Centre for Law & Public Policy

Managing Cameroon's bilingual and bi-jural character and its multiple heritages: analysis and proposed legislative reforms on *Language* use and policy, co-existence of *Educational* systems, and co-existence of *Legal* systems

Law & Public Policy Working Paper Series
Cameroon | August 2017

Note on the Author:

This paper was prepared by Paul N. Simo; a lawyer specialized in public international law, constitutional law, and human rights. During the past decade, he served as human rights officer and legal adviser for the United Nations at headquarters and in East and Central Africa (Uganda, D.R. Congo, Burundi, and CAR) and previously supported civil society in West and Central African countries to strengthen human rights in post-conflict transition processes. He holds Law degrees from the Universities of Buea (Cameroon) and Notre Dame (Indiana, USA), and is called to the Bar in the State of New York (2001) and Cameroon (2010). He currently promotes the **Centre for Law and Public Policy (CLPP)** – under whose aegis this working paper is released – dedicated to research, advocacy, and analysis that provides legal and public policy solutions to governance and development challenges in Cameroon.

SUMMARY OF RECOMMENDATIONS

Policy Area I: Language law and policy

1. Adopt legislation on the use of official languages, and prohibit the denial of language communities
2. Reiterate such prohibition is consistent with the promotion of bi or multilingualism
3. Provide public services in regions and metropolitan areas, proportionate to official language use
4. Establish standards for public service delivery in official languages by the central administrative services of the State, and bilingualism-related personnel policies
5. Regulate public signage
6. Enforce corrective measures against unequal treatment of the official languages
7. Track evolving language demand driven by globalization
8. Assess the economics and cost of language policy and bilingualism
9. Consider a national cross-language and cultural immersion program

Policy Area II: Co-existence and preservation of Education systems

1. Recognize in law, the French and English sub-systems in all layers of education
2. Clarify University catchment communities, taking into account the effect of Cameroon's policies on regional balancing
3. Ensure system integrity for the French and English educational sub-systems
4. Language planning: plan ahead to handle the surge in demand for education in English without straining existing English-based education infrastructure

Policy Area III: Co-existence and preservation of Legal practice systems

1. Adopt in law, a clear legal basis for application of the common law and romano-germanic law in Cameroon
2. Establish a consultative law reform body on uniform national laws, and strengthen regional norm development in English
3. Require the teaching of comparative law as a compulsory subject in the law curriculum in all Universities in Cameroon
4. Emphasize the dynamic evolution of modern common law in university law programs, judicial training, and in-service professional development
5. Ensure a national process for expert translation into English of received regional treaty-based laws adopted in French, in consultation with legal practitioners in the target language, including regulatory texts (*règlements*) or Codes of a normative nature
6. Extend the rules on the principal language of use in the provision of public services to law enforcement and the Court system

Post-script:

- Institutional arrangements to secure diverse language, education, and legal systems

Executive Summary

Between 2015 and 2017, Cameroon, a multi-lingual country with French and English as its two official languages, has been faced with a challenging crisis in the area of managing its character as a multi-lingual State. The crisis reached its peak late in 2016 and into 2017 with the epicentre being two of the country's ten regions (the Northwest and Southwest regions) in which the population is primarily English-speaking. In those regions, a teacher's strike transformed into a near-shut-down of the educational system from November 2016 until the end of the academic year, with many students out of school for much of the academic year. A simultaneous strike by lawyers deeply affected the functioning of the courts in those regions, while calls for the general population to stay at home (ghost towns, or *ville mortes*) constrained economic activity. Cameroon has been a multi-lingual country since 1960/1961 when it became independent: a legacy of its being run as a trust territory by France and England for the half-century between the First World War and its independence. The region in which each of the official languages is primarily used corresponds to the previously French and British-managed parts of the territory. [1]

This paper reviews the situation in Cameroon in light of the experience of other multi-lingual States, and finds that the challenges Cameroon faces are rather similar to those faced by other multi-lingual States, some of which have had to manage intense conflicts over the role and use of official languages and co-existence between their constituent linguistic communities. In noting the experiences of multilingual States such as *Switzerland* (whose existence dates back to around 1300 as the Old Swiss Confederacy, and the more modern Swiss federation from 1850 comprised of German, French, Italian, and Romansch speaking cantons), *Belgium* (founded in 1830 when primarily-French speakers separated from the United Kingdom of Netherlands, to form a Belgian State comprising French-speaking and Dutch-speaking populations), and *Canada* (colonized by the French and British in the 15th century, brought together as a single State or confederation in 1867, and granted independence from Britain in 1931), the paper makes two observations.

