



Institut für Föderalismus  
Institut du Fédéralisme  
Institute of Federalism

**IFF Working Paper Online No 36**

## **Reinforcing decentralisation and constitutionalism under the 1996 Constitution of Cameroon for peace- building and development**

CHRISTIAN AIMÉ CHOFOR CHE

August 2023

Citation: Chofo Che C.A., Reinforcing decentralisation and constitutionalism under the 1996 Constitution of Cameroon for peacebuilding and development, IFF Working Paper Online No 36, Fribourg, August 2023.  
<https://doi.org/10.51363/unifr.diff.2023.36>

University of Fribourg  
Institute of Federalism  
Av. Beauregard 1  
CH-1700 Fribourg

Phone +41 (0) 26 300 81 25

[www.federalism.ch](http://www.federalism.ch)



UNIVERSITÉ DE FRIBOURG FACULTÉ DE DROIT  
UNIVERSITÄT FREIBURG RECHTSWISSENSCHAFTLICHE FAKULTÄT


The IFF Working Paper Online series and other publications of the Institute of Federalism, Fribourg are available on the IFF website [www.unifr.ch/federalism/en/research/](http://www.unifr.ch/federalism/en/research/).

© IFF, 2023

Institute of Federalism, University of Fribourg  
Avenue Beauregard 1  
1700 Fribourg  
Switzerland  
[federalism@unifr.ch](mailto:federalism@unifr.ch)



This work is published under a Creative Commons Attribution 4.0 International License (CC BY 4.0): <https://creativecommons.org/licenses/by/4.0>.

Author(s): Christian Aimé Chofofor Che   
<https://orcid.org/0000-0002-3606-4204>

The papers are published in the name of the author(s). Their view does not necessarily reflect the view of the Institute of Federalism.

DOI: <https://doi.org/10.51363/unifr.diff.2023.36>

ISSN: 2813-5261 (Online)

## Table of Contents

A) Introduction .....	5
B) Historical background of governance in Cameroon .....	7
C) Major challenges faced by Cameroon's governance machinery .....	9
1. The Anglophone problem as a result of Cameroon's dual colonial heritage .....	9
2. The paradoxical cohabitation between deconcentrated and decentralised authorities .....	10
3. Insufficient service delivery .....	12
4. Difficulties in managing ethnic diversity .....	13
5. Inadequate protection of minority concerns for indigenous groups and women.....	13
6. A weak foundation for constitutionalism and the rule of law .....	14
7. A skewed fiscal and economic development agenda .....	15
D) The status-quo and a critique of the decentralisation and constitutionalism framework .	15
1. The special status arrangement for the Anglophone regions in the self-rule agenda	15
2. Shared rule in the governance architecture .....	17
3. Supervision, inter-governmental relations and cooperation .....	18
4. A porous architecture for constitutionalism and the rule of law .....	21
5. The role of the Constitutional Council .....	24
6. The fiscal decentralisation design .....	25
E) A way forward .....	27
1. A better disarmament, demobilisation and reintegration agenda .....	27
2. Tackling the paradoxical cohabitation between deconcentrated and decentralised authorities .....	28
3. A rights-based approach to service delivery .....	29
4. More political inclusion of marginalised groups at the national decision-making level .....	30
5. Adequately qualified human resources to staff local government institutions.....	31
6. Rethinking the modus operandi of the Constitutional Council .....	31
7. Local fiscal management autonomy as a trigger for more development opportunities.....	32
F) Conclusion .....	34
Bibliography.....	35

## **Abstract**

Cameroon faces an array of serious governance challenges today which include difficulties in handling the country's inherited dual-state colonial heritage, particularly the perception of marginalisation by the Anglophone community. Other challenges include usurpation of duties of decentralised authorities by deconcentrated authorities, providing adequate service delivery at the local government level, upholding constitutionalism, limiting ethnic tensions, tackling minority concerns and a weak fiscal decentralisation agenda. An examination of the constitutional and legal framework of decentralisation under the 1996 Constitution, shows that these issues have not been adequately addressed under the current dispensation. Thus, there is need for some fundamental changes that would strengthen self and shared rule for better service delivery especially at the local government level. There is also a need for more power sharing at the central government level, the need for robust constitutionalism and human rights and a better fiscal decentralisation agenda.

## **Keywords**

Decentralisation, constitutionalism, diversity management, service delivery, democracy, human rights

## A) Introduction

Anglophone African countries such as South Africa and Kenya have made serious strides in entrenching provisions on decentralisation in their constitutions.<sup>1</sup> Nonetheless, this has only gradually been adopted in Francophone or civilian-style constitutions like those of Cameroon and the Democratic Republic of Congo (DRC).<sup>2</sup> Although entrenching provisions on decentralisation is important in adding authenticity to the process, not entrenching these provisions in a constitution does not necessarily entail the nonexistence of decentralisation. Botswana is an example of a country which has instituted an extensive system of decentralisation via local government by the use of secondary legislation. Botswana's Local Government Act of 2012, adopted by its legislative arm of government rather than the constitution, has been instrumental in the country's decentralisation process.<sup>3</sup>

Cameroon still faces a lot of governance challenges despite the entrenchment of decentralisation in the 1996 Constitution of Cameroon (the 1996 Constitution). A major challenge which shall be examined in this contribution is the perceived marginalisation of Anglophone Cameroonians since independence, which is termed today as the 'Anglophone problem'. The two Anglophone regions in the country were granted a special status in 2019, as an attempt to find a solution to clamours for secession and/or a federation.<sup>4</sup> It is important to note that Anglophone Cameroonians make up 20 percent of a population of 28,647,293 inhabitants as of 2023.<sup>5</sup> Despite according a

---

<sup>1</sup> South Africa has equally elaborately entrenched decentralisation in sections 103-164 of the Constitution of South Africa, 1996. Kenya has elaborately entrenched decentralisation in articles 174-200 of the Constitution of Kenya, 2010.

<sup>2</sup> 'French constitutions' and 'Civilian-style constitutions' in this context refer to French-speaking Africa in general as well as Lusophone and Hispanophone African countries that have opted for the continental civil law constitutional model. See also Fombad, C.M., Introduction to Decentralisation and Constitutionalism in Africa, in C.M. Fombad & N. Steytler (ed.), *Decentralisation and Constitutionalism in Africa*, Oxford, United Kingdom: Oxford University Press, 2019, 16.

<sup>3</sup> Local Government Act, 18 of Botswana, 2012. See also Sharma, K.C., Role of Local Government in Botswana for Effective Service Delivery: Challenges, Prospects and Lessons, *Commonwealth Journal of Local Governance*, (7), 2010, 137. See also Fombad, C.M. (2019) 3.

<sup>4</sup> Teke, E., Key resolutions of the major national dialogue, Cameroon Radio Television, available at <http://www.crtv.cm/2019/10/cmrdialogue-key-resolutions-of-the-major-national-dialogue/> (accessed 18 March 2023). See also Teke, E., Major national dialogue: Peace caravan explains expectations, Cameroon Radio Television, available at <http://www.crtv.cm/2019/11/major-national-dialogue-peace-caravan-explains-expectations/> (accessed 18 March 2023). The major recommendations of the Major National Dialogue included the need to grant a special status to the North West and South West regions, in conformity with section 62(2) of the Constitution. Other recommendations included the need to reinforce the autonomy of decentralised local entities; the need to take specific measures to ensure equality of the English and French languages in all aspects of national life; the need to improve upon the infrastructure of judicial services throughout the country; the need to strengthen the humanitarian assistance to better serve internally displaced persons; the necessity to institute a special plan to reconstruct the conflict affected areas; the importance for double nationality to be granted to the Cameroonian diaspora; the need to popularise the head of state's offer of amnesty to combatants who drop their weapons and enter the reintegration process; and the need to create a team responsible for mediation with radicalised members of the Cameroonian diaspora. The Prime Minister then dispatched delegations to the two Anglophone regions to sensitise the people on the necessity to accept these recommendations. There is no gainsaying that the national dialogue brought hopes for peace in the two Anglophone regions. It is important for some of these recommendations, especially the content of the suggested special status, to be endorsed by the Cameroonian population. If not, development in these regions will remain futile because of the ongoing conflict.

<sup>5</sup> Earthly Data for earthly beings, Population of Cameroon, available at <https://database.earth/population/cameroon> (accessed 24 March 2023). See also Chofor Che, C.A., Rethinking the façade of decentralisation under the 1996 Constitution of Cameroon, *Global Campus Human Rights Journal*, (4) 2020, 139.

special status to the Anglophone regions by the government of Cameroon, there is still armed conflict in these regions, making service delivery and development efforts futile. Armed conflict and the presence of armed combatants in the Anglophone regions continues to hamper peace efforts. To add to this melee, several ministerial departments are reluctant to devolve competencies and financial resources to the local level.<sup>6</sup> Furthermore, the ushering in of bicameralism, with a Senate to act as an upper house or second chamber to the National Assembly, is seriously compromised by the fact that this institution is subservient to the executive and has little power to influence or initiate the content and substance of legislative acts. Additionally, the Constitutional Council (the Council), which is supposed to have exclusive jurisdiction over constitutional matters, only became operational in February 2018 and still has to prove its worth in upholding the constitutionality of laws.

Cameroon is endowed with an executive,<sup>7</sup> a legislative<sup>8</sup> and a judiciary.<sup>9</sup> The 1996 Constitution makes provision for decentralisation of powers via the creation of regional and local authorities. In its Article 1 (2), the 1996 Constitution, stipulates that: "*Cameroon shall be a Decentralised Unitary State*". The country is divided into 10 regions with appointed Governors at the helm who coordinate the activities of appointed Senior Divisional Officers (SDOs) or Prefects and Divisional Officers (DOs) or Sub-Prefects. The country is further divided into 58 divisions or departments coordinated by Prefects. Alongside these appointees, are elected mayors, city mayors and presidents of regional councils and assemblies. The decentralisation architecture is therefore a mélange of deconcentrated services operating on the same terrain with decentralised authorities.<sup>10</sup> This contribution, which is doctrinal in nature, therefore examines the decentralisation design under the 1996 Constitution. This is in a bid for the process to better accommodate diversity amongst other challenges in Cameroon, along the lines of some of the recent developments around the 2019 General Code on Decentralisation. The contribution commences with a historical background and examines some major challenges faced by the governance system. This is proceeded by an examination of the *status quo* of the decentralisation architecture, as well as a critique of

---

<sup>6</sup> Law no. 2019/24 of December 24, 2019, to Institute the General Code of Regional and Local Authorities (the General Code on Decentralisation, 2019).

<sup>7</sup> Article 11 of the 1996 Constitution of Cameroon stipulates that 'the Government shall implement the policy of the nation as defined by the President'. Article 12(1) of the 1996 Constitution declares the Prime Minister as the head of government who 'shall direct its action'. The 1996 Constitution thus gives exclusive powers of law-making to the government or, more precisely, the President. It also gives him quasi-judicial powers in at least three respects. First, article 8(8) confers on him 'statutory authority'. It is on this basis that he makes presidential decrees. Secondly, article 27 states that issues not reserved to the legislative authority shall fall under the jurisdiction of the power with authority to issue rules and regulations. Finally, the President may also exercise his regulatory power in the domain usually reserved to the legislative arm of government. Such regulations are called ordinances, and need to adhere to the procedure laid down in article 28.

<sup>8</sup> According to article 14 of the 1996 Constitution of Cameroon, legislative power is conferred on Parliament, which is constituted of two Houses: the National Assembly and the Senate. Notwithstanding that article 14(2) stipulates that both the National Assembly and the Senate, acting as Parliament, 'shall legislate and control government action', they do not operate on an equal basis as they do not possess the same powers: the Senate has less influence and powers than the National Assembly.

<sup>9</sup> Article 37 of the Constitution of Cameroon, 1996.

<sup>10</sup> In the Cameroonian context, decentralised authorities are elected officials such as mayors and presidents of regional councils. Deconcentrated authorities are appointed officials by the President of the Republic, the Prime Minister and other Ministers and represent the central government at the local and regional levels. These officials include Governors, Prefects, Sub Prefects, who represent the President of the Republic and all the Ministers in their various administrative units. Deconcentrated authorities equally include regional and divisional delegates of deconcentrated services such as basic education and health.

this architecture. The paper then makes suggestions on elements such as a rights-based approach to service delivery, and a more conducive fiscal decentralisation agenda amongst other elements, which may make the decentralisation design more suitable for peace and development.

To appreciate the present system of decentralisation under the 1996 Constitution it is necessary to briefly look at the historical background of how the system was established and how it has evolved with the existing challenges. This is done in the following section.

## **B) Historical background of governance in Cameroon**

Cameroon as a political entity emerged from the colonisation of Africa by Europeans.<sup>11</sup> The present-day Cameroon as well as some segments of its neighbours, was an outcome of the Berlin Conference of 1884, when it was declared a colony of Germany with the name “Kamerun.” It was a German colony until a combined French and British military force conquered the German army in Cameroon in 1916 during the First World War and demarcated the territory into two. The French took the larger part made up of about four-fifths of the territory, while the British took two small-disconnected portions, which they named Southern and Northern Cameroon respectively. This partition was later on acknowledged by the League of Nations and its successor the United Nations (UN). Britain effectively governed its two disconnected segments as simply portions of its next-door Nigerian colony while the French administered its unit via direct rule. However, under a plebiscite which was conducted by the UN on 11 February 1961, the Southern Cameroons voted in favour of uniting with the former French Cameroon which had already gotten its independence as the Republic of Cameroon on 1 January 1960, while the Northern Cameroons decided to remain and is today part of parcel of the Federation of Nigeria.

After the plebiscite which took place in Southern Cameroons, the Southern Cameroonian delegation, attempted to arrive at a new constitutional arrangement with Ahmadou Ahidjo, the then President of Cameroon. This constitutional arrangement was to put in place a fairly loose and decentralised federation. It is argued that the negotiating power of the Southern Cameroonians may have been very weak, which led President Ahidjo to make some concessions from their proposals by simply amending the 1960 Constitution by an annexure termed ‘transitional and special dispositions’. This occurred because the francophone Cameroonian delegation may have been politically more experienced, owing to assistance from French constitutional experts, as compared to their Anglophone counterparts who had little or no assistance whatsoever from the British. In actual fact what became the Federal Constitution of the Federal Republic of Cameroon was simply a law revising the Republic of Cameroon’s Constitution of 4 March 1960. The reunification not only brought together people of different backgrounds inherited from the French and the British but also a multitude of about 250 ethnic groups with over 270 various languages.<sup>12</sup> Faced with

---

<sup>11</sup> Some form of governance existed in Cameroon before the coming of the Europeans. While the northern part of Cameroon was subject to influence from the Islamic kingdoms in the Sahel and the Chad basin and, the south was largely ruled by small kings, chieftains, and fons. The first Europeans to arrive in Cameroon were the Portuguese, but the Germans were actually the first to colonise the territory.

