

# The Legal Framework for The Protection of English-Speaking Minority in Cameroon

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**Abstract:** Human rights are inextricably linked. In the African charter, collective rights and individual rights are interdependent and indivisible. It is difficult to protect individual rights if collective rights are not guaranteed. The rights of minorities are guaranteed by the United Nations charter and its relevance to the Republic of Cameroon where the Anglophone minority since independence continuously has complained of marginalization. These complaints have been to the effect that severe violations of the human rights of Anglophone Cameroonians have occurred. This article seeks to however, establish the legislations put in place by the government to protect the rights of these minority English speaking regions.

**Key words:** Legal Framework, protection, English speaking, minority.

## Introduction

The concept of minority protection is a well-established concept in international law. Minorities therefore have protection accorded to them by international legal instruments consisting of non-binding as well as binding instruments. Cameroon being a party to these instruments has expressed its triple pronged duty to respect, protect and fulfill human rights. Adequate protection of the rights of minorities in Cameroon is a positive indicator that Cameroon is committed in its triple pronged duties of guaranteeing human rights protection. The inefficacy of the government in this venture on the other hand implies non-compliance with its triple pronged obligation. Analyses of the various laws put in place to protecting these minorities will be the bone of contention of this article.

## Legislations protecting the English speaking minorities in Cameroon.

The constitution of Cameroon<sup>1</sup> remains a set of fundamental legal-political rules that are binding on everyone in the state, including ordinary law-making institutions and regulates the structure and functioning of the governmental institutions, political principles and the rights of citizens.<sup>2</sup> It can therefore be understood that the Constitution covers the exact content of the political set up of a state (that is, it sets out the basic structure of the government and also declares and defines the rights and duties of citizens.

The Constitution expresses the commitment to holding free, fair and genuine elections by universal, free, secret and direct suffrage. In other words, it protects electoral rights which includes: the right to vote and to run for elective office in free, fair, genuine and periodic elections conducted by universal, free, secret and direct vote; the right to gain access, in equal conditions, to elective public office; the right to political association for electoral purposes (for example, the right to establish or join or not join a political party or any other grouping with electoral aims); and other rights intimately related to these, such as the right to freedom of expression, freedom of assembly and petition, and access to information on political-electoral matters.<sup>3</sup>

The preamble of the Cameroon Constitution expressly protects minority rights. It states: "all persons shall have equal rights and obligations. The State shall provide all its citizens with the

<sup>1</sup>Constitution of Cameroon 1996 as last amended in 2008.

<sup>2</sup> E., Bulmer, *What is a Constitution? Principles and Concepts*, (Stromborg: International Institute for Democracy and Electoral Assistance, 2017, 2nd edition), p. 2.

<sup>3</sup> See the Preamble of the Constitution of Cameroon 2006 as amended in 2008.

conditions necessary for their development; the State shall ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law.”

The Constitution has made it possible for certain regions to have special status. Article 62 of the Constitution of Cameroon states: “.....Without prejudice to the provisions of this Part, the law may take into consideration the specificities of certain Regions with regard to their organization and functioning”. Going by this provision, it goes without saying the regions containing the Anglophone minorities should have a special status with regard to their organization and functioning.

The principle of equality of persons enshrined in the preamble of the Constitution of Cameroon indirectly protects minorities. This is because equal treatment of Anglophones and Francophone for example implies that minorities do not have a problem. This principle also has constitutional foundation in other jurisdictions

Article 27 of the ICCPR gives members of minorities "the right, in community with the other members of their group, to enjoy their own culture ...<sup>4</sup> This naturally raises the problem of how to define the concept of "culture". The definition accepted by the relevant United Nations agencies and institutions is very general: "All that is inherited or transmitted through society"<sup>5</sup> including language, literature, religion, art and science or, in other words, all knowledge which humans transmit from one generation to the next. If article 27 of the Covenant, according to the United Nations Study, requires that State Parties not oppose any efforts that minorities may make to preserve and develop their culture, it also has the effect of requiring the State to assist them materially, within the limits of its resources.<sup>6</sup>