First, that throughout the world, from the 18th and 19th centuries with the formation of nation-States up until modern history, with Africa as no exception, the process of *State formation* is replete with examples of States harbouring distinct linguistic groups brought together in the process. Second, that the tumultuous experiences and painstaking efforts these States have taken to accommodate their diversity should inspire a sombre and measured approach, in contemplating how Cameroon may address its current challenges.

Since the issues of language diversity and the handling of linguistic minorities are global problems faced by several States around the world, they are regulated under *international law*; hence this paper reviews the international legal standards that guide how States should handle language diversity within their countries, and especially linguistic minorities. Based on the approach of the United Nations Minority Rights Declaration of 1992 that *the protection of minority rights 'contributes to the political and social stability of States in which they live'* (paragraph 5, 1992 Declaration preamble), and based on lessons from

[1] This paper does not go into the historical background of the Cameroon's formation and its evolution, as there are multiple sources *online* which describe the relevant events, notably: its colonization from 1885 by Germany, its takeover by France and England during the First World War; the administration of parts of the country as separate trust territories for half a century, the independence of the French-run entity, the reunification by plebiscite of the English-run territory with the formerly French-run territory into a federal State comprised of the two entities, and its subsequent transformation into a unitary (non-federal) State.

comparative experience in other multilingual States, this paper proposes *three main areas* in which Cameroon should consider adopting specific laws, in order to make binding its policies that safeguard and protect its dual (official language) heritage.

These areas pertain to: (i) **language use especially in the public administration and State services**, (ii) **preservation of language-based educational systems**, and (iii) **recognition of plural legal practice systems.**

Identification of the Specific Policy Problems

This paper starts out from the proposition that in public policy matters, *precision* and *economy* are important values: policy-makers faced with a multi-faceted problem must endeavour to identify the specific causes of the conflagration, and address them and their root causes. In this approach, humility and discernment are required, in order to listen carefully to the demands formulated by those who initiated the complaints; and to sieve between the root causes and symptomatic or consequential expressions of dissatisfaction, with the former being the appropriate target of the most elaborate policy interventions. An attempt at synthesis of the problems raised in multiple forums, memoranda, submissions, and protest actions by users of English as a first official language – which have been at the root of the 2015 to 2017 crisis – is offered below. [2]

POLICY CONCERN RAISED	SPECIFIC TRIGGER FACTORS & MANIFESTATIONS
AREA 1: Language policy, in particular whether English is the *principal official language* of use in the predominantly English-speaking NW and SW regions, in the public administration, in schools, in Courts; and the extent of English-language use by public / State services in general.	Posting of primarily French-language speaking judicial personnel to NW and SW regions; posting of primarily French-speaking teachers to NW and SW regions; State employees (such as public prosecutors, police officers, teachers) use French in official settings in NW and SW regions: in court proceedings and submissions, police reports, and language of teaching (or use *pidgin*, a Krio-like informal English derivative widely spoken in Cameroon). Demand by lawyers in NW/SW regions early in 2015, for a 'language law or code' governing which official language can be used in which parts of the country.
AREA 2: The co-existence of education in English and its recognition as a separate, viable educational system; its integrity from fusion or harmonization with the French-based educational system; and whether first language English-speakers retain the right to learn in their primary language at all levels of the educational system.	Posting of primarily French-speaking teachers in vocational / technical secondary schools in NW and SW; residents' complaints that they cannot teach in English. Efforts by the Ministry of Higher Education (which regulates Universities) in 2015 to achieve equivalence of academic content and curricula among Universities, as part of higher education reform. Concern expressed by English-speaking academic staff unions that proposed harmonized curricula are French-based; resolution in 2016 that English-language Universities (in Buea and Bamenda) can harmonize their content between themselves.

