> to a plethora of non-constitutional agencies such as the 'auto defense' groups vigilante groups, and neighborhood watch, many of which, whatever their original lofty aspirations, have compounded the problems which they set out to solve (often with the grossest abuses of human rights) and which have increased the sense of helplessness on the part of would-be law-abiding citizens.<sup>7</sup>

By and large, the Cameroon government has not ruled by consent of the people but has employed repressive measures to gain compliance<sup>8</sup>. These authoritarian

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<sup>5</sup> Mpho G. Molomo, Civil-Military Relations in Botswana's Developmental State, African Journal Quarterly, online Journal for African Studies

<sup>6</sup> Randy Joe Sa'ah 'Jungle justice' sweeps Cameroon BBC News, Limbe <http://news.bbc.co.uk/2/hi/5111106.stm> 24/02/2010; Brenda Yufeh [Cameroon: Resurgence of Mob Justice](http://allafrica.com/stories/200707310635.html) 31 July 2007, <http://allafrica.com/stories/200707310635.html> 24/20/2010

<sup>7</sup> Vigilante and neighborhood groups are found in nearly all neighborhoods in the big towns in Cameroon.

<sup>8</sup> Mentah. E, Colonial legacies, democratisation and the ethnic question in Cameroon. (2003, Publications du CIREPE

tendencies have not only alienated constituents, but have also cost a lost of confidence in the military as well as in the police. As such the policies and practices of these forces must be open to public scrutiny. Individuals and communities who are dissatisfied with the military and police services they are getting must be able to air their grievances and have them addressed<sup>9</sup>. The public as a whole must also be able to satisfy itself that it is getting value for money from the forces and that the substantial legal and moral authority entrusted in the forces is not being abused. The police and the military, like any other public body, must be democratically accountable for the powers, resources and trust conferred upon them.<sup>10</sup>

This paper seeks to address the existing framework for democratic accountability of the military and police in Cameroon, evaluates its limitations and offers recommendations on how the democratic accountability of the Cameroon military and police could be enhanced without undermining the capability of the forces to provide safety and security. However, before delving in to this, a prior attempt would be made to trace the role and development of the part played by the military and the police in the democratization process of post colonial Cameroon.

### **3. Colonial Origins of the Military/Police Occupational Culture in the Administration of Contemporary Cameroon.**

Post-colonial Cameroon military and the police are still governed by occupational culture which still echoes a colonial mentality rather than abides by a commitment to service, the rule of law, protection of rights, and professional norms. More to the point, the colonial mindset of military and police managers and agents which accounts for the ineffectiveness of 'good' security providing (i.e., their functional utility)<sup>11</sup> in Cameroon is yet to be given a proper academic

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<sup>9</sup> S Ebai Eban, The Role and Development of Human Rights Based policing in the transition from Dictatorship to Democracy in Cameroon, (Unpublished PhD Thesis, Ire 2007)

<sup>10</sup> Ibid

<sup>11</sup> Alice Hills The Possibility of Transnational Policing , Policing and Society, Volume 19, Issue 3 September 2009 , pages 300 - 317

consideration. This suggests that there is need to re-examine the mind map of both the army and police administrators as well as that of their agents in Cameroon.

A foundational principle of military and police studies is that these state security providers must be developed within the context of the society that permits their operation.<sup>12</sup> At independence Cameroon like all other African states south of the Sahara understood that, the character, roles and priority of the military and police forces must be determined by the political and economic structures within the state.<sup>13</sup> In a reunified Federal Republic of Cameroon therefore, the tasks of the military and that of the police were dictated by contradictions and conflicts of interest among political actors such as federal and federated authorities. The fact that the government, military and police of British Southern Cameroon's derived from the British colonial culture was to coexist with the government, military and police of French Eastern Cameroon derived from the French colonial culture was the first cause for concern. The second was the need to contain the armed conflicts of nationalist political parties like the Union Populaires Camerounaise (UPC) that brought the country to the brink of a civil war during the struggle for independence and the years immediately preceding it.<sup>14</sup> The third concern was that the federal government had to ensure cohesion over the two hundred and fifty different tribes (each sympathising or militating on tribal lines) that formed Cameroon in order to maintain its unity as a state<sup>15</sup>. The fourth and most important is that, leaders that the colonial masters handed power to at the time of independence needed to maintain the colonial model of the army and the police in order to enjoy the same rights and prerogatives as their colonial predecessors

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<sup>12</sup> Ibid

<sup>13</sup> Ettanibi EO Alemika and Chukwuma Innocent, *Analyses of Police and Policing in Nigeria*, (CLEEN Foundation Lagos, 2000), p.4.

<sup>14</sup> Pondi Paul, *La police au Cameroun*, (CEPER Yaounde 1968) pp. 138-140.