<sup>12</sup> The plebiscites took place in February 1961. The population of Northern Cameroons voted as follows: For joining the Federation of Nigeria-146,296; For joining the Republic of Cameroon-97,659. Southern Cameroon voted as follows: For joining the Federation of Nigeria-97,741; For joining the Republic of Cameroon-233,571. See also Fombad, C.M., Cameroon and the Anomalies of Decentralisation with a Centralist Mindset, in C.M. Fombad &

such a mixture of linguistic, cultural, and ethnic groups having various interests and aspirations, at independence, the then government needed to set up an institutional framework to manage diversity under an umbrella of unity, particularly between Anglophone and Francophone Cameroonians. Apparently, diversity was not adequately managed under the 1961 Federal Constitution as well as under the 1972 Unitary Constitution. When President Ahidjo's successor, President Paul Biya took over in 1984, the appellation United Republic of Cameroon was replaced with Republic of Cameroon.<sup>13</sup> As shall be examined, Anglophone Cameroonians are still to adequately benefit from the autonomy which was hoped for under the unity as envisaged by the 1996 Constitution.<sup>14</sup> It was expected that the 1996 Constitution would furnish a much-needed framework for promoting the rule of law, adequate decentralisation and constitutionalism by enhancing good governance and democracy, curbing ethnic tensions, and finding a solution to the Anglophone problem,<sup>15</sup> amongst other things. Most research that has compared the 1996 Constitution to recently revised constitutions or new ones clearly shows, however, that it has done nothing more than simply strengthen the philosophy of the original 1972 Constitution as well as several of its underlying principles.<sup>16</sup>

Having thrown some light on the historical background of governance in Cameroon, it is important to examine major challenges faced by Cameroon's governance architecture, issues which

---

N. Steytler (eds.), *Decentralisation and Constitutionalism in Africa*, Oxford, United Kingdom: Oxford University Press, 2019, 328.

<sup>13</sup> Fombad argues that this act was unconstitutional since it changed the country's status from what had been agreed upon through popular consultation with the two territories that converged to form both the united republic which succeeded the then federation. See Fombad (2019) 330-331.

<sup>14</sup> The 1961 Federal Constitution of Cameroon, created a two-state federation made up of East Cameroon, corresponding with the former French Cameroun and West Cameroon, made up of the former British Cameroons. Remarkably, the 1961 Federal Constitution of Cameroon made no major alterations to the formal government arrangements that had existed separately in East and West Cameroon before reunification. On the important aspect of the division of powers between the spheres of government, article 5 of the 1961 Federal Constitution of Cameroon gave the central government responsibility over issues such as national defence, border disputes between federated states, press and broadcasting, regulation as to procedure and otherwise of the Federal Court of Justice, nationality issues, rules governing the conflict of laws, higher education and scientific research amongst several pertinent issues. Article 6 (1) of the 1961 Federal Constitution also accorded central government powers over issues such as criminal law, human rights, prison administration, law of persons and property, labour law, public health as well as secondary and technical education amongst several important competencies. This means that the Central government was domineering over the affairs of the two federated states of East and West Cameroon. For instance, although Article 4 of the 1961 Federal Constitution bestowed federal authority in both the President and the Federal Assembly, the President eventually obtained wide-ranging powers which made him dominate and control all national institutions. Such moves definitely made the federal arrangement a *sham ab initio*. For a history of the origin of the problem also see Caxton, A.S., *The Anglophone Dilemma in Cameroon*, Accord: Conflict Trends 2, 21 July 2017, available at <http://www.accord.org.za/conflict-trends/anglophone-dilemma-cameroon/> (accessed 4 March 2023). See also Kevin Mgwanga Gunme et al v Cameroon, Communication 266/2003, available at <https://african-lji.org/afu/judgment/african-commission-human-and-peoples-rights/2009/99> (accessed 9 March 2023).

<sup>15</sup> Anye, F.E., *Issues of minority in the context of political liberalisation: The case of Anglophone Cameroon*, unpublished PhD thesis, School of Social Sciences, Faculty of Arts, University of the Witwatersrand, 2008, 166. There are about four factions in the Southern Cameroon National Council (SCNC), with each group claiming to be the authentic SCNC. Some SCNC activists are for secession, while others are for federalism. Infighting within the SCNC and with other Anglophone movements has weakened the quest of the Anglophone struggle for self-determination. However, although there is infighting within the ranks of the SCNC, the nationalist struggle is far from over.

<sup>16</sup> Fombad, C.M., *Post 1990 Constitutional Reforms in Africa: A Preliminary Assessment of the Prospects for Constitutional Governance and Constitutionalism*, in A.G. Nhema & P.T. Zelza (eds.), *The Resolution of African Conflicts: the management of conflict resolution and post-conflict reconstruction*, OSSREA & James Currey, Oxford, 2008, 179-199.



hamper peace and development. An overview of these challenges will be important in examining the *status-quo* as well as in offering a critique of the decentralisation and constitutionalism framework. This is done in the following section.

## **C) Major challenges faced by Cameroon's governance machinery**

### **1. The Anglophone problem as a result of Cameroon's dual colonial heritage**

Following German colonisation and dual British and French rule, the reunified post-independence Cameroon was, until about 1990, regarded as one of the few peaceful and stable countries in Africa. For many years, Cameroon narrowly escaped the cycles of political and economic turmoil that plagued other African states. This was inspiring for a country with such ethnic and linguistic diversity. In addition, the union between the dominant Francophone majority and the Anglophone minority, despite its imperfections, remained intact. In the early 1990s, due to much discontent coupled with economic recession, the government of Cameroon was forced to introduce a form of multiparty democracy.<sup>17</sup>

Strong demands for crucial constitutional reforms led to the 1996 amendment to the 1972 Constitution, with decentralisation as a leitmotiv for peace and development. The complete rejection of a federalist system of government and the labelling of its proponents as agents of division or secession, happening at a time of rising tension between Francophone and Anglophone Cameroonians, and combined with doubts being cast on the value of democracy as an instrument of peaceful change, triggered claims of whether Cameroon is a bi-cultural and bilingual country. It came as no surprise that in October to December 2016, teachers and lawyers from the South West and the North West regions went on strike. The requests, especially from Anglophone lawyers, ignored until then by Cameroon's justice ministry, were related to the justice system's failure to adequately utilise the common law in the two Anglophone regions. The lawyers requested the translation into English of the Code of the Organisation for the Harmonisation of Business Law in Africa (with French acronym OHADA) and other legal texts. They objected to the 'francophonisation' of common law jurisdictions.<sup>18</sup> Concerns of an intentional policy of 'de-identification' and assimilation became acute before 2018, especially as Francophone judges and prosecutors with hardly any or very little knowledge of the English legal system were appointed to work in the Anglophone regions.<sup>19</sup> The threatened elimination of the English legal system, widely considered one of the last vestiges of the inherited English culture in the country, probably is some of the clearest evidence that the overriding policy objective is one of unity pivoted on suppression and harmonisation of differences rather than the accommodation of such differences.

Secessionist groups also emerged since January 2017. They took advantage of the Anglophone crisis to radicalise the population with support from a segment of the Anglophone diaspora. This radicalisation has fueled the armed conflict and led to many deaths in the Anglophone

---

<sup>17</sup> Fombad (2019) 331-332. See also Chofofor Che, C.A., An analysis of decentralisation under the 1996 Constitution, unpublished PhD thesis, Centre for Human Rights, Faculty of Law, University of Pretoria, 2019, 54-55.

<sup>18</sup> Crisis Group Africa Report 250, Cameroon's Anglophone crisis at the crossroads, International Crisis Group, 2 August 2017, available at <https://www.crisisgroup.org/africa/central-africa/cameroon/250-camerouns-anglophone-crisis-crossroads> (accessed 30 April 2023).

<sup>19</sup> US Department of State, Bureau of Democracy, Human Rights and Labor, Cameroon Country Report of Human Rights Practices, 2015, available at <https://2009-2017.state.gov/documents/organization/252873.pdf> (accessed 10 March 2023).

regions.<sup>20</sup> These groups continue to instill terror on the population in the North West and South West regions. The armed conflict needs to be resolved for peace and development to be possible.

A main initiative undertaken by the government of Cameroon in a bid to address the Anglophone crisis is the major national dialogue, convened by the President on 10 September 2019. It commenced on 30 September 2019 and ended on 4 October 2019. An important outcome of this dialogue, as was mentioned in the introductory part of this contribution, was the provision of a special status for the two Anglophone regions in the 2019 Decentralisation Code.<sup>21</sup> Another outcome of the major national dialogue was the creation of the National Disarmament, Demobilisation and Reintegration Commission (DDR Commission) on 30 November 2018 by the President of Cameroon in a bid to quell the armed conflict.<sup>22</sup> Though a very crucial step in a peace building process, Anglophone Cameroonians criticised the creation of such a commission as too little, too early and regretted that this organ will not produce expected results especially as the armed conflict is ongoing.

## 2. The paradoxical cohabitation between deconcentrated and decentralised authorities

A disturbing aspect plaguing the decentralisation architecture in Cameroon is the potentially diluting consequences flowing from the co-existence, within the same geographical area, of a hierarchy of deconcentrated administrative functions that overlaps with a similar hierarchy of decentralised political areas, both of which are under the control of the former.<sup>23</sup> As shall be examined, this is occurring in the midst of inadequate financial resources and poor service delivery. Such a compromising and diluting effect may well have to do with the objectives of the decentralisation process. In this respect, the objectives of Cameroon's decentralisation process are, by the standards of most contemporary good practices, limited and modest. Article 55(2) of the 1996 Constitution simply stipulates that 'the duty of the councils of regional and local authorities shall be to promote the economic, social, health, educational, cultural and sports development of the said authorities'. It is rather disturbing for decentralisation to focus only on promoting the development of the 'said authorities' and not also the development of local communities. This may have been intentionally put in so as to guarantee the supervisory powers of deconcentrated authorities. As shall be examined, the outcome of this is usurpation of powers by deconcentrated authorities which hampers the development of local communities. The 2019 Decentralisation Law adds to the conservative objectives of decentralisation by stating that decentralisation shall constitute the basic driving force for promotion of development, democracy and good governance at the local level.<sup>24</sup> This position on the objectives of decentralisation in Cameroon is echoed by authors like Mounbou Mbenda and Bekono.<sup>25</sup> This makes sense but the imperatives of modern constitutionalism and the trends in Africa necessitate more.<sup>26</sup>

---

<sup>20</sup> Crisis Group Report (2017) 15.

<sup>21</sup> Section 327 of the Decentralisation Code, 2019.

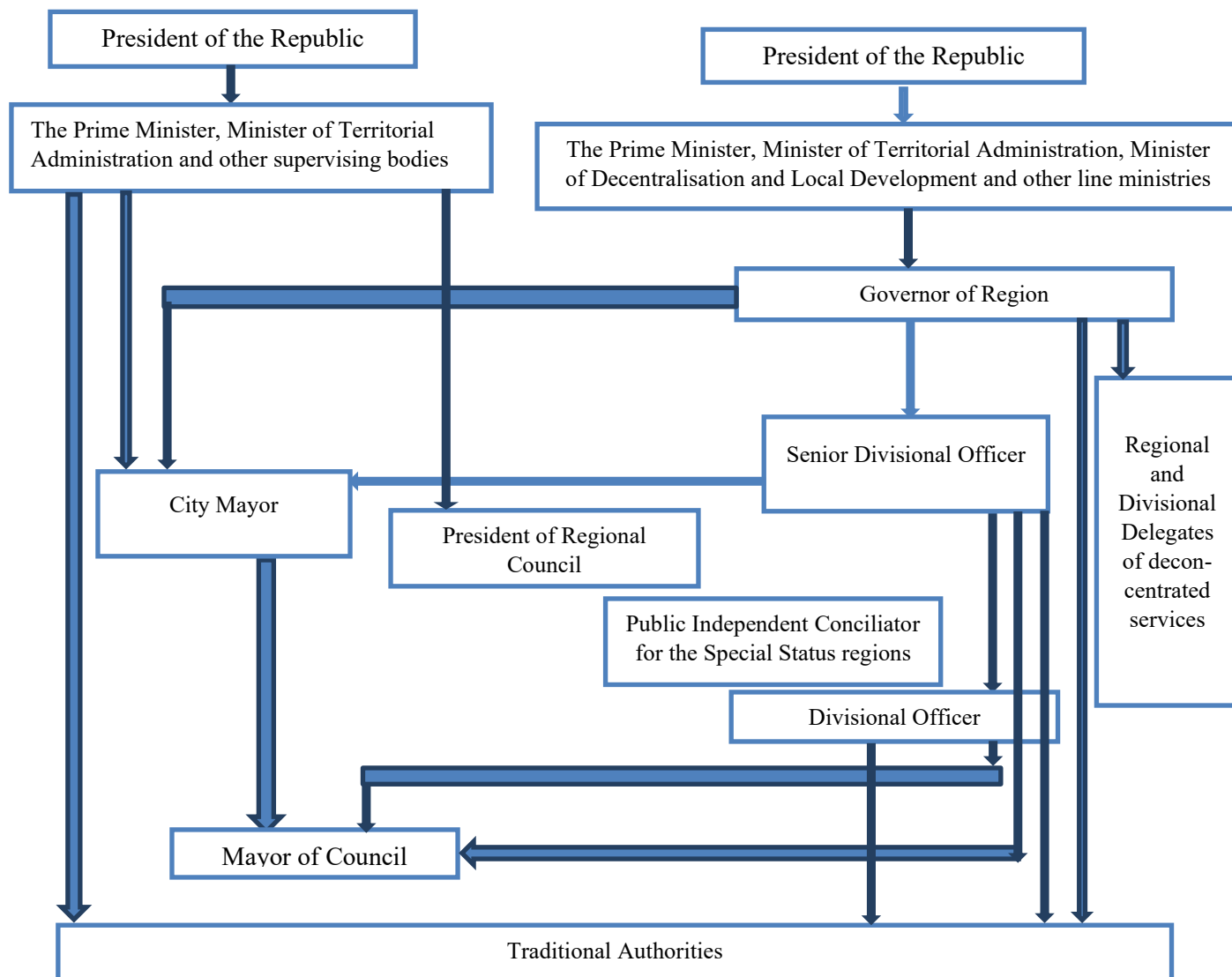
<sup>22</sup> Decree 2018/719 of 30 November 2018 to establish the National Disarmament, Demobilisation and Reintegration Commission.

<sup>23</sup> Fombad (2019) 338-339.

<sup>24</sup> Section 5 of the Decentralisation Code, 2019.

<sup>25</sup> Mounbou Mbenda, S.B. & Bekono, E.R., *Gouvernance des collectivités territoriales décentralisées (CTD) et gestion des compétences transférées*, Working Paper, 2012, available at <http://www.researchgate.net/publication/312969211> (accessed 12 April 2023).

<sup>26</sup> It also is worthwhile comparing this with some good practices on the continent. For instance, the Constitution of Kenya, 2010, in article 174 defines the objectives of the country's decentralisation process (or what it refers to as

**Table 1: Decentralised Political Authorities v. Deconcentrated Administrative Authorities**

**Source:** This table was conceived by the author of this paper. The arrows show a complex form of supervision from high ranking authorities from top to bottom. As demonstrated in the diagram, some authorities, especially elected officials, seem to have supervision from several or multiple appointed authorities at the same time. This has led to usurpation of powers in several instances, rather than supervision.