[2] Throughout this paper, the various policy memoranda and public statements, stating the positions of the unions of English-speaking university lecturers, secondary education teachers, and lawyers, between 2015 and 2017 are cited in relevant footnotes.

AREA 3: The co-existence of the English-inspired legal practice culture (based on the common law), with the romano-germanic law (*droit civil*) practice culture, in a bi-jural national legal system; access to laws in English, especially texts emanating from regional bodies and blocs Cameroon belongs to, which do not have English as a formal or equal working language.	Posting of judicial personnel without previous Common Law training, to the NW and SW regions. Specific calls for the redeployment from these regions of judicial personnel without Common Law mastery, Magistrate training in Common Law, and a Common Law composition on the national Supreme Court to hear appeals from the NW and SW regions. Concerns on timeliness and quality of translations into English of treaty-based laws from bodies such as OHADA, CEMAC, and COBAC which are sub-regional treaty based bodies regulating different aspects of economic / development activity in Cameroon.

In framing this policy problem facing the country as the preservation of its duality with respect to: *(i) language use especially in the public administration and State services, (ii) education systems, and (iii) recognition of legal practice systems*, it is understood that this conceptualization may be challenged as insufficient. Constitutionalists may ask whether co-existence of diverse language, education, and legal practice systems is feasible within a State with a strong centre, noting that the comparative models cited in this paper (Belgium, Canada, and Switzerland) are multi-lingual *federations*. Pragmatists may question whether adjustments in language use policy and educational or judicial systems are enough to stem what they fear is generalized developmental and economic disadvantage for speakers of the lesser-used official language.

To the first argument, our response is that it *supports*, rather than undermines this paper's relevance. For, the comparative examples show that such frameworks (regarding language use, educational, and legal systems) would be needed irrespective of State form. If the linguistic, educational, and legal system safeguards can be ensured within existing institutional arrangements, it behoves the constitutional system's implementers to deliver them. Nonetheless in a *post-script*, based on national experience and comparative models in accommodating dual language, education, and legal systems, this paper reflects on the types of institutional arrangements which may be suited to achieving this goal. The response to the second argument lies in a cause and effect co-relation: barriers that impede a linguistic community's realization of its full potential in education, the professions, and public or economic life necessarily *cause* disadvantage. It is to those barriers, and not just to the consequential disadvantage, that highest-level policy efforts should be directed.[3]

The need for laws to secure diverse language, educational, and legal heritages

Clear laws that pertain to language use and preservation of educational and legal systems are important for a number of reasons. *First*, the recent crisis has demonstrated that Cameroon's legal framework has significant grey areas which exacerbated the problem of language

[3] This paper does not attempt a comparison of *development outcomes* between Cameroon's primarily English-speaking regions, and the other eight (8) primarily French-speaking regions. This is nonetheless a valid area for research: multiple data-sets exist which enable across-region comparisons for indicators such as school enrolment and completion, educational attainment, healthcare access, housing, access to public utilities, road infrastructure, etc. Such datasets (available online) include: the General Population and Housing Census (*Recensement General de la Population et de l'Habitat*), the *Rapport sur le Développement Economique du Cameroun (*MINEPAT and UNDP), Cameroon Household surveys (*Enquête Camerounaises auprès des Ménages*), and Millennium Development Goals (MDG) Reports by the National Statistics Institute.

systems' co-existence. While the Constitution provides that 'the official languages of the Republic of Cameroon shall be English and French, both languages having the same status', that 'the State shall guarantee the promotion of bilingualism throughout the country' (Article 1.3), and that 'laws shall be published in the Official Gazette of the Republic in English and French' (Article 31.3), these provisions are largely orphaned, as there is no legislation (law from Parliament) or Decree implementing them, especially article 1.3. For instance, there is neither a law governing citizens' access to State services in one or the other official language in a given part of the country, nor a framework to enforce provision of same. A Prime Ministerial Circular (No. 001/CAB/PM of 16/08/1991) on bilingualism in State services provides general principles, but the instrument is low in the hierarchy of legal norms, and more hortatory than enforceable.