<sup>15</sup> S Ebai.Eban *The Role and Development of Human Rights Based Policing in the Transition from Dictatorship to Democracy in Cameroon*, (Unpublished PhD Thesis, University of Limerick Ireland 2007)

had. All these conflicts and contradictions that threatened the preservation of the prevailing social and political order needed urgent attention.<sup>16</sup>

Conscious of this, the Federal government realised that colonial emergency provisions, armed forces and paramilitary police could serve their security interests, just as they had served the interests of the colonial regime.<sup>17</sup> Thus, the essential characteristics of Cameroonian armed forces and the police were derived from European colonial systems and policies that marked the adaptation of colonial patterns of thought and organisation to Cameroonian realities. As early as 1962, the Prime Minister of the English speaking part of a reunified Cameroon, John Ngu Foncha was apprehensive of the military styled and inhuman methods used by the Police of Francophone Cameroon in their criminal investigation functions in a memo to the French speaking President Amadou Ahidjo:

“...Every policeman in West Cameroon is taught to prevent and detect crimes...there are no instruments of torture, and the police are forbidden to beat a suspected person in order to obtain the truth .... these brutal methods of getting the truth from criminals may be instituted in the West Cameroon Police force; for the instrument of torture to extract truth from criminals is considered cruel and barbaric. And these are being used in the East Cameroon”.<sup>18</sup>

In response to his apprehensions President Ahidjo who tried to defend the police of Francophone Cameroon, ended up accepting that the methods were brutal because they were aimed at quelling down subversive activities and promised that these methods would change as soon as paradigms changes.

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<sup>16</sup> Pondi Paul, *op. cit.*, p. 138.

<sup>17</sup> *Ibid.*

<sup>18</sup> Letter No. PMO 414/29 of 22/10/1962 from the PM of West Cameroon Dr John N Foncha to the President of the Federal Republic Amadou Ahidjo”

“The East Cameroon police force have as much respect for human beings as those of West Cameroon, and use in the search for common criminals the same methods as those used in all the countries of the world and which are not the prerogative of the police officers in West Cameroon...the use of inhuman and brutal treatment of suspected criminals by the Police of East Cameroon, are meant to stop those engaged in undermining the security of the state. Once the threats are over, the police methods of investigation would change”.<sup>19</sup>

Almost five decades after the promise of change of methods of policing by President Ahmadou Adhidjo, the Cameroon police and indeed the military have not only remained one of the most brutal and abusive in the continent but has also won the title of the most corrupt police in the world<sup>20</sup>. The immediate reason for the lack of change of methods of operation in the Cameroon armed forces and police is political and has to do with the willingness to open up and embrace democratic governance. The remote and more engrained reason is that, the development, training, management and control of state military and the police are still closely tied to its colonial concepts and methods that have continued to bug down the mind sets of military and police managers and agents since independence.

Although the military has never intervened in politics in Cameroon, a phenomenon that has been a key factor in African politics and a primary preoccupation of traditional civil–military relations<sup>21</sup>, the Cameroon Armed Forces and the police have played a crucial role in the maintenance of successive dictatorial regimes that have ruled Cameroon since independence. In the early

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<sup>19</sup> Letter No. 316/CR/CAB/28 of 30/11/1962; From the President to the PM of West

<sup>20</sup> Transparency International, TI, published on Friday, December 9 2005

<sup>21</sup> Mpho G. Molomo, *Civil-Military Relations in Botswana's Developmental State*, op cit

1970s the military together with the police quelled the last resistant of nationalist struggle that came up at the eve of independence. All through post independent Cameroon the regular army and the police have been used to man road blocks, collect taxes and do several other police duties.

From 1990, Cameroon was ushered in to a transition to democracy but the Beti ethnic group of President Biya, entrusted with the leadership of the armed forces, has prevented any serious challenge to his authoritarian civilian government<sup>22</sup>. The Cameroon army and the police have openly opposed the transition to democracy by forcefully quelling down public rallies and party demonstrations most of which resulted to the killing of many armless citizens. Amongst others, the army and the police have killed peaceful protesters during the launching of the Social Democratic Front (SDF) in 1990 and its subsequent rallies in Bamenda, Kumbo, Kumba, Douala, Yaounde and in many other parts of the country<sup>23</sup>. The 1997 legislative and presidential elections were accompanied by widespread violence that saw the military and the police's brutal intervention. The intervention of the military to stop student strikes in Yaounde and Buea Universities have resulted to several deaths. The joint operational command known as "*Commandement Operationelle* made up of the army, the police and the gendarmerie is probably the worst instance of the military assuming police functions in Cameroon.<sup>24</sup> This operational command did not only carry out arbitrary arrest and torture but also carry out extra-judicial and summary killing and many of their victims were buried in mass graves<sup>25</sup>.