‘the objects of the devolution of government’) as being ‘(a) to promote democratic and accountable exercise of power; (b) to foster national unity by recognising diversity; (c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them; (d) to recognise the right of communities to manage their own affairs and to further their development; (e) to protect and promote the interests and rights of minorities and marginalized communities; (f) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya; (g) to ensure equitable sharing of national and local resources throughout Kenya; (h) to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and (i) to enhance checks and balances and the separation of powers’. See similar approaches under section 264(2) of the Constitution of Zimbabwe, 2013, and section 152 of the Constitution of South Africa, 1996.

At the core of Cameroon's decentralisation architecture is the President of the Republic, who justifiably is head of the hierarchy of deconcentrated administrative entities and indirectly or directly appoints all the top-ranking officials who control these units. He has control over the Prime Minister and all the Ministers. The President of the Republic equally exercises powers over de-centralised political authorities. In several instances City Mayors and Mayors who are elected officials, have conflicting duties especially with respect to service delivery, with appointed officials such as Regional Delegates, Divisional Delegates, Senior Divisional Officers and Divisional Officers. Traditional authorities, though not considered as deconcentrated or decentralised authorities, assist both deconcentrated and decentralised authorities in administering the people. According to Table 1, traditional authorities are found at the bottom of the ladder and considered as auxiliaries of the administration. They also play a role in the decentralisation process. What is worrisome is that their role is not constitutionally defined. All the same, some traditional authorities are elected as Senators and Members of Parliament. As shall be examined, the traditional authorities in the special status regions constitute the House of Chiefs and play an advisory role in enhancing the decentralisation process. Another authority introduced under the special status regions is the Public Independent Conciliator (PIC). The role of this actor which is to mediate when there is conflict between the administered and authorities, shall be examined in section D of this contribution. With a melange of these appointed and elected authorities within the same terrain, there is bound to be usurpation of duties and wastage of limited resources.

### **3. Insufficient service delivery**

A majority of Cameroonians need adequate service delivery. Providing adequate social services in urban as well as rural areas such as potable water, sanitation, electricity and sustainable housing is an increasingly important priority for the government of Cameroon. Due to the embracing of decentralisation policies in Africa and Cameroon in particular, a trend that has been enthusiastically supported by the international donor community, responsibility for providing these services has been transferred to sub-national authorities in the case of Cameroon.

The disparity in living standards and service delivery observed across regions and municipalities in Cameroon is alarming. For some basic services such as water and sanitation, access is worse in Cameroon compared to some other African states.<sup>27</sup> For instance inhabitants in some areas like Obili in the political capital, Yaoundé, as well as Bonamoussadi in the economic capital, Douala, go for weeks without water. This situation is worst in places like Bamenda, Buea and Kumba in the Anglophone regions.

Local government in Cameroon still suffers from inadequate human, material as well as financial resources to ensure that citizens especially those in the special status regions benefit from quality and appropriate service delivery.<sup>28</sup> The inability to raise their own revenue especially in the special status regions owing the Anglophone crisis, alongside poorly qualified staff is alarming and

---

<sup>27</sup> World Bank, Towards Better Service Delivery: An Economic Update on Cameroon with a focus on fiscal decentralization, issue no 2, July 2011, available at <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/163751468017353269/towards-better-service-delivery-an-economic-update-on-cameroon-with-a-focus-on-fiscal-decentralization> (accessed 8 March 2023).

<sup>28</sup> OCHA Cameroon, Cameroon: North-West and South-West - Situation Report No. 44, June 2022, available at <https://reliefweb.int/report/cameroon/cameroon-north-west-and-south-west-situation-report-no-44-june-2022> (accessed 9 March 2023).

has contributed to poor service delivery. In addition to this, intergovernmental transfers from the Special Council Support Fund for Mutual Assistance (with French acronym FEICOM)<sup>29</sup> do not reach the local government areas on time. This thus hampers the ability for mayors and regional councilors, to effectively carry out adequate service delivery in their various communities and regions.

#### **4. Difficulties in managing ethnic diversity**

Ethnic parochialism is chronic in Cameroon and presents one of the major challenges to governance, as it does in Africa as a whole.<sup>30</sup> The introductory section of this contribution took note of Cameroon's remarkable ethnic *mélange*. Since the advent of multipartyism, the dynamics of the various ethnic divides and their conflicts have fueled Cameroon's socio-political polarisation and fragmentation.

Cameroon has not yet been able to manage ethnic diversity. A complicating factor adding to these tensions, as perceived by many Cameroonians, is that the few ethnic groups such as the Beti/Bulu, who are part of the southern tropical forest peoples and constitute about 18 percent of the population,<sup>31</sup> continue to dominate all aspects of public life, at the detriment of other ethnic groups. Though a couple of personalities from other ethnic groups have been appointed to some positions of responsibility in the central administration, their influence and power, remains insignificant relative to the influence exercised by the Beti/Bulu ethnic group. In the growing discrimination witnessed in Cameroon since 1992 whereby certain ethnic groups reap almost all the country's political, social and economic benefits to the exclusion of others, room is being created for conflict and potential disintegration.

#### **5. Inadequate protection of minority concerns for indigenous groups and women**

The International Covenant on Civil and Political Rights obliges states with ethnic, religious or linguistic minorities to respect their right 'to enjoy their own culture, to profess and practice their own religion, or to use their own language' in community with the other members of their group.<sup>32</sup>

---

<sup>29</sup> Law No. 74/23 of 5 December 1974 to organise councils created the Special Council Support Fund for Mutual Assistance (with French acronym FEICOM). Decree No. 77/85 of 22 March 1977 focused on the organisation of this structure. FEICOM has twice been reorganised by presidential decrees – those of 11 December 2000 and 31 May 2006. Furthermore, Decree No. 2009/248 of 5 August 2009 by the President institutes a Common Decentralisation Fund at the disposal of municipal councils and urban councils. Local government receives block grant revenue from the central government, which the state pays to them via FEICOM. These grants are supposed to be weighted according to the council's population, surface area and other considerations. FEICOM also provides councils with non-financial support, including expert technical assistance and project evaluation.

<sup>30</sup> Fombad (2019) 332.

<sup>31</sup> According to the 2022 revision of the World Population Prospect, the total population was 27,198,628 in 2021, compared to only 4,466,000 in 1950. There are 24 major African language groups in Cameroon; additionally, English and French are official languages. Cameroonian Pidgin English is also widely spoken. See Wikipedia, Demographics of Cameroon, available at [https://en.wikipedia.org/wiki/Demographics\\_of\\_Cameroon](https://en.wikipedia.org/wiki/Demographics_of_Cameroon) (accessed 7 March 2023).

<sup>32</sup> Art. 27 of The International Covenant on Civil and Political Rights adopted by the United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966 and entered into force on 23 March 1976 after its thirty-fifth ratification or accession. See also Belser, E.M., *The Relationship Between Federalism and Human Rights in T. Fleiner-Gerster (ed.), Federalism and Decentralisation: Constitutional Problems of Territorial Decentralisation in Federal and Centralised States*, New York: Routledge, 2019, 79.

Indigenous peoples, often simultaneously qualifying as both peoples and minorities, enjoy specific protection by the International Labour Organisation (ILO) Conventions<sup>33</sup> and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>34</sup> A major challenge the 1996 Constitution was supposed to address is the role of indigenous groups in the governance affairs of the country. For instance, the Bgyeli, the Bakola, and the Baka (collectively known as the Pygmies), who are principally found in East and South regions, mainly the forested parts of the country, have not been adequately involved in governance affairs either. Similarly, the Mbororos, an indigenous group of pastoralists found in the North West, Adamawa, North and East regions, have been marginalised from participating actively in governance. Although many of them have participated in elections over the years, their presence in Parliament is minimal. Very few of them hold any senior posts in government.

The status of women and their active participation in governance and development are other fundamental issues that were meant to have been addressed by the 1996 Constitution. Cameroonian women face various cultural barriers to their involvement in politics and development. It is argued that men are given preference when it comes to higher education opportunities and thus receive preparation for administrative duties, whereas the main preparation women receive, even those who go to school, is to be better housewives. For women to assume decision-making positions as well as participate actively in politics, they would need to play a much stronger role in the country's electoral process. There is no doubt that they outnumber men in the population statistics, but while this stands to their advantage they are less than active in the political domain.<sup>35</sup> Women's underrepresentation in governance at both the national and lower levels is likely to worsen unless measures similar to those in Zimbabwe<sup>36</sup> and Kenya<sup>37</sup> are taken for the constitutional entrenchment of their role in these spheres.

## 6. A weak foundation for constitutionalism and the rule of law

The concept of constitutionalism as understood today can be said to take into consideration the idea that a government should not only be adequately limited in a way that protects its citizens from arbitrary rule but be able to operate effectively and efficiently within its constitutional limitations. In other words, constitutionalism is centred on the idea of a government limited in its action and accountable to its citizens for that action.<sup>38</sup> As shall be examined under the

<sup>33</sup> International Labour Organisation (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

<sup>34</sup> United Nations Declaration on the Rights of Indigenous Peoples, 61/295, adopted by the General Assembly on 13 September 2007. Also see Art. 1, 2, 4, 6 and 7 of the ILO-Convention 169. Indigenous and tribal peoples have the right to the respect and protection of their identity, to special actions compatible with their aspirations and ways of life, 'special measures for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned' and a right to consultation and participation. The ILO Convention also states that indigenous peoples have 'the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development'. In addition, 'they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly'.

<sup>35</sup> Taoyang, W. M., Sociocultural Barriers to Women's Political Leadership in the North Region of Cameroon, *Asian Journal of Humanities and Social Studies*, 7(2), 2019, 41-44.

<sup>36</sup> Sections 3, 13, 14, 17, 24, 56, 68, 80, 124, 157, 194 and 269 of the Constitution of Zimbabwe, 2013.

<sup>37</sup> Articles 21, 27, 97, 98, 100, 127, and 232 of the Constitution of Kenya, 2010.

<sup>38</sup> An-Na'im, A., The National Question: Secession and Constitutionalism: The Mediation of Competing Claims to Self-determination, in D. Greenburg et al (eds.), *Constitutionalism and Democracy: Transitions in the*

constitutional and institutional architecture of the decentralisation agenda, Cameroon lacks adequate elements of constitutionalism. Secondary legislation trumps over provisions of the 1996 Constitution, the promotion and protection of human rights is still weak, there is limited judicial review and mechanisms concerning the amendment of the Constitution are still weak.<sup>39</sup> In addition to this, the Constitutional Council (the Council), which is considered as the organ which is supposed to have exclusive jurisdiction over constitutional issues, only became operational in February 2018 and accords limited access to a few top ranking officials such as the President of the Republic and Presidents of Regional Councils. Ordinary citizens do not have access before this institution. This adds to the weakness already plaguing the constitutionalism and rule of law architecture in the country.

## **7. A skewed fiscal and economic development agenda**

The financing *modus operandi* provided under the decentralisation framework in Cameroon is weak. Book five of the 2019 Decentralisation Code focuses on the financial regime of regional and local authorities.<sup>40</sup> The distorted way in which revenue is distributed and the widely differing nature of municipal and urban councils have resulted in serious inequalities in development and have led to conflict in some parts of the country.<sup>41</sup> The consequences of this is that smaller councils like the Buea council in the South West region and the Tubah council in the North West region, with very limited resources are faced with difficulties in carrying out their fundamental statutory responsibilities, especially the responsibility under section 28 of the Financial Regime Law to issue certain compulsory payments.<sup>42</sup> In addition to this, lower spheres of government do not have adequate financial raising and borrowing powers. Intergovernmental transfers also remain weak.

## **D) The status-quo and a critique of the decentralisation and constitutionalism framework**

### **1. The special status arrangement for the Anglophone regions in the self-rule agenda**

At the institutional level, and in line with Article 55 of the 1996 Constitution, regions and councils constitute the two forms of local government spheres of the State of Cameroon.<sup>43</sup> The council is a legal entity under public law. Created by the President of the Republic, it is administered by two bodies, a municipal council and a council executive, both elected, except in case of special delegation. In its current state, the country is endowed with 315 councils; 45 divisional councils and

---

*Contemporary World*, Oxford University Press, 1993, 24. See also Fombad, C.M., Challenges to Constitutionalism and Constitutional rights in Africa and the Enabling role of Political Parties: Lessons and Perspectives from Southern Africa, *The American Journal of Comparative Law*, 55(1) 2007, 7-8.

<sup>39</sup> Chofofor Che, C.A., A Federal Constitution devoid of Constitutionalism: The case of Cameroon, in M.K. Mbondenyi, MK & T. Ojienda (eds.), *Constitutionalism and Democratic Governance in Africa: Contemporary Perspectives from Sub-Saharan Africa*, Pretoria University Law Press, 2013, 182-188.

<sup>40</sup> Book V of the Decentralisation Code, 2019.

<sup>41</sup> Report No. 63369-CM., Cameroon: The path to fiscal decentralization. Opportunities and Challenges, Document of the World Bank, September 2012, available at <https://documents1.worldbank.org/curated/en/685841468239367086/pdf/633690ESW0Gray0disclosed01105020120.pdf> (accessed 14 April 2023) 31.

<sup>42</sup> World Bank Report (2012) 11-14.

<sup>43</sup> Article 55 of the Constitution of Cameroon, 1996.



14 city councils, making a total of 374 councils and city councils. The region constitutes the second level of Cameroon's decentralisation architecture. It is made up of several departments and entrusted with a general mission of economic and social progress. Articles 56 to 61 of the 1996 Constitution outlines a general regime applicable to all regions, while defining in Article 62 a derogatory regime taking into consideration the special status of some regions in their organisation and functioning.<sup>44</sup> The special status is thus applicable to the North West and South West Regions since the entry into force of Law no. 2019/24 of December 24, 2019, to Institute the General Code of Regional and Local Authorities (the Decentralisation Code, 2019).<sup>45</sup>

The North West and South West regions enjoy a specific organisational and operational regime which is said to be grounded on their historical, social and cultural values. This include the inheritance of the Anglophone education sub-system and the common law system.<sup>46</sup> Just like Cameroon, numerous countries have opted for varying forms of special status arrangements or asymmetrical decentralisation as a way of accommodating diversity. The Constitution of Spain, for instance, provides for a mechanism in which provinces and municipalities alike can enjoy a high level of autonomy. Spain is territorially organised into 'municipalities, provinces and any Autonomous Communities that may be constituted'.<sup>47</sup> Gaining autonomy is a voluntary right for provinces and municipalities, and the 1978 Constitution gives directives on how this right may be promoted and protected. The Constitution of Spain also gives directives on how the status of an Autonomous Community may be attained.<sup>48</sup> Additionally, the central government may transfer powers from its list to the autonomous communities.<sup>49</sup>

In the case of Cameroon, the special status under the 2019 Decentralisation Code, accorded to the North West and South West regions, provides in section 330 for a regional assembly and a regional executive council. The regional assembly is to be the deliberative organ of the two Anglophone regions. It is made up of 90 regional councillors, composed of a house of divisional representatives and a house of chiefs.<sup>50</sup> According to section 328 of the 2019 Decentralisation Code, the special status regime may allow the Anglophone regions to participate in the formulation of national policies relating to the Anglophone education sub-system, decide on development projects in both regions and on issues on chieftdoms. This may be a great step by the government of Cameroon in a bid to resolve the Anglophone problem.<sup>51</sup>

The 8 other Francophone regions are administered by regional councils, unlike the 2 Anglophone regions, administered by regional assemblies as illustrated above. The deliberative organ, and the

---

<sup>44</sup> Article 62 of the Constitution of Cameroon, 1996.