The law on the promotion of official languages in Cameroon<sup>7</sup> plays an embracing role in protecting the rights of the English speaking minority regions in Cameroon. This law lays down the general legal framework for the promotion of official languages in Cameroon.<sup>8</sup> The official languages according to section 2(1) of the law are English and French. These languages are given equal value.<sup>9</sup> The major objective of the Law on the Promotion of Bilingualism is to ensure the equal use of English and French in public services and bodies, and to encourage Cameroonians to express themselves in English and French.<sup>10</sup> The specific objectives include: guarantee the systematic use of both official languages as working languages in public entities and services open to the public; guarantee the right of every citizen to obtain information and official documents in the language of their choice; guarantee the right of every citizen to freely communicate with the Public Administration, and to obtain the services they desire therefrom in the language of their choice; guarantee the simultaneous publication and dissemination of legislative and regulatory instruments in both official languages, each version being equally valid; promote the teaching of English and French in the educational system.<sup>11</sup> Section 6(1) enjoins officials of government services and regional and local authorities to ensure the training of their staff in the use of English and French in the entities under their responsibility.

The law imposes certain responsibilities on the state to wit: guarantee the equality of English and French in all sectors of administrative, economic, social;<sup>12</sup> and political activity; ensure the effective use of English and French in government services;<sup>13</sup> ensure that information on manufactured products intended for the public is presented in both official languages;<sup>14</sup> set up

<sup>4</sup> J., Woehrling, “Minority Cultural and Linguistic Rights and Equality Rights in the Canadian Charter of Rights and Freedoms”, *Revue DE Droit De McGILL*, 1985, Vol. 31, p.60.

<sup>5</sup> M., Leiris, *Race and Culture*, (Paris: UNESCO, 1951) at 20-1.

<sup>6</sup> *Op cit.* p.60.

<sup>7</sup> Law No.2019/019 of 24 December 2019.

<sup>8</sup> Section 1.

<sup>9</sup> section 2(1).

<sup>10</sup> Section 5(1).

<sup>11</sup> *Ibid.* section 5(2).

<sup>12</sup> Section 8.

<sup>13</sup> *Ibid.* section 9.

<sup>14</sup> *Ibid.* section 10.

entities to provide training and build capacity in the use of English and French, and provide incentives to enable citizens<sup>15</sup> to develop their proficiency in both languages.

The law makes it mandatory for the use of both English and French in public entities. Section 13(1) states “English and French shall be the official working languages in public entities”. According to section 13(2), state employees shall be bound to render services in any of the official languages.<sup>16</sup> Public entities are required to have an internal structure in charge of translation, interpretation and promotion of official languages, run by professional translators and interpreters<sup>17</sup> and users of public entities are have the right to communicate and interact with the latter in either official language.<sup>18</sup>

Pursuant to Section 17, Press articles, press kits and all other institutional communication documents must be produced and made available in both official languages. Also Signposts, logos, placards and various notices are to be prepared and displayed by all public entities in English and French, with respect to equality of formal presentation in terms of font colour, type and size.<sup>19</sup> Another mandatory requirement contained in the law is that civil status documents and those for the identification of persons as well as State diplomas and certificates of achievement must be prepared in both official languages.<sup>20</sup> Also, as per section 21, road signs throughout the national territory are required to be in both official languages, according to international standards.