The Cameroon military Generals most of whom were recruited and trained by the colonial administration are still in service. After more than 50 years of service the relevance of these Generals some of whom can not even stand, sit up or walk

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<sup>22</sup> Janes Intelligence insight you can Trust,  
<http://www.janes.com/extracts/extract/cafrsu/comes110.html> 25/01/2010

<sup>23</sup> Amnesty International Reports 1990,1996.

<sup>24</sup> An Irish anarchist in Africa, Cameroun - Cameroon - Kamerun  
<http://struggle.ws/africa/accounts/chekov/cameroon.html> 20/01/2010

<sup>25</sup> Ibid

straight is still very present. Together with the ruling class that also took power from the colonialist they have been able to keep the people of Cameroon under a permanent state of dictatorship. With the advent of year 2011, the election year in Cameroon. A new breed of young men has been recruited and is being prepared to combat the masses in an event of any protest against the wishes of President Paul Biya to stand for re-election.<sup>26</sup>

The effective loyalty of the army and the police in backing the dictatorial government of Mr Biya was reaffirmed in February and May of 2008 when he announced that he was going to take off article 6(2) of the constitution that limited the presidential term of office in order to allow him stand for re-election come 2011. The force and brutality that the army and the police used to quell down the strikes remain eloquent testimony of the support that Mr Biya enjoys from the military and the police. In general, the military is pro-Biya, several generals made anti-reform statements in 1991 and military planes and personnel assist in the President's political campaigns.<sup>27</sup> Patterns of new recruitment into the military remain heavily skewed in favour of the regime's core areas in the Center and South Regions.<sup>28</sup> Since 1992 the defense budget has doubled, and probably for political reasons.<sup>29</sup>

From the foregoing, it is evident that the Cameroon military as much as the police have played a great role to maintain the autocratic regime of Mr. Biya. This role has brought them to the fore front of criticism from the masses. The need to get them to democratically account for their misconduct is ever increasing. Indeed strong arguments have been presented against deploying the military in

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<sup>26</sup> It is popular knowledge in Cameroon that the Battalion de intervention Rapid (BIR) is being prepared to counter the masses in an event of an uprising against the wishes of President Paul Biya.

<sup>27</sup> Musa, Tansa. Cameroon-Politics: Presidential Campaign is One-Man Show. 10/8/97. IPS-Inter Press Service/Global Information Network

<sup>28</sup> Krieger and Takougang 1998; For example, after the 1992 election Biya removed 100 non-Beti troops from his elite security corps

<sup>29</sup> Krieger and Takougang (1998, 227) and "Military" Political Risk Services (The PRS Group) 1997

civilian or police type of operations on the grounds that it would lead to praetorianism.<sup>30</sup> First, the military is not trained or equipped to deal with civilian operations. Their involvement in such operations opens up the possibility that they can use excessive forces, which would undermine their image and credibility. By their very nature and ethos, the police and military are different institutions and must be treated as such. Second, such deployments have the undesirable effect of 'politicizing' the army. South Africa's experience in this regard is worth considering. The heavy involvement of the military in South Africa, which included the use of armored vehicles and live ammunition, in the townships during the state of emergency made life extremely difficult for the average man on the streets. In South Africa, during the hegemonic rule of the "securocrates", P.W. Botha, the then President of South Africa, created the National Security Council which bypassed parliament and made decisions that were said to infringe on civil liberties. The results of such a policy are well known. The South African state not only destabilized the region but was also at war with its own people<sup>31</sup>. Cameroon needs to draw lessons from such experiences.

#### **4. Democratic Methods of Rendering Accountability of the Military and the Police in Cameroon**

In a democratic society, there are a number of institutions that may democratically hold the army and the police accountable for their acts. These institutions include legislative, judicial, administrative and civilian oversight bodies. For want of time and space the scope of this paper is limited to democratically elected institutions like the legislature, and municipal council. However, due to the fact that the Cameroon military and the police are national bodies, their structure and mechanism of accountability do not permit the municipal counselors to demand and receive answers of misconduct from them.

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<sup>30</sup> Richard Dale, "The Politics of National Security in Botswana," in *Journal of Contemporary African Studies*, Vol. 12:1 (1993), p. 45

<sup>31</sup> Mpho G. Molomo, *Civil-Military Relations in Botswana's Developmental State*, *African Journal Quarterly*, online *Journal for African Studies*

This would therefore limit the search for democratic accountability of the Cameroon military and the police to the National Assembly.