<sup>45</sup> Sections 3 and 327 of the Decentralisation Code, 2019.

<sup>46</sup> Sections 3 and 327 of the Decentralisation Code, 2019.

<sup>47</sup> Article 137 of the Constitution of Spain, 1978.

<sup>48</sup> Articles 148 and 149 of the Constitution of Spain, 1978. In Navarre and Basque Country, due to historical factors, these powers are also extended to tax collection and regulation. See Aldecoa, F. & Cornago, N., Kingdom of Spain, in H. Michelmann (eds.), *A Global Dialogue on Federalism-Volume V: Foreign Relations in Federal Countries*, McGill-Queen's University Press, 2009, 242.

<sup>49</sup> Article 150 of the Constitution of Spain, 1978.

<sup>50</sup> As I have argued elsewhere the duties of the house of chiefs remains obscure. See Chofofor Che (2020) 143.

<sup>51</sup> However, many Cameroonians are of the opinion that since the creation of the special status regions, Anglophone Cameroonians are still to benefit from this 'special' prerogative especially as both the North West and South West regions are still plunged in conflict and underdevelopment. See Chofofor Che (2020) 143.



president of the regional council in these regions, the executive organ, are all elected according to modalities set by both the Electoral Code<sup>52</sup> and the 2019 Decentralisation Code.

The regional council is made up of 90 councillors elected for a five-year term. It is constituted of 70 divisional representatives and 20 traditional authorities. The divisional representatives are made up of municipal councillors, while the college of traditional authorities is comprised of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> degree indigenous traditional rulers. Made up of four (4) Commissions, each chaired by a commissioner, the regional council meets once a quarter for a period not exceeding eight (8) days, with the exception of the budget session which may last fifteen (15) days.

The introduction of an ombudsman, otherwise referred to as the Public Independent Conciliator (PIC), in sections 367 to 371 of the 2019 Decentralisation Code is a welcome innovation and should be applauded.<sup>53</sup> The PIC in the North West and South West Regions is responsible for examining and amicably settling disputes between users and regional and council administrations; defending and protecting rights and freedoms with regard to the relationship between citizens and the region or the councils thereof and designing and implementing measures to prevent and combat direct or indirect discrimination that may affect users of regional or council services.<sup>54</sup>

## 2. Shared rule in the governance architecture

One of the innovations of the 1996 Constitution is its bicameral parliamentary architecture. Under article 14, legislative power is conferred on Parliament, which is constituted of two Houses: the National Assembly and the Senate. Shared rule is thus exercised by the Senate. While parliamentarians represent the interest of the nation, senators represent the interest of regions.

Before 1996, the former West Cameroon had a bicameral system inherited from the colonial era: just prior to reunification and until 1972, there existed the West Cameroon House of Chiefs, functioning as a second chamber to the West Cameroon House of Assembly.<sup>55</sup> This system was reintroduced in the 1996 Constitution. Notwithstanding that article 14(2) stipulates that both the National Assembly and the Senate, acting as Parliament, ‘shall legislate and control government action’, they do not operate on an equal basis as they do not possess the same powers: the Senate has less influence and powers than the National Assembly. This is comprehensible, since the senators represent only the regional and local authorities and are either elected by indirect universal suffrage or appointed by the President,<sup>56</sup> whereas all the members of the National Assembly are elected via direct and secret universal suffrage and represent the entire country.<sup>57</sup> Though the

---

<sup>52</sup> Law no 2012/001 of 19 April 2012 relating to the Electoral Code modified and completed by Law no 2012 /017 of 21 December 2012.

<sup>53</sup> Sections 367 to 371 of the Decentralisation Code, 2019. See also Decree N°2020/773 of 24 December 2020 to lay down conditions for discharge of the duties of the Public Independent Conciliator in the North-West and South-West Regions.

<sup>54</sup> Article 4 of Decree N°2020/773 of 24 December 2020 to lay down conditions for discharge of the duties of Public Independent Conciliator in the North-West and South-West Regions. See also Ngai Ngong, S., *Essential Elements of Administrative Law in Cameroon*, Yaounde: Les Editions Le Kilimanjaro, 2022, 117-119.

<sup>55</sup> Section 236 of the Nigerian (Constitutional) Order in Council 1954 provided for the West Cameroon House of Chiefs. Article 38(2) of the Federal Constitution of Cameroon, 1961, retained the West Cameroon House of Chiefs. At the same time, the West Cameroon Legislature was defined under section 5 of the West Cameroon Constitution as being composed of the head of State, the House of Chiefs and the House of Assembly.

<sup>56</sup> Article 20(1) and (2) of the Constitution of Cameroon, 1996.

<sup>57</sup> Article 15(1) and (2) of the Constitution of Cameroon, 1996.

principle of bicameralism was introduced in the 1996 Constitution, the Senate became operational only in 2013.

The Cameroonian Parliament is considered as a structure that merely validates what the government introduces before it and therefore of little relevance to the daily preoccupations of the ordinary citizens. The re-establishment of multipartyism has not altered the *status quo* much, especially as a lot of the regulations and rules used by the National Assembly were ushered in during the one-party rule era. Thus, the Senate as a second chamber is still to yield the solutions for which it was envisioned to produce. Currently, it is seen as an extra financial load to the government at a period of serious economic crisis, with no main gains in view. The President has the power to appoint 30 of the 100 senators. The 180 places in Parliament are shared among 58 constituencies using a complex mix of single- and multiple-number constituencies involving a mixture of proportional representation and winner-take-all majoritarianism. The term of office of Members of Parliament of both Houses is five years. Both the National Assembly and the Senate are expected to hold, as of right, three ordinary sessions every year, with each of such sessions lasting not more than 30 days, along with extraordinary sessions if need be. Article 14(1) of the 1996 Constitution necessitates that legislative power is to be carried out by the Senate and the National Assembly. The legislative procedure is only complete when the President enacts laws passed by the Senate and the National Assembly. According to article 11 of the 1996 Constitution, the government shall 'be responsible to the National Assembly'. However, the several methods provided for supervising and controlling the government have not been as effective as in a normal democracy.

### 3. Supervision, inter-governmental relations and cooperation

A well-organised decentralisation system warrants mechanisms for the supervision and monitoring of lower spheres of government. Nonetheless, in order to avoid political usurpation of powers by the central administration, constitution drafters need to build safeguards in the constitution.<sup>58</sup> The 1996 Constitution has no exhaustive chapter on supervision, monitoring and intergovernmental relations. These are therefore provided for in particular by secondary legislation with the main legislation being the 2019 General Code on Decentralisation. With respect to supervision, under the directives of the President, the Minister of Decentralisation and Local Development, as well as the state representative in the concerned region or division, supervises the decentralisation process therein.<sup>59</sup> The main supervisory authority in the region, appointed, is the Governor. The Prefect or SDO exercises the state's supervisory authority over councils.<sup>60</sup> The Governors and Prefects therefore represent the President in their respective administrative units.<sup>61</sup> As representatives of the President of the Republic, the Government and each of the ministers; the Governor and the Prefect are the only authorities empowered to represent the State before the deliberative

---

<sup>58</sup> Belser, E.M., Maggetti-Waser, M. & Steytler, N., Power Sharing in Sri Lanka: Some comments and recommendations to the constitutional debate from a comparative perspective, IFF Working Paper Online No 16, Fribourg, August 2016. <https://doi.org/10.51363/unifr.diff.2016.16> (accessed 15 April 2023).

<sup>59</sup> Section 73 (1) of the General Code on Decentralisation, 2019.

<sup>60</sup> Section 73 (3) (5) and (6) of the General Code on Decentralisation, 2019.

<sup>61</sup> Section 73 (6) of the General Code on Decentralisation, 2019.

organs of local authorities, council unions and management bodies of establishments of local authorities.<sup>62</sup>

Administrative decisions issued by regional and local authorities such as the president of the regional council and the mayor are sent to the state representative for his or her approval. Administrative decisions include deliberations over issues such as the awarding of public service contracts as well as land issues.<sup>63</sup> In an eventuality where the state representative unduly rejects an administrative decision from the president of the regional council or the mayor, such an authority may, on the grounds of abuse of power, challenge such an administrative authority before a competent administrative court.<sup>64</sup>

Monitoring a decentralisation process is significant for the effective and efficient realisation of objectives such as development, democracy, and the management of diversity issues and ethnic conflicts. The main law on monitoring decentralisation is still the 2019 General Code on Decentralisation. Other legal instruments that focus on such monitoring include Decree No. 2008/013 of 17 January 2008 on the Composition and Functioning of the National Decentralisation Board (2008 Decree of the Decentralisation Board) and Decree No. 2008/014 of 11 January 2008 on the Composition and Functioning of the Inter-ministerial Committee on Local Services (2008 Decree on the Inter-ministerial Committee). The National Decentralisation Board (the Board) is responsible for the follow-up and evaluation of the decentralisation process. Specifically, it is mandated with the responsibility of forwarding an annual report on the state of progress of the decentralisation process and the functioning of local services to the President of the Republic. It is equally mandated, furthermore, to propose recommendations on the annual allocation of resources and competences to decentralised local entities.<sup>65</sup>

An Inter-ministerial Committee on Local Services (the Committee) is under the authority of the Minister of Decentralisation and Local Development. It is in charge of preparing and follow-up of competences and the utilisation of resources to be transferred to decentralised local collectivities.<sup>66</sup> The Chairman of the Committee is the Minister of Decentralisation and Local Development. There is equally the provision of a National Committee on Local Finance responsible

---

<sup>62</sup> Section 73 (6) of the General Code on Decentralisation, 2019.

<sup>63</sup> Section 77 of the General Code on Decentralisation, 2019.

<sup>64</sup> Section 79 of the General Code on Decentralisation, 2019.

<sup>65</sup> Section 87 of the General Code on Decentralisation, 2019. The Board is headed by the Prime Minister, who is Chairman. The Vice-President is the minister in charge of decentralisation and local development. Some members of government are also members of the Board, among whom are the Ministers of Water and Energy, Basic Education, Justice and Finance. The National Assembly is represented by two parliamentarians while the Senate is also represented by two senators. Two representatives of the Economic and Social Council are also on the Board. Moreover, the Prime Minister may invite competent persons to take part in Board deliberations. A Permanent Secretariat assists the Board in carrying out its duties, especially so the preparation of reports on the progress of decentralisation in the country. This Permanent Secretariat is coordinated by an appointed Permanent Secretary.

<sup>66</sup> Section 87 of the 2019 General Code on Decentralisation. Members of the Inter-ministerial Committee on Local Services include representatives from the Presidency, the Prime Ministry and all ministerial departments. Included in the Committee are two from regions, two representatives chosen from the city councils, four from municipal councils and two from civil society. No modality is specified for selecting members from city councils, municipal councils, regions or civil society: this is at the discretion of the Chairman. He or she may also invite any competent persons to take part in deliberations of the Committee. A Technical Secretariat assists the Committee in carrying out its duties, especially the preparation of reports on the progress of decentralisation in the country. This Technical Secretariat is coordinated by the director in charge of decentralised local collectivities at the ministry of decentralisation and local development.

especially for the optimum mobilisation of revenue of local authorities as well as for the sound management of local funds.<sup>67</sup>

It is crucial to note that both the Board and the Committee are supposed to make sure that decentralisation is carried out effectively, especially in terms of the process supporting the equitable peace and development of impoverished areas. These structures also have the responsibility in ensuring that issues such as better service delivery, ethnicity, minority and diversity concerns are incorporated into the decentralisation agenda. However, these institutions simply extend the powers of the executive and operate as deconcentrated units. What is worrisome again here is that all these structures charged with supervising and monitoring the decentralisation process are mainly composed of authorities nominated by central government with very limited chances given for the views of other stakeholders, the community or even local government. Their duties overlap, leading to corruption and a waste of finances.

On the important issue of organised local government, Part VII of the 2019 Decentralised Code focuses on decentralised cooperation, groupings and partnerships. In this respect, organised local government or decentralised cooperation is feasible where there is an agreement between two or more councils, especially when they decide to merge their different resources with an aim of attaining common objectives.<sup>68</sup> Such a cooperation may be carried out between Cameroonian councils or between Cameroonian councils and councils of foreign states.<sup>69</sup>

In a bid to attain inter-council cooperation, councils of the same division or region may, by at least a two-thirds majority of the decision of each council, create a union.<sup>70</sup> Such a council union shall be set up by agreement by the mayors of the concerned councils.<sup>71</sup> The bodies of the council union shall be composed of a union board and a union chairman.<sup>72</sup> There happens to be also inter-regional cooperation. Inter-regional solidarity warrants that one or more regions, on the initiative of their respective presidents, may reach an understanding between themselves on matters of common regional interest included in their missions.<sup>73</sup>

Some states have constitutionally entrenched such cooperative governance and consultative mechanisms; some have put in place institutions to oversee cooperative governance and others have developed it through practice. For instance, chapter 3 of the Constitution of South Africa lays emphases on cooperation, and has even gone further to put in place the Intergovernmental Relations Framework Act 13 of 2005 which governs the functioning of district intergovernmental forums and the functioning of the technical support structures controlling political intergovernmental structures as well as the functioning of the provincial premiers' intergovernmental forums.<sup>74</sup>

The United Councils and Cities of Cameroon (UCCC) is an association formed by the councils and cities in Cameroon in 2003. The UCCC was created from the merger of the Cameroon

---

<sup>67</sup> Section 90 of the General Code on Decentralisation, 2019.

<sup>68</sup> Section 94(1) of 2019 General Code on Decentralisation, 2019.

<sup>69</sup> Section 94(2) of the General Code on Decentralisation, 2019.

<sup>70</sup> Section 104(1) of the General Code on Decentralisation, 2019.

<sup>71</sup> Section 104(2) of the General Code on Decentralisation, 2019.

<sup>72</sup> Section 106 of the General Code on Decentralisation, 2019.

<sup>73</sup> Section 99 (1) of the General Code on Decentralisation, 2019.

<sup>74</sup> Intergovernmental Relations Framework Act, No 13 of 2005.

Association of Towns and the Cameroon Union of Towns and Councils.<sup>75</sup> In reality the UCCC has not been very effective in playing a part in the development of councils because serious disparities continue to exist in terms of economic development among councils.