The law on decentralisation<sup>21</sup> lays down the rules applicable to councils, in accordance with the provisions of the law on the orientation of decentralization.<sup>22</sup> Article 2(1) provides that “the council shall be a basic decentralized local authority”. It is set up by decree of the President of the Republic.<sup>23</sup> The Mission of councils is enshrined in article 3(1) which states that “*Councils shall have a general mission of promoting local development and improving the living conditions of their inhabitants*”. In this light, they may, to supplement their own resources, request assistance from the population, civil society organizations, other regional and local authorities, the State and international partners.<sup>24</sup>

Section 9(2) of the 2004 of the Law also included the progressiveness or gradualism principle, which has partly determined the slow pace of decentralization.<sup>25</sup> According to that principle, ‘transfer of authority is spread over time and is done in packages or levels’. One of the problems affecting the pace of decentralization, as explained by the Minister Delegate, is the ‘lack of a local governance and participatory democracy culture’. That has not been mitigated by legislative provisions, which, in effect, stymie participatory democracy. This factor, as well as others already outlined, makes for a decentralization process that does not accord the devolved units meaningful autonomy to address the issues that are of concern to them.

The ‘Anglophone’ minorities are protected by this law in the sense that there are can manage their affairs at the local level. However, this privilege is common to all councils in the national territory rather than specific to ‘Anglophones. So even though the law attempts to deal with issues such as education and culture,<sup>26</sup> there are no specific provisions that go to the heart of the preservation of the elements that comprise the distinctive Anglophone identity.

Hence, as a means of achieving the objectives intended by the government, the decentralization process and the normative framework seemed fundamentally flawed. There was, therefore, a need for reconsidering an alternative or, at least, reassessing the process of

<sup>15</sup> *Ibid.* section 11.

<sup>16</sup> Section 13(3) provides that users shall have the right to ask to be rendered service in any of the official languages.

<sup>17</sup> Section 14.

<sup>18</sup> *Ibid.* section 15.

<sup>19</sup> Section 18.

<sup>20</sup> Section 20.

<sup>21</sup> Law No. 2004-18 OF 22 July 2004 To Lay Down Rules Applicable To Councils.

<sup>22</sup> *Ibid.* article 1.

<sup>23</sup> *Ibid.* article 2(1).

<sup>24</sup> *Ibid.* article 3(2). According to article 8 of the law, certain urban centres, because of their special nature, may be granted a special status, in accordance with the provisions of this law.

<sup>25</sup> L.S., Enonchong, *The Constitution and Governance in Cameroon*, (Taylor & Francis, 2021) p.185.

<sup>26</sup> *Ibid.*

decentralization with a view to amending the constitutional and legislative provisions to ensure that decentralization could achieve favorable outcomes, including resolving the Anglophone problem.<sup>27</sup> That was considered after the Grand National Dialogue which resulted in the proposition of a special status to the North West and South West Regions that will be subsequently examined in this chapter.

The 2012 electoral code<sup>28</sup> lays down provisions specific to the body responsible for the organization, management and supervision of all election and referendum operations; common provisions governing the election of the President of the Republic, members of Parliament and Municipal Councilors and to Referendums; provisions specific to the vacancy of and election to the Presidency of the Republic; provisions specific to the election of Members of Parliament to the National Assembly; provisions specific to the election of municipal councilors; provisions specific to referendums; provisions applicable to the election of senators; provisions applicable to the election of Regional councilors; provisions specific to voting by Cameroonian citizens based or resident abroad; provisions specific to the funding of political parties and election campaigns and referendums.<sup>29</sup>

The Electoral Code does not discriminate between the Francophone majority and the Anglophone minority. All have equal right to participate in government, that is, in the Presidency, Senate and National Assembly and regional and municipal councils. In fact, the Code has made it possible for Anglophones to govern themselves via representation in the Regional Councils.<sup>30</sup>

The general code of regional and local authorities<sup>31</sup> sets out the common provisions applicable to local authorities; the status of local elected official; the rules governing the organization and functioning of local authorities; the financial regime of local authorities; and special regulations applicable to certain local authorities.<sup>32</sup>

Section 243(1) of the Code states that “Regional councilors shall be: Delegates of divisions elected by indirect universal suffrage; Representatives of traditional rulers elected by their peers”.<sup>33</sup> According to this law, local authorities comprise regions and councils and they have to carry out their activities with due respect for national unity and solidarity, territorial integrity and the primacy of the State.<sup>34</sup>

The protection of the Anglophone minorities is enshrined in section 3 of the code. It provides:

The North-West and South-West Regions shall have a special status based on their language specificity and historical heritage. (2) The special status referred to in sub-section (1) above shall be reflected with regard to decentralization, in specificities-in the organization and functioning of these two regions. (3) The special status shall also entail respect for the peculiarity of the Anglophone education system and consideration of the specificities of the Angle-Saxon legal system based on common law...(4) The content of the specificities and peculiarities referred to in sub-sections (2) and (3) above shall be specified in separate instruments.