In democratic systems, parliaments are an institutional expression of popular legitimacy and accountability.<sup>32</sup> In principle, there are three major ways in which legislatures exercise their functions. These are: law making; budget approval and holding the executive and bureaucracy democratically accountable. The prerogatives of the legislatures ensue from the very principles of democratic systems; therefore, all democratically elected parliaments have similar prerogatives, although the actual scope may vary.<sup>33</sup> However, the parliaments are able to exercise effectively the oversight of the armed forces and the police only on the condition that a rudimentary legislative framework and basic democratic institutions are in place and function reasonably well. Yet even the best designed laws and institutions would not be effective without the supportive attitudes of the major political actors. Hence, the attitudes of the main political forces are the ultimate defining factors for the role and place of parliaments in democratic accountability of the military and the police. In this vein, before examining the National Assembly's performance in delivering accountability in Cameroon, it is necessary to offer in a broad outline an overview of the separation of powers amongst the democratic institutions: the legislative, judicial and the executive powers relevant to military and police accountability in particular and to governmental accountability in general. This broad outline, in comparison with more functional democracies, would provide knowledge on the legislature's capacity and ability to deliver military and police accountability in Cameroon.

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<sup>32</sup> Griffith J & Ryle M, *Parliament: Functions, practice and procedures*, 1989, p. 10; Bruce George, J David Morgan, *Parliament and national security*, Conference Paper, April 1999, p.41.

<sup>33</sup> The British system is a partial exception in this respect, because the executive has a virtual monopoly of power when it comes to making defence policy and the role of the parliament is limited to scrutinising the expenditure and policy of the government in this field. Griffith J & Ryle M, *Above*, 1989, p. 10

## 5. The Separation of Powers and Their Effects on the Accountability of the Army and the Police

Unlike the Constitution of Ireland styled after the Westminster model and that of the United States, where there is separation of powers between the three major organs of State: executive, legislative and judiciary, that of Cameroon is styled after the 1958 Constitution of the Fifth French Republic, where governmental power is separated only between the executive and the legislature.<sup>34</sup> In the Cameroon, like in the French, constitutions the judiciary remains an authority under the executive power.<sup>35</sup> Generally, the President of the Republic and the National Assembly are vested with “democratic legitimacy”, since they are elected through universal suffrage. This is in line with the traditions of constitutions that stipulate, “State authority shall be exercised by the President of the Republic and the Parliament”<sup>36</sup>. The question that comes to mind is: who wields more of the state’s power? Is it the President (Executive) or is it the National Assembly (Legislature)? Normally, the legislature makes laws; the executive applies them and the judiciary administers justice. In Cameroon, through legal and conventional means, the executive, dominated by the President, manipulates and controls the other state organs. The large share of the President’s power is to the detriment of other state organs. The Cameroon constitution has made the president the law. To a large extent, he controls the executive, legislature and the judiciary.<sup>37</sup>

However, within the framework of Max Weber's legal-rational model and the separation of powers, the military is able to define the niche for its operation.

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<sup>34</sup> Articles 4 of the constitution. Also see Part II Chapter I and II of Cameroon Constitution and Title III and IV of 1958 French Constitutions respectively on Executive and Legislative Power.

<sup>35</sup> Part V of the 1996 revised Cameroon Constitution is titled Judicial Power, but a close look at its provisions reveal that the judiciary remain an authority and not a power as the constitution states. For more on this see Title VIII of the French Constitution of 1958 and Part V of the 1996 revised Cameroon Constitution.

<sup>36</sup> Article 4 of the Cameroon Constitutions of 2 June 1972 refers to the President of the Republic as a person and not the Executive.

<sup>37</sup> See section on parliamentary control of the police and the military for a detailed critique of the executive arm of the government.

Kohn notes that the separation of powers minimizes the chances of the executive\Presidents use of the army or the police to overturn the constitution or coerce the legislature.<sup>38</sup> In the case of Cameroon the presidentialist system has facilitated the predominance of the president/executive over the legislature. On several occasions, the Cameroon legislature has not been able to review the defense and police laws and budgets in its presentation in the National Assembly<sup>39</sup>.

## 6. Parliamentary Law Making and Control Functions and their Limits

The Cameroon Constitution states that “Parliament shall legislate and control Government action”.<sup>40</sup> Unlike the Oireachtas in Ireland and the House of Commons in the UK, that enjoy the sole and exclusive power to make laws for their states,<sup>41</sup> in Cameroon the legislature shares this power with the executive.<sup>42</sup> The Cameroon Constitution is cognisant of the fact that the principle of legislative control does not involve a clear distinction between legislative and executive powers, or an insistence on the complete separation of the bodies that exercise those powers.<sup>43</sup> The Assembly possesses the legislative power in the sense that primary laws cannot be made without its consent; this greatly facilitates and enhances legislative control. The principle of legislative control, however, is perfectly consistent with the initiation of proposed laws by the executive, the delegation of secondary law-making powers to the executive, subject to control by the legislature.<sup>44</sup>

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<sup>38</sup> Mpho G. Molomo, *Civil-Military Relations in Botswana's Developmental State*, *African Journal Quarterly*, online Journal for African Studies

<sup>39</sup> *Ibid*

<sup>40</sup> *Ibid.*, Art. 14 (2); Norton. P, Introduction, the institutions of parliaments, Chapter 1of P Norton (ed), *Parliaments and Governments in Western Europe*, 1998, p. 5.