#### 4. A porous architecture for constitutionalism and the rule of law

A constitution is only as good as the modus operandi put in place for making sure that its provisions are respected by all citizens and violations of it promptly sanctioned. An independent judiciary is mentioned in articles 37 to 42 of the 1996 Constitution. The notion of judicial independence is expressly stated in article 37(2) of the 1996 Constitution, which provides that ‘the judicial power shall be independent of the Executive and Legislative power’.<sup>76</sup> However, by way of example, in *The People v Nya Henry*,<sup>77</sup> the magistrate could not conceal the fact that he was under coercion from the executive. He could see that at the very least his career would be jeopardised if he decided the case in a manner that went against its directives; indeed, within months of the decision in *Nya Henry*, which did go against the directives of the executive, the magistrate was sacked from his position.<sup>78</sup>

As regards the promotion and protection of human rights, the 1996 Constitution, unlike most post 1990 constitutions, lays emphasis almost entirely on civil and political rights, although some mention is made of certain social and economic rights.<sup>79</sup> Almost all the fundamental rights outlined in the 1996 Constitution are found only in the preamble.<sup>80</sup>

---

<sup>75</sup> The local government system in Cameroon, country profile, available at [http://www.clgf.org.uk/default/assets/File/Country\\_profiles/Cameroon.pdf](http://www.clgf.org.uk/default/assets/File/Country_profiles/Cameroon.pdf) 39 (accessed in April 2023).

<sup>76</sup> Although there is no universally accepted definition of what an independent judiciary is, it may be considered as one free to render justice all issues of constitutional and substantial legal importance, without fear of reprisal, intimidation or threat from the executive. Other aspects may include the mode of appointment of judges, promotion, transfers, discipline and remuneration of judges. See Fombad, C.M., Some perspectives on the prospects for judicial independence in post-1990 African Constitutions’, *The Denning Law Journal*, 2012, 19-21. For more discussions on judicial independence in Cameroon, see Enonchong, L.S.E., *The Problem of Systemic Violation of Civil and Political Rights in Cameroon: Towards a Contextualised Conception of Constitutionalism*, unpublished PhD thesis, School of Law, University of Warwick, 2013, 148-154. Enonchong argues that many a time court orders against the government are not enforced because judges and law enforcement officers are bound to abide to instructions from the executive and most especially the Minister of Justice. This makes the ‘judicial power’ of the judiciary weak.

<sup>77</sup> *The People v Nya Henry & Others* (2005) AHRLR 101 (CafI 2001).

<sup>78</sup> Enonchong, N., The African Charter on Human and Peoples’ Rights: Effective remedies in domestic law? *Journal of African Law*, 197 (46), 2002, 210-211, 215.

<sup>79</sup> The preamble to the Constitution of Cameroon, 1996.

<sup>80</sup> Among them are the right to non-discrimination and to equality (this includes the rights of the aged, the rights of persons with disabilities, and the rights of women); freedom of opinion and expression (including freedom of the press); rights related to liberty and security of the person; freedom of association (including the right to form unions); freedom of movement (including freedom of choice of residence); the right to privacy; rights relating to property; the right to a fair trial (including the right of access to justice); freedom of thought, conscience, and religion; freedom from torture and cruel, inhuman and degrading treatment or punishment; freedom of assembly; the right to work (including the right to strike); the right to education; the right to participation in government and to vote; the right to protection of the family (including the rights of children); rights to the environment; and rights of minorities.

Some major UN treaties have been signed by Cameroon.<sup>81</sup> Equally, it has signed and ratified the African Charter on Human and Peoples' Rights (the ACHPR).<sup>82</sup> The country has opted for a monistic system with respect to international law: all international treaties Cameroon has approved and duly ratified and published are supposed to become part of domestic law.<sup>83</sup> International law does not necessarily need to be domesticated into national law by another legal instrument, since the act of ratifying immediately converts the treaty into domestic law. Furthermore, article 45 of the 1996 Constitution confers a higher normative status on such agreements or treaties that enables them to trump any domestic legislation that goes against them, not excluding the Constitution.<sup>84</sup>

While article 65 asserts that the preamble is an integral part of the 1996 Constitution, the non-provision for an enforcement mechanism for human rights portrays the weak stance of the constitutional architect to promote and protect human rights. By implication, human rights are thus weakly justiciable in Cameroon. Additionally, in Cameroon, socio-economic rights for instance may be considered as simply state directive principles without any signs of future commitment to their justiciability in post-independence Cameroon. This makes the inclusion of Article 65 in the 1996 Constitution a possible excuse for the executive arm of government to avoid criticism, responsibility, or better still, government merely wants to demonstrate its commitment in principle to the UN's human rights treaties to which it is party, while in practice the situation remains precarious.

The scope of application and enforceability of human rights under the 1996 Constitution are thus limited. Instead of having these rights enshrined in a well-structured bill of rights, they are set out in the preamble of the 1996 Constitution. One may argue that this simply relegates fundamental rights to mere aspirations. The enforceability of human rights under the 1996 Constitution is definitely wanting even with the existence of a National Commission on Human Rights and Freedoms (NCHRF).<sup>85</sup> The NCHRF, which is vested with financial autonomy and legal status, is charged with the promotion and protection of human rights including those of women, indigenous people and the disabled. This institution has also not been able to promote and protect human rights effectively because of its lack of independence.

The lack of an effective and efficient system of judicial review is also one of the major lapses of the 1996 constitutional framework.<sup>86</sup> Judicial review may operate in terms of the review of legislation for compatibility with the constitution (constitutional review), the review of the legality of administrative acts (administrative review) and the review of legislation for compatibility with

---

<sup>81</sup> Cameroon signed the African Charter on Human and Peoples' Rights of 1981 (ACHPR) on 23 July 1987 and ratified it on 20 June 1989. See also Diwouta, C., The impact of the African Charter and Women's Protocol in Cameroon, in The Centre for Human Rights, University of Pretoria, *The impact of the African Charter and Women's Protocol in selected African states*, Pretoria University Law Press, 2012, 21. See also The Office of the High Commissioner for Human Rights (OHCHR) available at <http://www2.ohchr.org/english/law/index.htm#core> (accessed 6 March 2023).

<sup>82</sup> Okafor, O.C., *The African Human Rights System, activist forces and international institutions*, Cambridge University Press, 2007, 248. Cameroon signed the African Charter on Human and Peoples' Rights of 1981 (ACHPR) on 23 July 1987 and ratified it on 20 June 1989.

<sup>83</sup> Article 45 of the Constitution of Cameroon, 1996.

<sup>84</sup> Article 45 of the Constitution of Cameroon, 1996.

<sup>85</sup> Decree No. 90-1459 of 8 November 1990 to set up the National Commission on Human Rights and Freedoms.

<sup>86</sup> Fombad, C.M., The new Cameroonian Constitutional Council in a comparative perspective: Progress or retrogression?, *Journal of African Law*, 42, 1998, 172-186.

international instruments (conventional review).<sup>87</sup> With respect to constitutional review, Articles 46 and 47 of the 1996 Constitution give the Constitutional Council (the Council) the latitude to regulate the way institutions operate and to mediate any ‘conflicts between the state and the Regions, and between the Regions’. However, only the Presidents of regional executives may bring conflict-related concerns to this organ ‘whenever the interests of their Regions are at stake’. This is undoubtedly a retrogressive move in bringing about the democracy envisaged in the 1996 Constitution. The Council scarcely provides a rational method for solving the several disputes that emanate from intra-local government relations or local government interactions with central government. Moreover, there are serious concerns about the effectiveness of such a dispute-resolution organ *per se*.<sup>88</sup> To begin with, there is no clarity as to the meaning of the sentence in article 46 that the Council is to operate as the ‘organ regulating the functioning of the institutions’. Furthermore, the Council was created only in 2018, 22 years after the 1996 Constitution came into being. Before then, its functions were ‘temporarily’ carried out by the Supreme Court, with the legality of its having done so remaining highly questionable.<sup>89</sup> Additionally, apart from conflicts concerning disputed presidential and parliamentary elections, the ordinary citizen cannot bring any cases before the Council. Finally, as mentioned, article 47 (2) limits the competence to forward cases before the Council to only the Presidents of the regional executives. There is indeed no efficient and effective system for constitutional review under the 1996 Constitution.

On the vital aspect of its amendment, the 1996 Constitution furnishes two methods by which this can be done. Article 63(1) stipulates that amendments to the 1996 Constitution may be proposed by the President of the Republic or by Parliament and, in either event, shall be signed by at least one-third of the members of the House of Assembly.<sup>90</sup> Article 63(3) states as follows: Parliament shall meet in congress when called upon to examine a draft or proposed amendment. The amendment shall be adopted by majority of the members of Parliament. The President of the Republic may request a second reading; in which case the amendment shall be adopted by a two-third Majority of the members of Parliament.<sup>91</sup> Article 63(4) goes further to state that the President of the Republic may decide to submit any Bill to amend the 1996 Constitution to a referendum. An amendment may be adopted only if a simple majority of the votes cast in the referendum are in favour of it.

It is thus easy for amendments of the 1996 Constitution to be approved by Parliament, which prior to 2013 was composed solely of the National Assembly. The latter has no measures in place for other political parties, such as the Social Democratic Front (SDF), to veto amendments. Unlike the case in South Africa, where one level of government cannot unilaterally amend the constitution to its advantage,<sup>92</sup> before 2013 Cameroon’s 1996 Constitution allowed for precisely such

---

<sup>87</sup> Enonchong (2013) 199-244.

<sup>88</sup> It is vital to note that the functions of the Constitutional Council as a dispute resolution mechanism is clearly distinct from its function as a constitutional review institution. The framework provided for constitutional review is so inadequate that, it undermines effective constitutional review in Cameroon. The weaknesses relate to the effect of decisions on the constitutionality of a law, the limited scope of review and the limitation of the of the category of persons that have access to the Constitutional Court.

<sup>89</sup> Fombad, C.M., The Cameroonian Constitutional Council: Faithful servant of an unaccountable system, in C.M. Fombad (ed.), *Constitutional Adjudication in Africa*, Oxford University Press, 2017, 85.

<sup>90</sup> Article 63(2) of the Constitution of Cameroon, 1996.

<sup>91</sup> Article 63(3) of the Constitution of Cameroon, 1996.

<sup>92</sup> Article 6(2) new of Law No. 2008/001 of 14 April 2008 to amend and supplement some provisions of Law No. 96/6 of 18 January 1996 to amend the Constitution of 2 June 1972. In the case of South Africa see Steytler, N., Republic

amendments by the executive. Although the Senate is now operational, the executive retains considerable power over final decisions regarding amendments before Parliament. This is an impediment in Cameroon's system of governance and a notable loophole in the light of the principles of constitutionalism.

Concerning elections, Elections Cameroon (ELECAM), which conducts and supervises elections in the country, has not been especially instrumental in ensuring that elections at all levels are free and fair.<sup>93</sup> The legal framework laying down how ELECAM is constituted has not been helpful in enabling it to discharge its crucial functions satisfactorily.

## 5. The role of the Constitutional Council

The setting up of the Constitutional Council (the Council) was done by two separate Presidential decrees of 2018 appointing members and the President of the Council. On March 6, 2018, these members took oath of office before the Parliament meeting in Congress. A major reason for the creation of the institution relates to the then pressing need to complete the institutional decentralisation architecture of the State as intended by the 1996 Constitution. The 1996 Constitution instituted the decentralisation process and one of the important institutions to manage some vital affairs of the process, is the Council. The effective establishment was necessary to put an end to the interim period exercised by the Supreme Court, which had already lasted for more than 22 years.

The 1996 Constitution entrusts the Council with a function that can be divided into three categories, namely an advisory role, a contentious function and a supervisory mandate over the functioning of state institutions. The advisory or consultative role of the Council allows it to give its advice and opinion to any authority having *locus standi*, on any matter falling within its competence. The contentious function of the Council is that by which the Council settles disputes. Concerning the supervisory mandate over the functioning of state institutions, the Council can give its opinion before certain decisions are taken by the President of the Republic. These functions theoretically place the Council at the centre of the functioning of the state as guarantor of the respect of the 1996 Constitution and the respect of the rule of law.

70 rejections were recorded out of the 95 petitions introduced before the Council during litigations that emanated out of the 2020 legislative election. Most of these rulings originated from the South West and North West regions, where elections were cancelled in eleven constituencies, due to the climate of insecurity which prevailed during these polls.<sup>94</sup> It was observed that the vast majority of the rulings were not in favour of the petitioners. Similarly, out of 38 petitions filed, 8 during the Senatorial election of 2018 and 30 during the Presidential election of 2018, no favorable ruling in favour of petitioners of opposition parties, was rendered during the first two electoral disputes handled by the Council. The observation is clear: judgements of the Council record around 17 per cent against 83 percent rejection. The *raison d'être* for these statistics, which are grossly

---

of South Africa, in J. Kincaid & G.A. Tarr (eds), *Constitutional origins, structure and change in federal countries: A global dialogue on federalism* vol. 1, McGill-Queen's University Press, London, 2005, 340.

<sup>93</sup> ELECAM was created by virtue of Law n°2006/011 of 29 December 2006 to set up and lay down the organization and functioning of Elections Cameroon (the 2006 ELECAM law).

<sup>94</sup> Gatsi, T E.A., There is a need of extending the jurisdiction of the Council to certain acts, Cameroon Tribune, 7 February 2023, available at <https://cameroon-tribune.cm/article.html/54921/fr.html/there-need-of-extending-the-jurisdiction-of-the-council-certain-acts> (accessed 26 April 2023) 9.



unfavorable to the petitioners, are manifold, and can be attributed both to the attitude of the parties involved in the litigations and to the nature of the constitutional litigation. With respect to the attitude of the actors, a considerable fraction of the rulings of the Council is made up of rulings sanctioning formal defects of lack of jurisdiction. For instance, during the post-electoral litigation of the 2018 presidential election, out of the 18 appeals lodged for the cancellation of the electoral operations, 16 were declared inadmissible. This is due to the lack of knowledge of the litigation before the constitutional judge on the part of the applicants who ventured into litigation without any real preparation and mastery of the procedure.<sup>95</sup> On the reasons linked to the nature of constitutional litigation, and most importantly electoral litigation, it should be noted that it is a principally complicated litigation where the results of the election has more chances of being accepted than being annulled. The electoral process enjoys a presumption of regularity which it is up to the petitioner to challenge.<sup>96</sup>

There is thus an issue of the understanding of the procedures before the Council and its jurisdiction by the public. The analysis of the rulings of the Council testifies to the fact that several petitions are introduced either in flagrant ignorance of the form and procedure, or by persons not having standing before this jurisdiction. Petitioners introduce issues which the Council has no jurisdiction over.

## 6. The fiscal decentralisation design

Finances are a decisive factor of any decentralisation process. It is therefore necessary to examine the financial decentralisation framework under the 1996 Constitution, with some attention placed on local government's own revenue and transfers from the Special Council Support Fund for Mutual Assistance (with French acronym FEICOM).

In Cameroon, the central government has responsibility over taxes on international transactions, like customs duties, and a considerable share of income and general sales taxes, such as value-added tax (VAT). The VAT was introduced in 1998. Reforms also created specialised units for the taxation of specific sectors, such as fisheries, forestry and cattle. But data-sharing and coordination between social security authorities, customs and tax experts have not been successful, albeit that since mid-1996 there have been irrefutable progress, including a steady increase in fiscal revenue figures (excluding oil revenue figures) and in the number of taxpayers. However, these improvements have been judged as inadequate, especially given that the Anglophone regions remain in conflict and underdeveloped with poor road infrastructure.<sup>97</sup>

The 1996 Constitution of Cameroon accords minimal financial autonomy to the regions and municipal councils. Financial decisions are taken by the central government and imposed on the regions and municipal councils. The main instrument governing financial issues under the decentralisation architecture is Law No. 2009/011 of 10 July 2009 relating to Financial Regime of Regional and Local Authorities. In section 2, it purports *inter alia* to give local government

---

<sup>95</sup> Gatsi (2023) 9.