Special status for the Anglophones is also provided in the Code. Section 327(1) states:

The North-West and South-West Regions shall have a special status in accordance with the provisions of Article 62 of the Constitution (2) The special status referred to in Sub-section (1) above shall confer on the North West and

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<sup>27</sup> *Ibid.*

<sup>28</sup> Law No. 2012/001 of 19 April relating to the Electoral Code.

<sup>29</sup> Section 1(2) of the Electoral Code.

<sup>30</sup> See section 243 -268 of the Electoral Code.

<sup>31</sup> Law No.2019/024 of 24<sup>th</sup> Dec. 2019 Bill To Institute The General Code of Regional and Local Authorities.

<sup>32</sup> *Ibid.* Section 1(2).

<sup>33</sup> Pursuant to section 244, elected regional councilors have to meet as of right in ordinary session of the Regional Council on the second Tuesday following the proclamation of election results by the regional supervisory commissions.

<sup>34</sup> See section two of the Code.

South West Regions, a specific organizational and operational regime, based' on the historical, social and cultural values of these regions, with due respect for the primacy of the State and national unity and solidarity.

This law gives the North West and the South West Regional Councils additional powers to wit: participating in the formulation of national public policies relating to the Anglophone education sub-subsystem setting up and managing regional developmental authorities, participating in defining the status of traditional chiefdoms.<sup>35</sup>

Concerns about the special status as a mechanism to protect the Anglophone minorities were raised at the preliminary stage of the adoption of the law. Senator Henry Kemende<sup>36</sup> remarked on the special status:

It is too little, coming too late, it says in Section 328: in addition to the powers devolved on regions by the proposed law, the North-West and South-West Regions may exercise the following powers: Participating in the formulation of national public policies relating to the Anglophone education sub-subsystem. This is like a piece of sugar in a basin of water, their participation will not be felt. What we would have expected is to empower the regions to determine policies over the educational, judicial, legislative and executive system, to determine issues at a national level, and not just a local level.<sup>37</sup>

He added that the power to address issues that directly affect their daily lives is what Anglophone's have been yearning for in Cameroon's Northwest and Southwest regions. They are the people who want to be in control of their own destiny, without guidance from somewhere else with foreign mindsets that don't suit their local realities.<sup>38</sup>

It was also argued that so many things will not change with the special status. For example, the president will still appoint governors who can come from outside the region and be Francophone to manage state policy at the regional level.<sup>39</sup> The central government in Yaoundé will still select Divisional Officers to govern districts. Meanwhile, the national government will retain significant control over local government resources, including the power to seize council-owned land “where national defense or public order requirements dictate”.

Another worry expressed was that there will also be continues government's preference for establishing national committees to discuss contentious issues such as decentralization and local finance, an approach that has led to little change over several years.<sup>40</sup>

Enonchong<sup>41</sup> appraises the endeavor of the government in the special status set up of the English speaking regions. He states:

.....This is commendable in that the law explicitly attempts to reflect the specificities of the Anglophone regions in certain areas such as its distinct education system. In the education sphere, all other regions have a limited scope in determining education policies as their role is restricted to participating ‘in drawing up and implementing the regional portion of the national school map’. Whereas, the local authorities in the Anglophone

<sup>35</sup> Section 328(2) of the Code states that “the North West and South West Regions may be consulted on issues relating to the formulation of justice public policies relating to the Common Law subsystem, (3) They may be involved in the management of public services established in the respective territories”.