<sup>41</sup> Dermot PJ Walsh, *The Irish Police*, above, p. 368.

<sup>42</sup> Ordinances and Decrees are laws made by the executive.

<sup>43</sup> Norton, P, Introduction, the institutions of parliaments, Chapter 1of P Norton (ed), *Parliaments and Governments in Western Europe*, 1998, p. 5.

<sup>44</sup> See Articles... of the Cameroon Constitution; *Federalist* n. 10, 47, 48, and 51; Kramnick, Isaac, *Republicanism and Bourgeois Radicalism. Political Ideology in Late Eighteenth-Century England and America* (Ithaca: Cornell University Press, 1990), pp. 260-288.

Both the legislature and the executive thus have the power to make laws, but laws made by the executive are subject to legislature's approval. The Constitution specifically delineated the legislative and regulatory domains by stating that matters not reserved under the legislature's power to legislate shall come under the jurisdiction of the regulatory power.<sup>45</sup> Amongst others, the legislative domain includes the safeguarding of individual freedom and security as well as the general rules governing the organization of national defense. These two areas can be inferred to include the military and the police. Thus, laws relating to the creation of the structure and function of the armed forces and the police are constitutionally reserved for the legislative domain.

However, with regards to the subjects listed in the legislative domain,<sup>46</sup> parliament may empower the President of the Republic to legislate by way of ordinance for a limited period and for given purposes.<sup>47</sup> Indeed, this provision has transferred the parliament's law-making powers to the executive. The safeguarding of individual freedom and security as well as general rules governing the organisation of national defense constitutionally placed under the legislative domain has now become a matter of rule rather than of exception legislated by the executive. These provisions have so increased the power of the executive over the legislature that the executive power makes most of the laws in Cameroon. Between 1960 and 1970, out of 505 laws promulgated, only 9 were private member bills, and from independence to this date, almost all military and police laws are decrees and ordinances, laws emanating from the executive.<sup>48</sup> The democratic law-making powers of the Cameroon parliament, a mechanism that would ensure the will of the people in matters of law making has been hijacked and given to the executive by the constitution, greatly reducing the

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<sup>45</sup> See Articles 27 of the French and 37 of the Cameroon constitutions. The areas covered by *statute* are all set out in article 26(2) of the Cameroon Constitution.

<sup>46</sup> Article 26(2)

<sup>47</sup> Article 28, 38 of the French and 28 of Cameroon Constitutions.

<sup>48</sup> Kamdem. JC; Institutions Administrative, Droit Administratif, (Universite de Yaounde.T1, 1988/89), p. 24.

legislature's law-making power in matters concerning the armed forces and the police.

Furthermore, the interface between the executive and the legislature in their relationship to the military and the police must be properly comprehended. The President of the Republic, through the executive or relevant ministry, general delegations, or commissions' officers, formulates military and police policies, procures weapons, and makes plans for future development<sup>49</sup>. The role of the legislature is also well defined. It does not only pronounce the existence of the military and the police but also approves their budget proposed by the executive as well as other policy positions<sup>50</sup>. Through budget allocations, parliament has the most potent weapon of controlling the manner in which the executive directs these security providers. However, in the case of Cameroon this checks and balances are non-existent as parliament is totally controlled by the President through the ruling party.

The Finance law-making power is as of right reserved under the legislative domain.<sup>51</sup> Article 16 (b) of the constitution clearly states: "The National Assembly shall, during one of its sessions, adopt the state budget". The constitution provides that the government tables the draft budget to the parliament, which has 20 days to deliberate and vote on the finance bill.<sup>52</sup> In a situation where the government tables the draft bill late so as not to give parliament up to 20 days to deliberate on it, the government will ask the parliament to give it the power to pass 1/12 of the budget and execute it in the coming month until the parliament is able to pass the finance bill into law. Conversely, where the delay is on the part of the parliament, the government passes the finance bill by decree.<sup>53</sup> These provisions have greatly limited the democratic power of the parliament to

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<sup>49</sup> Article 5 of the Cameroon constitution

<sup>50</sup> Article 24, 25, 26, 27

<sup>51</sup> Art. 26 (2).

<sup>52</sup> Ibid., Art. 16 b.