Cameroon's laws governing *education* recognize the existence of two education sub-systems in English and in French, but only in *primary and secondary education* (articles 1.2, and 15 to 17 of the Framework Law on Education in Cameroon, Law No. 98/004 of 14 April 1998). The Framework Law on *Higher* (University) Education, Law No. 005 of 16/04/2001, does not similarly recognize the separate English and French education sub-systems at University level – a factor of contention in the recent crisis.

In the *legal* sector, the existence of the common law and romano-germanic law as operative legal cultures within the country has been generally accepted for half a century, but does not have a sufficiently firm basis in the laws on judicial organization. The legal basis for the common law's application in the Northwest and Southwest regions (like that of romano-germanic law in the rest of the country) is circuitous, and appears more *a transitional measure, than a stable body of law.* Article 68 of Cameroon's current Constitution (of 1972, as amended in 1996) provides that 'legislation applicable (…) in the Federated States on the date of entry into force of this Constitution shall remain in force' until amended. On this basis, the Southern Cameroons High Court Law (a pre-independence law of 1955 which was applicable in 1972, and which introduced the common law in British-administered Cameroon) remains the basis for the common law in those regions. Again, the issue of whether the common law was a viable, living legal system in Cameroon, or a foreign vestige undergoing a process of replacement – was at the centre of the latest crisis.

Secondly, laws provide directives on standards of future conduct expected of all actors in a way that specific *ad hoc* measures cannot do. As a response to the recent crisis, the Government has initiated several actions, such as teacher re-deployments and a range of justice-sector measures including Magistrates' training in common law, and creating a common law section/bench on the Supreme Court. Measures such as the latter (announced on 31/03/2017) were Executive branch decisions to resolve the crisis, but followed months during which there was some uncertainty as to the actual status of Cameroon's bi-juralism. Laws would provide certainty as to the State's intention to secure its diverse linguistic, educational, and legal sub-systems – while setting as need be, process safeguards on how they may be reformed.

With historical perspective, episodes of deep questioning of Cameroon's diversity are cyclical and recurrent. They flared up in the 1980s over proposed reforms to fuse the English and French secondary education systems, generated tensions in the early 1990s over the organization of English system secondary school examinations (the General Certificate of Education or G.C.E.), and have simmered through the 2000s in areas such as access to university education. Given the intensity of the recent crisis – including loss of lives and

schools and court shut-downs – it is important to emerge from the crisis with *lasting tools* to avert or mitigate their recurrence. Having had over five decades to ascertain how language policy and bilingualism, and education sector and legal systems co-existence have worked or been challenged, it is important for contemporary policy-makers to leave for future generations, a durable framework – albeit perfectible in the future – for managing the duality of systems.

Thirdly, the issue of how States regulate the use of language within their territory, including when they have a diversity of linguistic groups or linguistic minorities, is now regulated by *international law*. It is well settled under international law that language is a prohibited ground of discrimination (in the same manner as race, religion, ethnicity, or gender) including under instruments like the international human rights Covenants of 1966, to which Cameroon is a party. Beyond the realm of discretion, language is therefore an area in which States may need to legislate, where their experiences or circumstances – such as their multi-lingual character – makes it necessary.

Fourthly, the national authorities and other national actors have recognized the importance of such legislation. The decree of 23 January 2017 establishing the National Commission on the Promotion of Bilingualism and Multiculturalism mandates the Commission to prepare and submit to the President of the Republic draft legal instruments or bills ('*les projets de textes*'), pertaining to bilingualism and multiculturalism (article 3.2).[4] The lawyers' groups which raised concerns about the language of use in courts asked for a language law or code. Finally, comparative experience shows that language legislation is common in multi-lingual States: Canada, South Africa, Belgium, and Switzerland all have language legislation adopted by either the central or devolved authorities.[5]