<sup>36</sup> **Cameroon: Anglophone's special status – too little, too late?, available at** <https://www.dw.com/en/cameroon-anglophones-special-status-too-little-too-late/a-51747683>, **visited, 26/08/2021.**

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> **Cameroon grants ‘special status’ its to restive regions. They don’t feel special, available at,** <https://africanarguments.org/2020/01/cameroon-grants-special-status-anglophone-conflict/>, **visited, 26/08/2021.**

<sup>40</sup> *Ibid.*

<sup>41</sup> L.S., Enonchong, *The Constitution and Governance in Cameroon*, (Taylor & Francis, 2021) p.189.

regions can participate in formulating 'national' education policies that relate to the Anglophone system. The implication is that there is potential for local authorities to ensure the continued respect and the preservation of the Anglophone education system through national policies and to influence developments in that area.

Political leaders have expressed disapproval with the special status. The leader of the Cameroon Renaissance Movement, Maurice Kamto has said a return to the federal structure of the country will help solve the crisis in the North West and South West Regions of the country.<sup>42</sup> Maurice Kamto says this solution is coming too late given the number of people who have been killed or displaced so far. He states:

Nobody knows the content of the special status, it could go as far as taking a federal character but nobody knows its content...it is not realistic today to propose solutions that would have been put forward three years ago.....we cannot wait to have over 12.000 deaths, over 500.000 internally displaced and over 40.000 refugees, three academic years lost...to come and propose solutions that do not take into account the grievances of the people.....we need to propose a satisfactory solution to the people who picked up arms and the majority of Cameroonians are for federalism and I have no problem with a federal structure that allows Cameroonians to manage their affairs.

It is the researcher's view that the special status conferred by the Code on the English speaking regions is window dressing. The regional councils in the North West and South West Regions are not independent *per se*. Article 55(3) of the Constitution of Cameroon states: "the State shall exercise supervisory powers over regional and local authorities,<sup>43</sup> under conditions laid down by law". To further suppress the powers of the Regional Authorities in the North West and South West Regions, article 58 (1) of the Constitution of Cameroon gives room for a delegate, appointed by the President of the Republic to represent the State in the Region. In this light, he is responsible for national interests, administrative control, ensuring compliance with the laws and regulations, as well as maintaining law and order, supervise and co-ordinate civil State services in the Region as well as exercise the supervisory authority of the State over the Region.<sup>44</sup>

The African Commission recommended that Cameroon abolishes all discriminatory practices against people of Northwest and Southwest Cameroon, including equal usage of the English language in business transactions; stops the transfer of accused persons from the Anglophone provinces for trial in the Francophone provinces; ensures that every person facing criminal charges be tried under the language he/she understands.<sup>45</sup> In the alternative, Cameroon should ensure that interpreters are employed in Courts to avoid jeopardising the rights of accused persons; locates national projects, equitably throughout the country, including Northwest and Southwest Cameroon, in accordance with economic viability as well as regional balance; enters into constructive dialogue with the complainants, and in particular, Southern Cameroon

<sup>42</sup> Cameroon: Maurice Kamto declares preference for ...

,available at <https://www.journalducameroun.com/en/cameroon-maurice-kamto-declares-preference-for-federalism-over-special-status/>, visited,28/08/2021.

<sup>43</sup> The supervisory powers extend even to terminating the operation of the regional councils. Section 296(1) of the Regional Code states: the Regional 'Council may be suspended by decree of the President of the Republic on the proposal of the Minister in charge of regional and local authorities, where it: it acts unconstitutionally; undermines the security of the State or law and order; it, threatens the country's territorial integrity; is unable to perform its duties permanently.

<sup>44</sup> Article 59(1) of the Constitution of Cameroon is also illustrative. It provides: "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; endangers the State's territorial integrity". Subsection 2 further states "the Regional Council may be dissolved by the President of the Republic, after consultation with the Constitutional Council in all the cases provided for under paragraph (1) above".