<sup>53</sup> Art. 51 of Ordinance no 62-OF-4 of 7<sup>th</sup> February, 1962.

financially control the executive and have far-reaching consequences on the democratic accountability of the armed forces and the police. A further limitation of parliament's capacity to hold the government accountable in police matters stems from the constitutional provision that the executive could furnish any answer to the parliament on issues relating to public security and the security of the state.<sup>54</sup> These constitutional provisions have greatly undermined the democratic role of the parliament in controlling the armed forces and the police.<sup>55</sup>

## **7. Other Limitations on the Parliament Ability to Render the Democratic Accountability of the Police and Armed forces.**

### **7.1. Effects of the Ruling Party's Majority on the Democratic Control of the Police**

For a government to remain in power, it must command majority support in the National Assembly.<sup>56</sup> This in turn means that the party or parties in power will normally account for more than 50 percent of the members of the National Assembly. The party whip system also ensures that these members will support government policy in the House. The net effect is that the task of criticizing and challenging government policy or administration will fall on the shoulders of less than half of the democratically elected representatives of the people.

### **7.2. Access to Information and Political Awareness of Members of the House**

Before 1990, the Cameroon parliament was a single-party parliament. When multiparty politics was instituted, a majority of the parliamentarians had still not

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<sup>54</sup> The librarian stated that the 1987 records were the latest ever in the library of the National Assembly. He was optimistic however that others may have been written after this date, but were not brought to the library and may be in the keeping of the Secretary General. All attempts to lay hands on those from 1987 to 2004 failed.

<sup>55</sup> Findings of research carried out in the Cameroon Parliament in February 2004 and 2006.

<sup>56</sup> It should be underlined that in Cameroon members of government including the Prime Minister are appointed. They are not members of parliament, as is the case in Ireland and England.

appreciated that their role was not that of supporting every proposition of the executive by applause, as it used to be. Parliamentarians of the ruling party who are of course in majority in the parliament still continue this blind stewardship role. The unwillingness of the regime to fully embrace the course of democracy has made the executive to minutely control the legislature, even during the voting process. Prior to each voting exercise, the government prepares by making extensive transfers of senior divisional, divisional officers and all other civil servants whose jobs may include anything to do with the organisation and management of elections. These officers are given specific instruction to ensure that a particular candidate is elected in the jurisdiction under their control, his competence notwithstanding. Divisional officers who are known to sympathize with opposition parties are called to the central administration where they would not have a jurisdiction to control. Officers, who do not deliver at the end of the voting exercise, are relieved of their functions immediately after the elections as a form of punishment.<sup>57</sup>

During the last parliamentary elections that took place on 24<sup>th</sup> July 2007, it was widely alleged that the Prime Minister pumped millions of francs in Mamfe central subdivision to have his candidate voted in, irrespective of the fact that the incumbent parliamentarian was of the same ruling party as himself.<sup>58</sup> This practice has not only stifled the course of democracy in Cameroon, but has also continued to put very incompetent people into parliament. Once elected and in parliament, it is common to find most parliamentarians sending “thank you” messages to the President, as though he appointed them. This factor has led the parliament to be variously described as “yessy”; “house of registration”, “rubber

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<sup>57</sup> Divisional Officer of Meme central, Mr Beteck, was relieved of his duty post when he tried to be objective in the vote count in the President Elections in Kumba in 1992. He was not reappointed until his retirement. Many others were and are still being punished in this manner.

<sup>58</sup> Topics from 192 countries, available at <http://topics192.com/2008/10/camerooninoni-unveils-huge-govt.html> 20DEc 2008

stamp”, “and hand clappers”<sup>59</sup>. Parliamentarians of this caliber lack both the know-how and the will to get information to criticize or control the government.

The results of the last parliamentary elections have indeed brought Cameroon back to a one-party state. Out of 180 seats in the parliament, the ruling CPDM party won 165. This will go a long way to keep the fifteen opposition parliamentarians from vital information that could be used to sustain any government criticism. Full information about a general situation or specific incidence is a prerequisite for parliamentarians to challenge the government’s handling of a situation or incident. The opposition’s failure to acquire full information before criticizing the government could be counter-productive, as these criticisms could be based on a lack of understanding or knowledge of the facts. Similarly, opposition criticisms will appear feeble unless it is accompanied by alternative policies or strategies for dealing with the problem in question.<sup>60</sup>

Access to information and expertise is necessary for the National Assembly to effectively carry out its supervisory functions. Unfortunately, the government enjoys a near monopoly on both. With the immense legal, financial and executive resources at its disposal, coupled with the fact that there is no political will to open its doors to opposition parliamentarians, the government can ensure that all relevant facts about an incident or general issue are concealed or made available to it quickly. The permanent civil service being at the disposal of the government is a key resource in this scenario.<sup>61</sup> The effect is that when controversy has arisen over a particular incident or general situation requiring government action, the government can confront the National Assembly and the media, armed with

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<sup>59</sup> Moyer, GB, Commentary on the presidential circulaire no 002/cab/pr du 27 avril 2001 relative au devoir de solidarité gouvernementale in *juridis periodic* (Presses Universitaires d’Afrique ‘P.U.A’ Oct, Nov, Dec, 2001), p. 3.