<sup>96</sup> Gatsi (2023) 9.

<sup>97</sup> Muñoz, J.M., Business Visibility and Taxation in Northern Cameroon *African Studies Review* 53 (2) 2010, 153. See also Mafany, C.N., The Anglophone-Cameroonian Armed Conflict in North and South West Regions of Cameroon: The Rulings of International Humanitarian Law and Human Rights, *Commonwealth Journal of Academic Research*, 1 (1) 2020, 3. <http://doi.org/10.5281/zenodo.3875644>.

authorities ‘financial autonomy for the management of regional or local interests’.<sup>98</sup> The regions in Cameroon depend on grants and financial transfers from the central government. Regions are not consulted in the central government’s budgeting process, on which they consequently remain dependent. Custom duties as well as major taxes are collected by the central government and distributed to the regions and councils. Local governments, for instance, are left with little but market fees, business licenses, property tax and user charges. The 1996 Constitution therefore allows for a centralised system of government, where funds especially taxes collected are transferred from the central government to regions and councils.<sup>99</sup>

Despite fundamental reforms of the central government tax system during the last two decades, regional and local government tax systems remain ignored. The local tax systems are often expensive to manage and serve to worsen inequity. Generally, there is little coordination in taxation between different spheres of government, which to some degree has to do with lack of skills and capacity. This has led to double-taxation of the same revenue base as well as discrepancies between local and central-government tax policies.<sup>100</sup>

While the present capacity for most rural councils and regions in Cameroon to raise considerable own revenues is limited, the ability for revenue augmentation in urban councils in the administrative capitals of some regions is better. However, one main hurdle today for several municipalities in regions in Cameroon is their inability to make full collection of revenue due to them, which is evident in the huge gaps between reported and projected revenues. This is as a result of the porous administrative propensity for enforcing the payment of taxes and for assessing the revenue base; embezzlement of revenue; corruption; external pressure on local finance departments to provide realistic prognoses; and political pressure on local tax administrations to relax revenue collection, particularly so during election periods.<sup>101</sup>

FEICOM’s major revenue role is the centralised collection and redistribution of the Additional Council Tax levy (*Centimes Additionnels Communaux*, or CAC). CAC is a 10 percent levy on certain types of national taxation which is apportioned for the financing of council activities. Taxes to which this levy is applied include entertainment tax, general income tax, business tax and VAT. The distorted manner of revenue distribution, along with the widely varying circumstances of individual councils, has led to significant inequalities in the way in which resources are distributed.<sup>102</sup>

Local government accepts block grant revenue from the central government, which is paid to them through FEICOM. These grants are supposed to be weighted according to the council’s

---

<sup>98</sup> Section 2 of Law No. 2009/011 of 10 July 2009 relating to Financial Regime of Regional and Local Authorities (2009 Decentralisation Finance Law).

<sup>99</sup> Fombad (2019) 345.

<sup>100</sup> Ndonwi, A.K., The Tax Regime in Cameroon and The Responsibilities of Cameroonians Towards Fiscal Tax Allocations, November 30, 2019, available at <http://dx.doi.org/10.2139/ssrn.3495917> (accessed 12 April 2023).

<sup>101</sup> OCHA Cameroon, Situation Report, 9 March 2022, available at <https://reliefweb.int/report/cameroon/cameroon-situation-report-9-march-2022> (accessed 12 April 2023).

<sup>102</sup> CAC revenue is allocated as follows: 10 percent is attributed to the central government, 20 percent remains with FEICOM, and 70 percent goes to councils. Of the total allocated to councils, 20 percent goes to Douala, the economic capital of Cameroon; 40 percent goes to Yaoundé and 36 percent to other councils. The remaining 4 percent is retained by FEICOM and utilised for various activities, for instance to support infrastructure projects in border councils, to help councils affected by natural disaster, or to compensate councils for revenue paid beyond their borders. In addition, 40 percent of forestry royalties are allocated to councils on a per capita basis.

surface area, population and other considerations. FEICOM also provides councils with non-financial support, including project evaluation and expert technical assistance.

Structures such as the Directorate General (DG) of the Budget, the DG of Taxation, and the DG of the Treasury help FEICOM in the collection, centralisation and redistribution of taxes. Other institutions such as the National Anti-Corruption Commission and the Ministry of Supreme State Control have a mandate to assist FEICOM in ensuring that taxes are used judiciously in the decentralisation process. However, these structures have not been able to assist FEICOM sufficiently in making sure that resources are shared equitably among local governments. In addition to this inequitable allocation of resources, embezzlement and corruption remain acute.

## E) A way forward

### 1. A better disarmament, demobilisation and reintegration agenda

The creation of the National Disarmament, Demobilisation and Reintegration Commission (DDR Commission) by the government of Cameroon, after the major national dialogue, may be considered as one of the ways of solving the Anglophone crisis. But this initiative has been questioned by many Cameroonians as being too soon especially as the conflict in the special status regions is still ongoing.<sup>103</sup> There is no gainsaying that disarmament and non-proliferation remain indispensable mechanisms to create a security atmosphere favourable to ensuring peace and human development, as enshrined in the UN Charter.<sup>104</sup> The UN Secretary-General has repeatedly underscored the importance of weapons and ammunition management in advancing lasting political solutions, preventing conflict, protecting civilians, and building and sustaining peace. But this needs to be done suitably especially when there is a cease fire between the government and the warring faction or factions. Through a procedure of confiscating weapons from the hands of members of armed warring factions, taking separatists out of their groups and assisting them to reintegrate as civilians into society, disarmament, demobilisation and reintegration would support ex-fighters and those linked with armed groups, so that they can become active participants in the peace process.

Cameroon has not yet been able to sufficiently disarm the separatists. This may warrant more informal dialogue procedures especially including youth and women in such operations so that they could lure combatants to drop their weapons.<sup>105</sup> Additionally, permitting some ex-combatants to assimilate formal uniformed services of the state allows their status to be regularised and allows for a close link between DDR and security sector reform.<sup>106</sup> Integrating some ex-

---

<sup>103</sup> Kindzeka, M.E., Cameroon Critics ask for DDR Improvements Amid Ex-Fighter Protests Voice of America, available at [https://www.voanews.com/a/africa\\_cameroon-critics-ask-ddr-improvements-amid-ex-fighter-protests/6202199.html](https://www.voanews.com/a/africa_cameroon-critics-ask-ddr-improvements-amid-ex-fighter-protests/6202199.html) (accessed 17 April 2023).

<sup>104</sup> Article 11 of the United Nations Charter, 1945, which is the founding document of the United Nations. It was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945.

<sup>105</sup> Department of Peace Operations Office for Disarmament Affairs, Effective Weapons and Ammunition Management in a Changing Disarmament, Demobilisation and Reintegration Context: A Handbook for United Nations DDR Practitioners, United Nations: New York, 2021, 20.

<sup>106</sup> United Nations Peacekeeping Disarmament, Demobilization and Reintegration available at <https://peacekeeping.un.org/en/disarmament-demobilization-and-reintegration> (accessed 12 April 2023).

combatants into Cameroon's formal uniformed services of the state may therefore be an instrumental option in the peace process. The government needs to therefore invite conflict resolution experts to examine how to restructure the DDR Commission as well as regional centers in the county as an essential part of the ongoing peace process.

## **2. Tackling the paradoxical cohabitation between deconcentrated and decentralised authorities**

The co-existence of political decentralisation and administrative deconcentration of powers is not in itself necessary detrimental. What is problematic, though, is the potential it creates for deconcentrated officials to abuse the excessive top-down power they have been given.

A major issue triggered by the superimposition of deconcentrated administrative areas over decentralised political sub-units is the extraordinarily wide powers given to the President to suspend the local government areas as well as their officials. No clear mechanisms are in place to control these wide-ranging powers of the President, other than a requirement that in certain cases he exercises a power only after consulting the Constitutional Council (the Council).<sup>107</sup> The instances in which such powers may be exercised are specified very vaguely and there is barely any recourse open to those who may be affected by the misuse of these exorbitant powers.<sup>108</sup>

There is no elucidation of vague statements such as those to do with undermining 'public law and order' and 'the security of the state'. This leaves the President with enormous powers to decide when and how local government areas can be created. Although the creation, merging and abolition of boundaries is supposed to be carried out in conformity with the 1996 Constitution, all such powers ultimately reside in the President.<sup>109</sup>

As examined, another problem with the legal framework of Cameroon's decentralisation agenda is the choking and stultifying effect that the supervisory powers provided for under article 55 (3) of the 1996 Constitution and other pieces of legislation have on councils and regions. Generally, the local representatives of the state are the Governors of the regions (in the case of regional authorities) and the SDOs (for the councils within his or her territorial area of jurisdiction). Since there are no matters over which local governments have exclusive or primary competence, all the duties they discharge are ones devolved to them by the administrative authorities; furthermore, they carry out these duties under the close and regular scrutiny of these authorities. An examination of the relevant texts reveals three main types of supervision. One of these types requires the local authorities communicate their decisions or proposed cause of action to administrative authorities or involve them in the decision-making of councils.<sup>110</sup> Other cases necessitate that some devolved powers be exercised only with the prior approval of the supervisory authorities.<sup>111</sup> This is where the principle of subsidiarity, which warrants that governance should take place as close as possible to the local populace, becomes important. The principle also entails a preference to

---

<sup>107</sup> Fombad (2019) 341.

<sup>108</sup> For instance, article 59 (1) of the Constitution of Cameroon, 1996, states: The Regional Council may be suspended by the President of the Republic where such organ: carries out activities contrary to the constitution; undermines the security of the state or public law and order; and endangers the state's territorial integrity'.

<sup>109</sup> Fombad (2019) 340.

<sup>110</sup> Fombad (2019) 342.

<sup>111</sup> Fombad (2019) 342 - 343.

locate functions and powers at lower levels of government where possible, and necessitates that lower levels of government are protected from undue influence, as occurs in South Africa.<sup>112</sup>

Under a decentralised form of government, the distribution of powers and functions to subnational units does not imply that these operate as independent governments or entities. While they exercise a degree of autonomy, lower spheres of government remain accountable to the central government, which has the obligation to oversee their activities. Central-government powers of intervention in local government are thus not only necessary but understandable. Local authorities may abuse their power and mismanage the affairs of the community; if the central government fails to intervene timeously, this can lead to serious problems such as embezzlement and corruption. However, Kenya, has instituted mechanisms to allow central government to oversee the activities of local government without weakening local government autonomy.<sup>113</sup> This is also the case of South Africa<sup>114</sup> and Zimbabwe<sup>115</sup> whereby the decentralisation framework provides a balanced method that builds in measures to ensure that the central government cannot abuse its powers to intervene and wrest control of local government authorities from its political opponents. Cameroon may opt for these methods of supervision rather than usurpation of power.

The Cameroonian legal framework, unlike the cases of South Africa, Kenya and Zimbabwe, has no detailed provisions in the 1996 Constitution to give direction on how central government is to oversee the activities of local government without abusing such powers. In addition, the United Councils and Cities in Cameroon (UCCC),<sup>116</sup> the body created to enhance cooperation between local government, has remained silent on the issue of the weak administrative autonomy of local government. This leaves local government with little powers, especially with respect to deciding on development projects. There therefore may be a need for Cameroon to follow the example of South Africa, of which the most salient features were set out earlier, for effective organised local government.

### 3. A rights-based approach to service delivery

A rights-based approach, especially to development and particularly to service delivery, necessitates that existing resources such as water, health and education be shared more equally and

---

<sup>112</sup> De Visser, J., Subsidiarity in the Constitution, *Local Government Bulletin*, 10 (4), 2009, 1. The principle of subsidiarity allows for autonomy, which is essential for curbing conflict between deconcentrated and decentralised governance units. When council areas have autonomy, they can contribute effectively to development and democracy.

<sup>113</sup> Article 190 of the Constitution of Kenya, 2010 states, inter alia: '(3) Parliament shall, by legislation, provide for intervention by the national government if a county government – (a) is unable to perform its functions; or (b) does not operate a financial management system that complies with the requirements prescribed by national legislation. (4) Legislation under clause (3) may, in particular, authorise the national government – (a) to take appropriate steps to ensure that the county government's functions are performed and that it operates a financial management system that complies with the prescribed requirements; and (b) if necessary, to assume responsibility for the relevant functions. (5) The legislation under clause (3) shall – (a) require notice to be given to a county government of any measures that the national government intends to take; (b) permit the national government to take only measures that are necessary; (c) require the national government, when it intervenes, to take measures that will assist the county government to resume full responsibility for its functions; and (d) provide for a process by which the Senate may bring the intervention by the national government to an end.'

<sup>114</sup> Section 100 of the Constitution of South Africa, 1996.

<sup>115</sup> Section 278 of the Constitution of Zimbabwe, 2013.

<sup>116</sup> The local government system in Cameroon, country profile, available at [http://www.clgf.org.uk/default/asset/File/Country\\_profiles/Cameroon.pdf](http://www.clgf.org.uk/default/asset/File/Country_profiles/Cameroon.pdf) 39 (accessed 13 March 2023).

equitably, thus allowing marginalised groups, including women,<sup>117</sup> to assert their rights to these resources.<sup>118</sup> Authors like Ferguson considers a rights-based approach as ‘a vehicle for increasing the accountability of government organisations to their citizens and consequently increasing the likelihood that policy measures will be implemented in practice.’<sup>119</sup> A rights-based approach to development and service delivery thus takes into consideration the empowerment of vulnerable and disadvantaged groups, their participation in society, non-discrimination and equality. It incorporates both aspects of accountability and citizen participation. As such citizens are aware of their entitlements with respect to service delivery. They are informed and involved in the dynamics of social programming and aware of administrative and legal mechanisms for enforcement and redress.<sup>120</sup> Considering poor people especially in disadvantaged communities simply as beneficiaries of services is important in fulfilling their basic needs, but it does not necessarily strengthen the accountability of duty bearers.

Another major reason for poor service delivery in some African states and Cameroon in particular, is the politicisation of administrative components in municipalities, amounting to poor local governance and thus poverty. Countries in Africa like South Africa have suffered from the politicisation of administrative components in some municipalities, amounting to poor local governance and thus poverty. This has exacerbated poverty especially in the rural areas.<sup>121</sup> States such as Switzerland have limited the politicisation of administrative components in local government and championed the rights-based approach to service delivery. Citizens are involved in social programming.<sup>122</sup> It is thus necessary for local government in Cameroon to rethink the *modus operandi* of service delivery, especially to disadvantaged communities by ensuring that the citizens, including the most vulnerable, the disabled and most especially women, are involved in the social programming of these services. This includes services such as health, water and sanitation.