<sup>45</sup> *Ibid.* para.215.

National Council (SCNC) and Southern Cameroons People Organization (SCAPO) to resolve the constitutional issues, as well as grievances which could threaten national unity. To the complainants and SCNC and SCAPO in particular, to transform into political parties, to abandon secessionism and engage in constructive dialogue with the Respondent State on the Constitutional issues and grievances.

Another complaint that was brought by the Anglophones is *Kum Bezenge and 75 Others v. The Republic of Cameroun*.<sup>46</sup> The Communication alleges serious and massive violations of fundamental human rights and freedoms guaranteed by the African Charter which are violations of the right to life; the right to liberty and to the security of the person; the right to dignity; the right to freedom from torture and other cruel, inhuman and degrading treatment; the right to freedom of information and of expression; the right to freedom of movement; the right to freedom of assembly; the right to fair trial; the right to existence; and the right to freedom from oppression, domination and subjugation.<sup>47</sup>

The complainants claimed that since the decision of the Commission, no attempt has been made by the government of Cameroon to engage in any dialogue.<sup>48</sup>

With the current state of things in the Anglophone regions, one begin to wonder if the African Commission is an effective mechanism in protection of human rights in general and minority rights in particular. The key recommendations of the Commission have not been respected by either parties. For example, a constructive dialogue with Anglophone groups advocating for independence of the former 'Southern Cameroon' has not been brokered. The Grand National Dialogue that was held between September 30 and October 4, 2019 was a step to comply with this proposal. It ended with the following proposals: the National Dialogue made a series of proposals: the adoption of a special status for the two Anglophone regions; the restoration of the House of Traditional Chiefs; the election of local governors; the immediate relaunch of certain airport and seaport projects in the two regions; the rapid integration of ex-combatants into society; the name of the country be returned to former name, the United Republic of Cameroon; implement the law that government officials declare their assets, in order to tackle corruption. However, it was a sham reason been that the advocates for separation did not participate.

The Regional Code gives the Regions powers in education. Going by section 271 of the Code, these powers include: participating in drawing up and implementing the regional portion of the national school map; creating, equipping, and managing, and maintaining government secondary and high schools as well as colleges in the region; recruiting and managing teaching and support staff of such institutions; acquiring school supplies and materials; distributing and awarding scholarships and school grants; participating. In the management and administration of government secondary and high schools as well as colleges through dialogue and consultation platforms; supporting the actions of councils in the area of primary and nursery education.

Section 328(1) of the Code gives the North West and South West Regional Authorities the additional powers to participate in the formulation of national public policies relating to the Anglophone education sub-system.<sup>49</sup>

It will not be erroneous to say that the special status conferred by the Code to the North West and South West Regions is not special because it does not adequately protect the educational sub-system of the English speaking people. 'Participating in the formulation of national public policies relating to the Anglophone education sub-system' implies the Regional Authorities in the North West and South West Regions have an 'advisory role' in formulating

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<sup>46</sup> Communication 650/17 – *Kum Bezenge & 75 Others v. The Republic of Cameroun*.

<sup>47</sup> *Ibid.* para.20.

<sup>48</sup> *Ibid.* para 31. The complainants also allege that there were reported cases of killing, of systematic torture, of persons disappeared and of serious injuries as confirmed by images and videos circulating on social media which showed gruesome killings particularly in Bamenda and Kumba.

<sup>49</sup> It states: "in addition to the powers devolved on regions by this law, the North West and South West Regions shall exercise the following powers: participating in the formulation of national public policies relating to the Anglophone education sub-system...".

educational policies relating to their regions. The implication of this is that their opinion may be accepted or rejected by the central government.