<sup>60</sup> Dermot PJ Walsh, *The Irish Police*, above, p. 372.

<sup>61</sup> Above, p. 372.

all the necessary information and expert advice.<sup>62</sup> Because the opposition must rely on its own resources to gather information and acquire expertise, in addition to what the government chooses to make available, it will rarely be able to challenge the government from a position of equal strength. This inequality must undermine the National Assembly's capacity to function in a supervisory capacity.

On the whole, parliament's ability to deliver democratic armed forces and police accountability in Cameroon is greatly limited. The significance for the police and the army is that the government would not allow laws concerning police and army recruitment, promotion and finances to be altered by any parliamentary scrutiny. The government would invariably want the parliament to vote on matters they consider of great importance without any debate or questioning. At best, any response could be given in matters concerning public security and criminal investigation. Furthermore, the colonial heritage of the Cameroon army and the police and the neo-colonial quest to have political power maintained by a select few continue to weaken parliament's power to hold the deliver accountability. As of today, hopes for better parliamentary scrutiny of the army and the police in Cameroon are fast fading due to the landslide victory of the ruling party in the July 24<sup>th</sup> 2007 parliamentary elections. Before the July 24<sup>th</sup> 2007 parliamentary elections the opposition (though to a limited extent) was able to get the government speak out on some heinous crimes committed by the police and the military, but today with seemingly no opposition in the parliament, police brutality and unaccountability will rise to levels unknown elsewhere.

## **8. Conclusion and Recommendations**

The process applicable to democratic police accountability in Cameroon is the same as that which applies to any other service provided by the government.

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<sup>62</sup> This situation was clearly manifested in 2001 when the spokesman for the government asked the National Assembly to stay calm while the executive furnished them with information on the whereabouts of the nine boys who disappeared in police custody.

There are, however, many factors peculiar to the Cameroon military/police, which have a very distinct bearing on its democratic accountability. The first is the constitutional provision on the force. Article 35(2) provides: "The Government shall, subject to the imperatives of national defense, the security of the state or the secrecy of criminal investigation, furnish any explanations and information to Parliament". Despite the existence of channels of checks and balances, accountability in the military and the police continues to be elusive and shrouded by a cloak of secrecy. It needs to be emphasized that democracy is enhanced when public officials are accountable to elected officials. When accountability is lost, there is a great chance of corruption and mismanagement.

It is probably with respect to the military that Kenneth Good's assertion of "authoritarian liberalism" is most applicable. The procurement of arms and operations of the Cameroon armed forces as well as the police are surrounded with a cloak of secrecy even to the extent of denying such information to members of parliament. Nevertheless, it is an undisputed fact that the right of the public to know how their tax monies are spent is an indispensable part of democratic governance. Yet, the Cameroon police and armed forces take serious exception at such inquiries.

The role of the opposition and the backbench is instructive in parliament to sensitize the public about the role of the police and armed forces and also to drive home the point that they are accountable to the National Assembly. Regrettably, the executive seems to be oblivious of this fact. It seems to regard the need for public accounting, especially when it has to do with the military and the police as unpatriotic.

The Cameroon Police and Armed forces personnel have the impression that the army and the police is entitled to a degree of immunity from the norms and controls under which the rest of the population lives" . Due to the sensitivity of security information, a false impression has been created that the army is not

obliged to release any information about its operations and procurement of arms. On several occasions, the military has denied public access to military information. In many cases, the government has declined offering any tangible explanation of police excesses on the basis that the force acted in self-defense or in the general interest of the state.<sup>63</sup> The inevitable result is that parliament finds itself discussing aspects of policing which have caused acute public concern in the absence of the only person who can answer directly for the matters in question and who can accept responsibility for taking appropriate remedial measures where necessary.

Over the years, there have been altercations between the army/police and the media. They do not take kindly to public scrutiny and do not see eye to eye with the press. The press is described as "irresponsible". As much as the press should be reminded that they must be responsible in their reporting and must make sure that they check their facts, it is worrying that the press is expected to practice self-censorship when it comes to military and police matters. A complementary relationship should exist between the army and the press. It must be born in mind that "the military and the police rely on the press to keep a finger on the pulse of public opinion." For its part, the press needs the "sanctuary of military security to prosper." It cannot be overemphasized that Cameroon needs an open policy on matters of defense and national security. If information cannot be released even to parliamentarians who are the country's legislators, one wonders whether at the administrative level, financial auditing and accountability are able to break this cloak of secrecy.