Considering the fact that social and economic rights are covered only in the preamble of the 1996 Constitution, there may be need to have a bill of rights which explicitly outlines how socio-economic rights should be promoted and protected.<sup>123</sup> This would make social and economic rights justiciable and ensure that they are given the importance they deserve in formulating state policy especially with respect to service delivery.

#### **4. More political inclusion of marginalised groups at the national decision-making level**

Political inclusion involves appointing more members of minority and marginalised groups to high ranking positions at the central government level. This equally includes appointing more Anglophone Cameroonians and indigenous people, as well as women to central government

<sup>117</sup> Ackerman, C., The rights-based approach to local government development and service delivery: Putting women (back) in the centre of attention *Journal of African Elections*, 11 (2) 2012, 116-133.

<sup>118</sup> Cornwall, A & Nyamu-Musembi, C., Putting the ‘Rights-Based Approach’ to Development into Perspective, *Third World Quarterly* (8) 2004, 1416.

<sup>119</sup> Ferguson, C., *Global Social Policy Principles: Human Rights and Social Justice*, London: DFID 1999, 23.

<sup>120</sup> Cornwall & Nyamu-Musembi (2004) 1424.

<sup>121</sup> Masuku, M. & Jili, N., Public service delivery in South Africa: The political influence at local government level, *Journal of Public Affairs*, 19(2), 2019 <https://doi.org/10.1002/pa.1935>.

<sup>122</sup> Kalin, W., *Decentralisation-why and how?*, Decentralisation and Development SDC Publications on Development Swiss Agency for Development and Cooperation Berne, January 1999, 49.

<sup>123</sup> Chofor Che, CA., Challenges of incorporating and enforcing a bill of rights in the Cameroonian Constitution, *Cameroon Journal on Democracy and Human Rights*, 2 (1) 2008, 71-72.



positions. It does not suffice to accommodate marginalised groups only in certain territorial spaces without also giving them the opportunity to be part of national decision-making initiatives. Countries such as Canada have gone a long way in ensuring that linguistic and minority groups are sufficiently represented at the national decision-making level.<sup>124</sup> Cameroon has made strides towards accommodating minority groups but needs to do more for more peace and development.

## 5. Adequately qualified human resources to staff local government institutions

A lack of adequate human resources has been identified as a major factor retarding development and peace at the local government level in Cameroon. The National School of Local Administration (NASLA) in Cameroon created after the major national dialogue, as one of the recommendations to quell the Anglophone crisis, thus has the mandate to fill this gap. NASLA can therefore ensure that regional and local government benefits from quality human resources owing to its rich training and research programs. Within the framework of initial or in-service training, NASLA can implement applied research projects and organise colloquia, seminars or conferences on any issues related to the implementation of decentralisation, in order to promote local development and peace.<sup>125</sup>

## 6. Rethinking the *modus operandi* of the Constitutional Council

The Council falls short in upholding the constitutionality of the law. The principal mandate of a Constitutional Court or Council is to uphold the constitutionality of laws. In so doing even ordinary citizens should have access to this very important institution, which is not so in the Cameroonian context. There is thus need to rethink the *modus operandi* of the Council. The issue of *locus standi* before the Council needs to be extended to ordinary citizens especially when it concerns promoting and protecting their human rights. As things presently stand, *locus standi* to refer a bill to the Council is restricted to the President of the Republic, the Presidents of the two Parliamentary Chambers, 1/3 of the members of each of the Houses and the Presidents of the regional executives when the interest of their regions is at stake. This restriction of the right of referral makes it more than improbable for bills to be challenged before the Council by ordinary citizens. The Constitution of South Africa has adopted a liberal approach to *locus standi* as it furnishes several forms of public interest standing for the protection of rights in the Bill of Rights.<sup>126</sup>

---

<sup>124</sup> Government of Canada *Appointment Policy* available at <https://www.canada.ca/en/public-service-commission/services/appointment-framework/appointment-policy.html> (accessed on 17 April 2023).

<sup>125</sup> Created by Decree No. 2020/111 of 2 March 2020 on the establishment, organisation and functioning of the National School of Local Administration (NASLA), NASLA is a public institution of an administrative and professional status, with legal personality and financial autonomy. Its mission is to provide professional training in areas of competence and specialisation of local administration, in accordance with the guidelines set by the Government. Furthermore, it liaises with RLAs, their institutions, trade unions or associations to assess the training needs in local administration and draw up subsequent training plans. The general training regime at NASLA is structured around three (3) cycles, Cycle A for Senior Executives, Cycle B for Mid-level Staff and Cycle C for Specialised Workers.

<sup>126</sup> Section 38 of the Constitution of the Republic of South Africa, 1996 states, "Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are- (a) anyone acting in their own interest; (b) anyone acting on behalf of another person who cannot act in their own name; (c) anyone acting as a member of, or in the interest of, a group or class of person; (d) anyone acting in the public interest; and (e) an association acting in the interests of its members."

Liebenberg argues that section 38 of the South African Constitution provides generous and broad remedies for persons who claim that a right in the Bill of Rights has been threatened or infringed to approach a court for appropriate remedy.<sup>127</sup>

The second suggested reform is the need for the Council to challenge the constitutionality of laws after their promulgation. One may think of extending the jurisdiction of the Council to certain acts which are currently excluded from its field of competence. The idea here is to ensure the Council has supervisory control over the three arms of government.

Finally, the Council should be bolder in discharging its missions. Without necessarily being a judge who governs, the Council must interpret the 1996 Constitution in a spirit of the respect of human rights as well as the respect for democracy. It is at this juncture that it will deserve the place reserved for it in the decentralisation and constitutionalism architecture of the State.

## **7. Local fiscal management autonomy as a trigger for more development opportunities**

It has been established that the fiscal decentralisation agenda under the 1996 Constitution is porous and needs reform. It is therefore necessary to bring in the case of South Africa with respect to how adequate fiscal and resource autonomy may contribute in a rationalised decentralisation design for reinforced administrative and political autonomy. This may better inform constitution builders in creating a more appropriate decentralisation design for Cameroon. South Africa allows local government to raise their own finances. The 1996 Constitution of South Africa states that the designation of political and administrative functions and powers to lower spheres of government must be accompanied by adequate financial means.<sup>128</sup>

In most decentralised countries, fiscal design options have three main elements. The first is inter-governmental transfers and focuses on how various spheres of government equalise imbalances and share revenues. The second is the assignment of responsibility to a sphere or spheres of government to raise revenue.<sup>129</sup> The third element is the assignment of responsibility for expenditure on services and the like at the various spheres of government. To guarantee that the administration successfully carries out its responsibilities, the propensity to assign duties and competencies must follow or accompany the assignment of responsibility for expenditure. If all taxing responsibility is conferred on the central government, this may result in undesirable consequences.<sup>130</sup> For instance, by separating spending powers from the revenue-raising authority may obscure the link between the benefits or gains of public expenditure and its cost, which are the taxes levied to finance them, so that the separation does not encourage fiscal responsibility among politicians and their electorate at the local level.<sup>131</sup> If the constitution gives too much responsibility for raising

---

<sup>127</sup> Liebenberg, S., Reflections on drafting a Bill of Rights: A South African perspective, in N. Kersting (ed) *Constitution in transition: Academic inputs for a new constitution in Zimbabwe*, GTZ and Friedrich Ebert Stiftung, 2009, 40.

<sup>128</sup> Section 214 (2) (d) of the Constitution of South Africa, 1996.

<sup>129</sup> Shah, A., The Reform of Intergovernmental Fiscal Relations in Developing and Emerging Market Economies, The World Bank: Washington DC, 1994, 15-18.

<sup>130</sup> Anderson, G., *Fiscal Federalism: A Comparative Introduction*, Oxford University Press, 2010, 2-3.

<sup>131</sup> Shah (1994) 15- 18.



taxes to local government, the central government may have issues with macro-economic development planning.<sup>132</sup>

A disparity often exists between taxing and spending at the various spheres of government, particularly lower spheres of government, in that the central government usually collects the greatest share of taxes but allocates enormous spending responsibilities to the local level.<sup>133</sup> Pre-transfer fiscal deficits, also termed vertical imbalances, occur. Horizontal imbalances, which are imbalances between lower spheres of government, equally exist.<sup>134</sup> Usually lower spheres of government are not assigned with the same revenue raising abilities, especially as wealthy residents cannot live in every region or local government, nor do they all have the same needs. Some lower spheres of government are more populated than others while others demand more services than others. To adjust such imbalances, there thus is a need for intergovernmental transfers, vertically.<sup>135</sup> If the payments are from the central government to lower spheres of government, then there is need for intergovernmental transfers, horizontally, if these transfers are between sub-national governments.<sup>136</sup> There may similarly be grants transferred from the central government to lower spheres of government, which may go a long way towards giving adequate autonomy to local government in countries.<sup>137</sup>

Constitution builders especially in the case of Cameroon, need to further take into consideration two main factors when deciding whether to give the tax raising and spending responsibility to local government. First, revenues attributed to the local governments should be adequate to finance all locally-provided services that primarily benefit local inhabitants. Second, local government should be given the permission to collect sub-national revenues from their local residents linked to benefits obtained from local services. Making sure that there is a connection between benefits received and taxes paid strengthens the accountability of local administrators and equally governmental service delivery.

Due to the ongoing crisis in the special status regions, the own revenue base in these regions is weak. The 2019 General Code on Decentralisation allows the special status regions to create regional development authorities, but the special status regions in particular have not been able to benefit from such a great opportunity. This is so because there is no further direction on how these structures should be created and how they should operate. There is therefore need for more legislation as well as training of local government personnel and sensitisation from institutions such as the National School of Local Administration on how the special status regions can create regional development authorities as well as create wealth in the form of business opportunities. Depending only on transfers from the central government will not help the regions and councils very much. Regions and councils especially those in the special status regions must be able to create wealth so as to enhance peace and development. Multilingual countries such as Ethiopia<sup>138</sup>

---

<sup>132</sup> Anderson (2010) 2-3.

<sup>133</sup> Anderson (2010) 34.

<sup>134</sup> Anderson (2010) 6.

<sup>135</sup> Bird, R.M., Subnational Taxation in Developing Countries: A Review of the Literature, Policy Research Working Paper 5450 World Bank: Washington, DC, 2010.1.

<sup>136</sup> Ahmad, E., Intergovernmental Transfers: An International Perspective, in E. Ahmed (ed.), *Financing Decentralised Expenditures: An International Comparison of Grants*, Edward Elgar Publishing Ltd, 1997, 6. Transfers may be in the form of either revenue-sharing or surcharges whereby the national government transfers a share of revenues from specific taxes collected within that local government.

<sup>137</sup> Anderson (2010) 58.

<sup>138</sup> Belay, A.A., System of Division of Revenue in Ethiopia, *European Scientific Journal* September special

in the developing world and Switzerland<sup>139</sup> in the developed world, allow local government to have autonomous economic development and tax raising initiatives for a more effective fiscal decentralisation agenda. Such arrangements are necessary for local government in Cameroon especially local government in the special status regions.

There is no gainsaying that the government of Cameroon has made some efforts in ensuring that local government has some degree of autonomy, but more still has to be done as in the cases of Switzerland, South Africa and Ethiopia. It is also very necessary for the role of the Presidency, the Prime Ministry, the Ministry of Decentralisation and Local Development, as well as other concerned line ministries to collaborate with the Ministry of Finance in Cameroon to ensure that there is local fiscal autonomy for more development opportunities. Anti-corruption agencies such as the National Anti-Corruption Agency with French acronym CONAC must be able to ensure that local and regional authorities are judiciously managing their finances for developmental objectives. If this is done it may go a long way to reduce resource wastage as well as curb corruption so as to enhance better political and administrative decentralisation.

## F) Conclusion

This contribution did not pretend to provide all the proposals for change, but focused on some proposals which may propel Cameroon's decentralisation agenda forward thus creating an enabling environment for peace and development. It was argued that Cameroon faces an array of serious governance challenges even after the major national dialogue in 2019. A most disturbing challenge amongst several other challenges such as poor service delivery and ethnic issues, is handling the country's inherited dual-state colonial heritage, particularly the perception of marginalisation by the Anglophone community. Other challenges include the continuous usurpation of competencies of decentralised authorities by deconcentrated authorities. An examination of the constitutional and legal framework of decentralisation and constitutionalism under the 1996 Constitution, has demonstrated that these issues have not been adequately addressed under the current dispensation. Though there have been some efforts made by the government to fast track the decentralisation process, there is still need for some fundamental changes such as a rights-based approach to service delivery by incorporating a bill of rights in the 1996 Constitution, a need to involve more marginalised groups in national decision making, a need for more constitutionalism, as well as a conducive fiscal decentralisation agenda for lasting peace and development in Cameroon's decentralisation process.

---

edition, (2) 2014, 95-97.

<sup>139</sup> In the case of Switzerland, communes and cantons have the power to decide and finance the provision of public services. There also exist several forms of cooperative federalism such as intercantonal treaties and intercantonal conferences. There is extensive devolution of taxation powers and expenditure decisions to local government. This autonomy, especially fiscal autonomy, is guaranteed by Article 3 of the 1999 Federal Constitution. See Dafflon, B., Accommodating Asymmetry Through Pragmatism: An Overview of Swiss Fiscal Federalism, in R.M. Bird & R.D. Ebel (eds.), *Fiscal Fragmentation in Decentralised Countries: Subsidiarity, Solidarity and Asymmetry*, Edward Elgar Publishing Ltd, 2007, 116-120. See also Expatica, The Swiss tax system: a guide to Switzerland's tax rates, available at <https://www.expatica.com/ch/finance/taxes/switzerland-tax-rates-101589/> (accessed 20 April 2023).

Switzerland: Taxation, Overview of the tax system (tax rates from 2020) available at <https://zugimpex.com/switzerland-taxes.html?msclkid=84ed53e89d3e1c7010c937a9b5bebcc8> (accessed 20 April 2023).

## Bibliography

### 1. List of cases

Kevin Mgwanga Gunme et al v Cameroon, Communication 266/2003, available at <https://africanlii.org/afu/judgment/african-commission-human-and-peoples-rights/2009/99> (accessed 9 March 2023).

The People v Nya Henry & Others (2005) AHRLR 101 (CafI 2001).

### 2. Laws

#### Botswana

Local Government Act, 18 of Botswana, 2012.

#### Cameroon

Constitution of Cameroon, 1996.

Federal Constitution of Cameroon, 1961.

Decree N°2020/773 of 24 December 2020 to lay down conditions for discharge of the duties of Public Independent Conciliator in the North-West and South-West Regions.

Decree No. 2020/111 of 2 March 2020 on the establishment, organisation and functioning of the National School of Local Administration.

Decree 2018/719 of 30 November 2018 to establish the National Disarmament, Demobilisation and Reintegration Commission.

Decree No. 2009/248 of 5 August 2009 to lay down conditions for the assessment and distribution of the Common Decentralisation Fund.

Decree No. 2008/013 of 17 January 2008 on the Composition and Functioning of the National Decentralisation Board.

Decree No. 2008/014 of 11 January 2008 on the Composition and Functioning of the Inter-ministerial Committee on Local Services.

Decree No. 90-1459 of 8 November 1990 to set up the National Commission on Human Rights and Freedoms.