The common law system is the system of law which is generally uncodified.<sup>50</sup> This means that there is no comprehensive compilation of legal rules and statutes. While common law does rely on some scattered statutes, which are legislative decisions, it is largely based on precedent, meaning the judicial decisions that have already been made in similar cases.<sup>51</sup> These precedents are maintained over time through the records of the courts as well as historically documented in collections of case law known as year-books and reports. The precedents to be applied in the decision of each new case are determined by the pre-siding judge. As a result, judges have an enormous role in shaping American and British law. Common law functions as an adversarial system, a contest between two opposing parties before a judge who moderates. A jury of ordinary people without legal training decides on the facts of the case. The judge then determines the appropriate sentence based on the jury's verdict.<sup>52</sup>

In the common law system, there is strict separation of powers between the executive, the legislative and the judiciary. Article 37(2) of the Constitution further appears to enhance the position of the judiciary by providing that 'The judicial power shall be independent of the executive and legislative powers'. That recognition is commendable particularly in view of the fact that the audacious statement appears neither in the Federal nor the Unitary Constitutions. However, the actual transformation of that status is doubtful. The constitutional provision that contradicts judicial independence in Cameroon is article 37(3). It provides that 'The President of the Republic shall guarantee the independence of the judicial power'. The crux of this provision is the appointment of judges by the President. This article provides that "the President shall appoint members of the bench and for the legal department. He shall be assisted in this task by the Higher Judicial Council which shall give him its opinion on all nominations for the bench and on disciplinary action against judicial and legal officers." This means therefore that the judiciary of Cameroon is not independent from the executive if judges are appointed by the President.

With the above analysis, it is clear that the special status is lacking in the preservation of the common law culture of the English speaking. In the common law countries, the judiciary (that is magistrates, judges, state prosecutors) are chosen from among lawyers with experience (the Bar). For example, in Nigeria, article 238(1) of the Constitution 1999 through 2011 states:

The appointment of a person to the office of President of the Court of appeal shall be made by the President on the recommendation of the National Judicial Council subject to confirmation of such appointment by the Senate. The appointment of a person to the office of a Justice of the Court of Appeal shall be made by the President on the recommendation of the National Judicial Council. A person shall not be qualified to hold the office of a Justice of the Court of Appeal unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than twelve years.

Same procedure applies to the appointment of a Judge in the Federal Courts. Article 250 of the Nigeria Constitution provides: "A person shall not be qualified to hold the office of Chief Judge of the Federal High Court unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years".<sup>53</sup>

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<sup>50</sup> The Common Law and Civil Law Traditions, available at <https://www.law.berkeley.edu/wp-content/uploads/2017/11/CommonLawCivilLawTraditions.pdf>, visited, 22/03/2021.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> See also article 254B which provides in respect of National Industrial Court of Nigeria thus: "A person shall not be eligible to hold the office of a President of the National Industrial Court unless the person is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria".



This is not the case with the North West and South West Regions of Cameroon. Article 37(3) of the Constitution of Cameroon gives the President of the Republic the power to appoint members of the bench and of the legal department.

To add, in Nigeria the Chief Judge of the High Court has wide powers unlike the counterpart in the North West and South Regions of Cameroon. For example, article 259 of the Constitution of Nigeria states: "Subject to the provisions of any Act of the National Assembly, the Chief Judge of the High Court of the Federal Capital Territory, Abuja may make rules for regulating the practice and procedure of the High Court of the Federal Capital Territory, Abuja".

Arguably, the 1996 constitution of Cameroon altered the normative reference of the judiciary from an authority to a power. However, substantively, the judiciary remained under the control of the executive. Maurice Kamto has argued that if the change of judicial status was an attempt to introduce a system of balanced power, there is no justification (at least in the Cameroonian context) for making one power the guarantor of the independence of another power, without a reciprocal obligation.<sup>54</sup>

According to Kamto, justification 'may' exist in France where this model developed in response to historical issues peculiar to the French judiciary, but the Cameroonian case is different particularly because the judiciary does not have a history of obstructing government activities and public life as was the case with the judiciary in France under the Ancient Regime.<sup>55</sup>