The second factor borders on the very sensitive nature of the service provided by the police. For instance, their role in the law enforcement process ensures that many of the decisions taken by individual members are quasi-judicial in nature.

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<sup>63</sup> The shootings of protesters in Bamanda, Kumbo and in Douala. The student killings in the University of Yaounde in 1991-1992 and the most recent student killings of the University of Buea are glaring examples.

The decisions to arrest and charge in any individual case, for example, can be viewed as integral parts of the judicial process and, as such, they must be accorded the independence attached to that process. It would be inappropriate, therefore, for a Delegate General to accept responsibility for, or assume the power to direct, such decisions.<sup>64</sup>

Thirdly, even in situations where there is no quasi-judicial law enforcement dimension to its role, the police can usually escape the full glare of democratic accountability attached to other public services. This could be attributed to the government's lack of democratic will. As soon as political parties were legalized in Cameroon in 1990, there were calls for a sovereign national conference to restructure state institutions to suit the nascent political plurality. The resistance of state authority who termed such a conference "baseless" soon resulted in conflicts and confrontations. A civil disobedient campaign that resulted in a "ghost town operation" was launched. To maintain the status quo, the authorities deployed the police/military to forcefully bring the situation under control. This was the beginning of the government's relentless efforts to frustrate any democratic plurality in Cameroon. Thereafter, a spiral of violence all over the country led to the declaration of a state of emergency and an increase of police powers in the creation of joint police, gendarmerie and military task force as the "*Commandement Opirationnel*".<sup>65</sup> In the year 2008 the constitution was changed to take away article 6(2) of the constitution limiting the presidential mandate so that he could continue to rule after the expiration of his last term in 2011. This move sparked an uproar were citizens took to the streets in protest. Again the police was deplored to forcefully put the situation under control. During all these periods, several police atrocities were committed and the government either ignored them or simply covered them up, with the explanation that they were

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<sup>64</sup> Dermot PJ Walsh, *Police Accountability in Ireland, an analyses of the problems posed by the legal, constitutional and political dimensions and how they may be addressed* (un published thesis, 1992).

<sup>65</sup> Decree No 200/o27 of 20<sup>th</sup> Febraury 2000 on the Creation and Organisation of the Comandemant Operationnel.

done in defence of the state or in self-defence of the officer involved.<sup>66</sup> The knowledge on the part of the government and public representatives that the police are maintaining order that would ensure the existence and survival of the regime would act against police/military accountability.<sup>67</sup> The government is aware that an insistence on calling the police/military to account could undermine its capacity to perform this critical role. Since government ministers have a particularly strong vested interest in maintaining the status quo, they are inclined to adopt a lukewarm approach to the democratic accountability of the police/military.<sup>68</sup>

In Cameroon, effective mechanisms for querying, much less contesting or contributing to, police/military policy and operations are lacking. In the absence of a democratic will, autonomous, independent and free-thinking electoral authorities, independent judiciaries, and the provision of equal access for competing political factions to government controlled media, effective internal and external oversight mechanisms, victims of excessive police/military brutality and several other human rights abuses are often left with no other option than to “lick their wounds quietly”. Others have turned to rely on getting their message across through the much-harassed international and private media, as well as international human rights NGOs as the Human Rights Watch and Amnesty International. Regardless of their influence, Cameroon has remained reluctant to commit itself to the imperatives of democracy and respect for human rights.<sup>69</sup>

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<sup>66</sup> The shootings of an armless protester in Kumbo was said to be in self defence the Minister of Communication, Professor Kouchou.

<sup>67</sup> See *Jeune Afrique Economic*, (20 Nov-3 Dec 2000,), p. 56, for the defence of police atrocities in Douala under the Comandement Operationnel by Professor Kouchou, Minister of Communication and spokesperson for the government.

<sup>68</sup> See *Jeune Afrique Economic*, (20 Nov-3 Dec 2000).

<sup>69</sup> The Cameroon Human Rights record is amongst the worse in the world. See variously Amnesty International Reports, Transparency International Reports, Human Rights Watch, United States Embassy Reports and Several United Nations Reports on Human Rights and Democracy in Cameroon from 1990 –2009.

It is submitted that in order to achieve real democratic accountability of police/military in Cameroon, the government must be prepared to fully embrace the principles of participatory democracy. Laws including the Constitution must be revised to accommodate fully functioning democratic institutions. The arms of the government must be structured properly and enabled to work within and subject to a system of checks and balances. Above all, the idea of a state based police/military should gradually be changed to a people's or community based, primarily concerned with the welfare of the people and not of the ruling class. Internal and external oversight bodies should be put in place and empowered to carry out their duties. Lastly the armed forces should return to the barracks and learn to carry out their traditional roles. Until all these is done then, would the state security sector would be enhanced to ensure better governance.