Law no. 2019/24 of December 24, 2019, to Institute the General Code of Regional and Local Authorities.

Law no 2012/001 of 19 April 2012 relating to the Electoral Code modified and completed by Law no 2012 /017 of 21 December 2012.

Law No. 2009/011 of 10 July 2009 relating to Financial Regime of Regional and Local Authorities.

Law No.2008/001 of 14 April 2008 to amend and supplement some provisions of Law No.96/06 of 18 January 1996 to amend the Constitution of 2 June 1972.

Law No. 2006/011 of 29 December 2006 to set up and lay down the organisation and functioning of Elections Cameroon.

Law no 74/23 of the 5 of December 1974 to organise councils also created the Special Council Support Fund for Mutual Assistance (FEICOM).

**Kenya**

Constitution of Kenya, 2010.

**South Africa**

Constitution of South Africa, 1996.

Intergovernmental Relations Framework Act, No 13 of 2005.

**Spain**

Constitution of Spain, 1978.

**Zimbabwe**

Constitution of Zimbabwe, 2013.

**3. International Instruments**

African Charter on Human and Peoples' Rights (1981) adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev.5, 21 I.L.M 58 (1982), entered into force 21 October 1986.

International Covenant on Civil and Political Rights adopted by the United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966 and entered into force on 23 March 1976.

International Labour Organisation (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

United Nations Declaration on the Rights of Indigenous Peoples, 61/295, adopted by the General Assembly on 13 September 2007.

United Nations Charter, 1945, signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945.

**4. Journal articles**

Ackerman, C., The rights-based approach to local government development and service delivery: Putting women (back) in the centre of attention *Journal of African Elections*, 11 (2) 2012.

Belay, A.A., System of Division of Revenue in Ethiopia, *European Scientific Journal* September, special edition (2) 2014.

Chofor Che, C.A., Rethinking the façade of decentralisation under the 1996 Constitution of Cameroon, *Global Campus Human Rights Journal*, (4) 2020, 135-175.

Chofor Che, C.A., Challenges of incorporating and enforcing a bill of rights in the Cameroonian Constitution, *Cameroon Journal on Democracy and Human Rights*, 2 (1) 2008, 68-72.

Cornwall, A. & Nyamu-Musembi, C., Putting the 'Rights-Based Approach' to Development into Perspective, *Third World Quarterly*, (8) 2004.

Enonchong, N., The African Charter on Human and Peoples' Rights: Effective remedies in domestic law?, *Journal of African Law*, 197 (46), 2002, 198-215.

Fombad, C.M., Challenges to Constitutionalism and Constitutional rights in Africa and the Enabling role of Political Parties: Lessons and Perspectives from Southern Africa, *The American Journal of Comparative Law*, 55(1) 2007, 1-45.

- Fombad, C.M., The new Cameroonian Constitutional Council in a comparative perspective: Progress or retrogression?, *Journal of African Law*, 42, 1998, 172-186.
- Fombad, C.M., Some perspectives on the prospects for judicial independence in post-1990 African Constitutions', *The Denning Law Journal*, 2012, 17-43.
- Mafany, C.N., The Anglophone-Cameroonian Armed Conflict in North and South West Regions of Cameroon: The Rulings of International Humanitarian Law and Human Rights, *Commonwealth Journal of Academic Research*, 1 (1) 2020, 1-19. <http://doi.org/10.5281/zenodo.3875644>.
- Masuku, M & Jili, N., Public service delivery in South Africa: The political influence at local government level *Journal of Public Affairs*, 19(2), 2019 <https://doi.org/10.1002/pa.1935>.
- Muñoz, J.M., Business Visibility and Taxation in Northern Cameroon *African Studies Review*, 53 (2) 2010, 153.
- Sharma, K.C., Role of Local Government in Botswana for Effective Service Delivery: Challenges, Prospects and Lessons, *Commonwealth Journal of Local Governance*, (7), 2010, 137. <https://doi.org/10.5130/cjlg.v0i7.1908>.
- Taoyang, W. M., Sociocultural Barriers to Women's Political Leadership in the North Region of Cameroon, *Asian Journal of Humanities and Social Studies*, 7(2), 2019, 41-51. <https://doi.org/10.24203/ajhss.v7i2.5746>.

## 5. Books

- Anderson, G., *Fiscal Federalism: A Comparative Introduction*, Oxford University Press, 2010.
- Anderson, G., *Federalism: An Introduction*, Oxford University Press, 2008.
- Department of Peace Operations Office for Disarmament Affairs, *Effective Weapons and Ammunition Management in a Changing Disarmament, Demobilization and Reintegration Context: A Handbook for United Nations DDR Practitioners*, United Nations: New York, 2021.
- Ferguson, C., *Global Social Policy Principles: Human Rights and Social Justice*, London: DFID 1999.
- Ngai Ngong, S., *Essential Elements of Administrative Law in Cameroon*, Yaounde: Les Editions Le Kilmanjaro, 2022.
- Okafor, O.C., *The African Human Rights System, activist forces and international institutions*, Cambridge University Press, 2007.
- Shah, A., *The Reform of Intergovernmental Fiscal Relations in Developing and Emerging Market Economies*, The World Bank: Washington DC, 1994.

## 6. Chapters in edited volumes

- Ahmad, E., Intergovernmental Transfers: An International Perspective, in E. Ahmed (ed.), *Financing Decentralised Expenditures: An International Comparison of Grants*, Edward Elgar Publishing Ltd, 1997, 1-17.
- An-Na'im, A., The National Question: Secession and Constitutionalism: The Mediation of Competing Claims to Self-determination, in D. Greenburg et al (eds.), *Constitutionalism and Democracy: Transitions in the Contemporary World*, Oxford University Press, 1993.
- Aldecoa, F. & Cornago, N., Kingdom of Spain, in H. Michelmann (eds.), *A Global Dialogue on Federalism-Volume V: Foreign Relations in Federal Countries*, McGill-Queen's University Press, 2009, 241-263.

- Belser, E.M., The Relationship Between Federalism and Human Rights in T. Fleiner-Gerster (eds.), *Federalism and Decentralisation: Constitutional Problems of Territorial Decentralisation in Federal and Centralised States*, New York: Routledge, 2019, 1-490.
- Chofor Che, C.A., A Federal Constitution devoid of Constitutionalism: The case of Cameroon, in M.K. Mbondenyi, MK & T. Ojienda (eds.), *Constitutionalism and Democratic Governance in Africa: Contemporary Perspectives from Sub-Saharan Africa*, Pretoria University Law Press, 2013, 163-188.
- Dafflon, B., Accommodating Asymmetry Through Pragmatism: An Overview of Swiss Fiscal Federalism, in R.M. Bird & R.D. Ebel (eds.), *Fiscal Fragmentation in Decentralised Countries: Subsidiarity, Solidarity and Asymmetry*, Edward Elgar Publishing Ltd, 2007, 114-161.
- Diwouta, C., The impact of the African Charter and Women's Protocol in Cameroon, in The Centre for Human Rights, University of Pretoria, *The impact of the African Charter and Women's Protocol in selected African states*, Pretoria University Law Press, 2012, 21-27.
- Fombad, C.M., 'Introduction to Decentralisation and Constitutionalism in Africa' in C.M. Fombad & N. Steytler (ed.), *Decentralisation and Constitutionalism in Africa*, Oxford, United Kingdom: Oxford University Press, 2019, 1-21.
- Fombad, C.M., Cameroon and the Anomalies of Decentralisation with a Centralist Mindset. in C.M. Fombad & N. Steytler (ed.), *Decentralisation and Constitutionalism in Africa*, Oxford, United Kingdom: Oxford University Press, 2019, 326-361.
- Fombad, C.M., The Cameroonian Constitutional Council: Faithful servant of an unaccountable system, in C.M. Fombad (ed.), *Constitutional Adjudication in Africa*, Oxford University Press, 2017, 80-96.
- Fombad, C.M., Post 1990 Constitutional Reforms in Africa: A Preliminary Assessment of the Prospects for Constitutional Governance and Constitutionalism, in A.G. Nhema & P.T. Zelza (eds.), *The Resolution of African Conflicts: the management of conflict resolution and post-conflict reconstruction*, OSSREA & James Currey, Oxford, 2008, 179-199.
- Liebenberg, S., Reflections on drafting a Bill of Rights: A South African perspective, in N. Kersting (ed) *Constitution in transition: Academic inputs for a new constitution in Zimbabwe*, GTZ and Friedrich Ebert Stiftung, 2009, 21-45.
- Steytler, N., Republic of South Africa, in J. Kincaid & G.A. Tarr (eds), *Constitutional origins, structure and change in federal countries: A global dialogue on federalism* vol. 1, McGill-Queen's University Press, London, 2005, 312-346.

## 7. Theses and Dissertations

- Anye, F.E., Issues of minority in the context of political liberalisation: The case of Anglophone Cameroon, unpublished PhD thesis, School of Social Sciences, Faculty of Arts, University of the Witwatersrand, 2008, 1-303.
- Chofor Che, C.A., An analysis of decentralisation under the 1996 Constitution, unpublished PhD thesis, Centre for Human Rights, Faculty of Law, University of Pretoria, 2019, 1-237
- Enonchong, L.S.E., The Problem of Systemic Violation of Civil and Political Rights in Cameroon: Towards a Contextualised Conception of Constitutionalism, unpublished PhD thesis, School of Law, University of Warwick, 2013, 1-295.

## 8. Working papers

- Belser, E.M., Maggetti-Waser, M. & Steytler, N., Power Sharing in Sri Lanka: Some comments and recommendations to the constitutional debate from a comparative perspective, IFF Working Paper Online No 16, Fribourg, August 2016. <https://doi.org/10.51363/unifr.diff.2016.16> (accessed 15 April 2023).
- Bird, R.M., Subnational Taxation in Developing Countries: A Review of the Literature, Policy Research Working Paper 5450, World Bank: Washington, DC, 2010.
- Kalin, W., Decentralisation-why and how?, Decentralisation and Development SDC Publications on Development Swiss Agency for Development and Cooperation Berne, January 1999.
- Moungou Mbenda, S.B. & Bekono, E.R., Gouvernance des collectivités territoriales décentralisées (CTD) et gestion des compétences transférées, Working Paper, 2012, available at <http://www.researchgate.net/publication/312969211> (accessed 12 April 2023).

## 9. Internet sources

- Caxton, A.S., The Anglophone Dilemma in Cameroon, Accord: Conflict Trends 2, 21 July 2017, available at <http://www.accord.org.za/conflict-trends/anglophone-dilemma-cameroon/> (accessed 4 March 2023).
- Crisis Group Africa Report 250, Cameroon's Anglophone crisis at the crossroads, International Crisis Group, 2 August 2017, available at <https://www.crisisgroup.org/africa/central-africa/cameroon/250-camerouns-anglophone-crisis-crossroads> (accessed 30 April 2023).
- Earthly Data for earthly beings, Population of Cameroon, available at <https://database.earth/population/cameroon> (accessed 24 March 2023).
- Expatica, The Swiss tax system: a guide to Switzerland's tax rates, available at <https://www.expatica.com/ch/finance/taxes/switzerland-tax-rates-101589/> (accessed 20 April 2023).
- Gatsi, T E.A., There is a need of extending the jurisdiction of the Council to certain acts, Cameroon Tribune, 7 February 2023, available at <https://cameroon-tribune.cm/article.html/54921/fr.html/there-need-of-extending-the-jurisdiction-of-the-council-certain-acts> (accessed 26 April 2023).
- Government of Canada Appointment Policy, available at <https://www.canada.ca/en/public-service-commission/services/appointment-framework/appointment-policy.html> (accessed 17 April 2023).
- Kindzeka, M.E., Cameroon Critics ask for DDR Improvements Amid Ex-Fighter Protests Voice of America available at [https://www.voanews.com/a/africa\\_cameroon-critics-ask-ddr-improvements-amid-ex-fighter-protests/6202199.html](https://www.voanews.com/a/africa_cameroon-critics-ask-ddr-improvements-amid-ex-fighter-protests/6202199.html) (accessed 17 April 2023).
- Ndonwi, A.K., The Tax Regime in Cameroon and The Responsibilities of Cameroonians Towards Fiscal Tax Allocations, November 30, 2019, available at <http://dx.doi.org/10.2139/ssrn.3495917> (accessed 12 April 2023).
- OCHA Cameroon, Situation Report, 9 March 2022. available at <https://reliefweb.int/report/cameroon/cameroon-situation-report-9-march-2022> (accessed 12 April 2023).
- OCHA Cameroon, Cameroon: North-West and South-West - Situation Report No. 44, June 2022, available at <https://reliefweb.int/report/cameroon/cameroon-north-west-and-south-west-situation-report-no-44-june-2022> (accessed 9 March 2023).
- Report No. 63369-CM., Cameroon: The path to fiscal decentralization. Opportunities and Challenges, Document of the World Bank, September 2012, available at

- <https://documents1.worldbank.org/curated/en/685841468239367086/pdf/633690ESW0Gray0disclosed01105020120.pdf> (accessed 14 April 2023).
- Switzerland: Taxation, Overview of the tax system (tax rates from 2020) available at <https://zugimpex.com/switzerland-taxes.html?mscl-kid=84ed53e89d3e1c7010c937a9b5bebcc8> (accessed 20 April 2023).
- Teke, E., Key resolutions of the major national dialogue, Cameroon Radio Television, available at <http://www.crtv.cm/2019/10/cmrdialogue-key-resolutions-of-the-major-national-dialogue/> (accessed 18 March 2023).
- Teke, E., Major national dialogue: Peace caravan explains expectations, Cameroon Radio Television, available at <http://www.crtv.cm/2019/11/major-national-dialogue-peace-caravan-explains-expectations/> (accessed 18 March 2023).
- The Office of the High Commissioner for Human Rights (OHCHR) available at <http://www2.ohchr.org/english/law/index.htm#core> (accessed 6 March 2023).
- The local government system in Cameroon, country profile, available at [http://www.clgf.org.uk/default/assets/File/Country\\_profiles/Cameroon.pdf](http://www.clgf.org.uk/default/assets/File/Country_profiles/Cameroon.pdf), 39 (accessed in April 2023).
- United Nations Peacekeeping Disarmament, Demobilization and Reintegration available at <https://peacekeeping.un.org/en/disarmament-demobilization-and-reintegration> (accessed 12 April 2023).
- US Department of State, Bureau of Democracy, Human Rights and Labor, Cameroon Country Report of Human Rights Practices, 2015, available at <https://2009-2017.state.gov/documents/organization/252873.pdf> (accessed 10 March 2023).
- Wikipedia, Demographics of Cameroon, available at [https://en.wikipedia.org/wiki/Demographics\\_of\\_Cameroon](https://en.wikipedia.org/wiki/Demographics_of_Cameroon) (accessed 7 March 2023).
- World Bank, Towards Better Service Delivery: An Economic Update on Cameroon with a focus on fiscal decentralization, issue no 2, July 2011, available at <https://documents1.worldbank.org/curated/en/163751468017353269/pdf/716500NWP0Box30ic0update-June-26-11.pdf> (accessed 8 March 2023).