Judges in the English speaking regions are helpless amidst such domination. We can only ask the question "where is the special status if the common law system of the Anglophones cannot be preserved"? Section 3(1) of the Regional Code states: "The special status shall also entail respect for the peculiarity of the Anglophone education system and consideration of the specificities of the Anglo-saxon legal system based on common law". Currently, the content of this provision is empty.<sup>56</sup> Section 328(2) of the Regional Code makes our previous analysis emanating from section 328(1) of the Code relating to the powers of the Regional Authorities of the North West and South West Regions in preserving the Anglo-saxon sub-educational system clearer. It provides: "The North-West and South-West Regions may be consulted on issues relating to the formulation of justice public policies in the Common Law sub-system. This renders the special powers or status of the North West and South West Regions in the preservation of the common law system advisory.

## CONCLUSION AND RECOMMENDATIONS

From the analyses above, it is clear that Cameroon has complied with article 27 of the ICCPR to ensure the protection of the 'Anglophone minority' via the various laws particularly the Constitution of Cameroon, the law on the Promotion of Official Languages and the Code on Local and Regional Authorities. The granting of a special status to the Anglophones is applauding. It is however applauding if we consider the old dictum that 'half a loaf is better than none'. Reserving powers necessary to protect the Anglo-saxon sub-system of education and the common law system which characterizes the English speaking in Cameroon to the central government cast doubts on Cameroon's triple pronged duty to guarantee human rights protection and also its commitment to article 27 of the ICCPR.. This author strongly recommends the return to federalism and a more constructive and inclusive dialogue taking into consideration those with arms in the regions (separatist fighters), leaders in the diaspora in the presence of an independent third in a neutral arena.

## REFERENCE LIST

<sup>54</sup> M., Kamto, "Les Mutations de la Justice Camerounaise à la Lumière des Développements Constitutionnels de 1996," 2000, 1(1) *Reveu Africaine des Sciences Juridiques*, 9, p.15.

<sup>55</sup> *Ibid.*

<sup>56</sup> Section 3(4) attests to this by providing that the content of the specificities and peculiarities referred to in sub-sections (2) and (3) above shall be specified in separate instruments.

1. Leiris, M., *Race and Culture*, (Paris: UNESCO, 1951)
2. Enonchong, L.S., *The Constitution and Governance in Cameroon*, (Taylor & Francis, 2021)
3. Woehrling, J., "Minority Cultural and Linguistic Rights and Equality Rights in the Canadian Charter of Rights and Freedoms", *Revue DE Droit De McGILL*, 1985, Vol. 31, p.60.
4. Bulmer E., , *What is a Constitution? Principles and Concepts*, (Stromborg: International Institute for Democracy and Electoral Assistance, 2017, 2nd edition)
5. **Cameroon: Anglophone's special status – too little, too late?, available at <https://www.dw.com/en/cameroon-anglophones-special-status-too-little-too-late/a-51747683>, visited,26/08/2021.**
6. **Cameroon grants 'special status' its to restive regions. They don't feel special, available at <https://africanarguments.org/2020/01/cameroon-grants-special-status-anglophone-conflict/>, visited, 26/08/2021.**
7. Cameroon: Maurice Kamto declares preference for...
8. Available at <https://www.journalducameroun.com/en/cameroon-maurice-kamto-declares-preference-for-federalism-over-special-status/>, visited,28/08/2021.
9. The Common Law and Civil Law Traditions, available at <https://www.law.berkeley.edu/wp-content/uploads/2017/11/CommonLawCivilLawTraditions.pdf>, visited, 22/03/2021.
10. M., Kamto, "Les Mutations de la Justice Camerounaise à la Lumière des Développements Constitutionnels de 1996,"2000, 1(1) *Reveu Africaine des Sciences Juridiques*, 9, p.15.LAWS
11. Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972
12. Law No. 2004-18 OF 22 July 2004 To Lay Down Rules Applicable To Councils.
13. Law No. 2012/001 of 19 April relating to the Electoral Code.
14. Law No.2019/024 of 24<sup>th</sup> December 2019 Bill To Institute The General Code of Regional and Local Authorities.