AREA I: LANGUAGE LAW AND POLICY

As mentioned above, one of the specific triggers of the 2015 to 2017 conflagration was the question of what language may be used as the working language, especially in the public administration, and in education, in different parts of the country. Specifically, the posting to the Northwest and Southwest regions of State employees (Magistrates,[6] secondary school teachers, and staff in other civil service departments) who were Francophone and could not render their professional services in English generated intense complaints from English-speaking lawyers, and from teachers' unions. In particular, the issue of whether French-speaking Magistrates in those regions could make their oral or written legal submissions in

[4] Eminent Cameroonian linguists have noted the importance of a language law or act, which sets the impetus for language policy of the State. See Beban Sammy Chumbow, *The Challenge of Linguistic Diversity and Pluralism: The Tier Stratification Model of Language Planning in a Multilingual Setting*, in Lopez-Varela (ed.), Social Sciences and Cultural Studies - Issues of Language, Public Opinion, Education and Welfare, 2012.

[5] The study of laws pertaining to language is itself a legal discipline. See: Joseph G. Turi, *Le droit linguistique et les droits linguistiques*, Les Cahiers de droit 312 (1990): 641–650; Joseph G. Turi, *Language Law and Language Rights*, International Journal of Law, Language & Discourse, 2012, 2(4), 1-18; and Brohi, du Plessis, Turi, & Woerhling (eds.), *Law, language and the multilingual state: Conference proceedings of the 12th International Conference of the International Academy of Linguistic Law*, Stellenbosch, South Africa, 2013 (373 pp).

[6] Data from Cameroon's Ministry of Justice indicates that as at November 2016, out of 129 Magistrates in the Northwest region, 60 were Francophone (46%), and out of 151 Magistrates in the Southwest region, 57 were Francophone (38%).

court, or deliver their judgements in French, was particularly contentious - as it would determine whether such proceedings were fair to largely English-speaking litigants. [7]

From the reunification, in 1961, of the formerly French and British-administered parts of Cameroon, the country has – constitutionally – adopted the formal position that French and English are official languages of the country.[8] While it has generally been the case that French and English were the *working* languages principally used in the respective areas previously administered by France and Britain, this was never directly regulated as such. Cameroon's Constitution provides in article 1.3 that 'the State shall guarantee the promotion of bilingualism *throughout the country*' – a point we emphasize below as reflecting the approach not to assign the *official* languages to specific territorial areas where they would constitute the principal *working* language. The next applicable text, the Prime Ministerial Circular on bilingualism in State services provides that:

> 'A Cameroonian citizen, or any person *requesting a service* from the public administration or a State-owned institution, has the fundamental right to communicate to such an institution in French or English, and is entitled to receive a response in the language of his or her choice. With only a few exceptions (such as air traffic controllers and language instructors), all *State employees* have the right to work in the official language of their choice; such choice shall not be prejudicial to their career. However, it is the duty of any public employee who interacts directly with the public to *ensure that he or she is understood* by the latter'.[9]

In strict legal terms therefore, Cameroon has not regulated where each of its official languages may be used, and what the language of the public administration and public services should be. This situation exacerbated tensions and has practical implications because *with neither a citizenry nor a public administration that is fully bilingual*, opportunities abound for a language mismatch between citizens and State institutions. The result is that persons often cannot use their official language of choice in practical and important interactions with the State such as filing a complaint to the Police, contesting a tax bill, or titling a plot of land.

There exist around the world, **two (2) broad approaches to officially bilingual or multi-lingual States.** The first approach, called the *territoriality principle*, assigns an official language to specific parts or regions of the country where those languages are mostly spoken. All three multilingual States cited for comparative analysis in this paper (Belgium, Canada, and Switzerland) employ the territoriality principle, under which for instance, the official language in Belgian Flanders is Flemish (a close variant of Dutch), in Belgian Wallonia is French, in Canada's Quebec province is French, in Ontario is English, while Switzerland's

---

[7] See: Cameroon Postline, *Northwest lawyers reject Francophone judges*, 23/02/2015; Cameroon Journal, *Bar Council resolves language dispute in court*, 20/03/2015; Cameroon Journal, *Southwest Lawyers give Government ultimatum to remedy court situation*, 18/03/2015. An umbrella body of English speaking lawyers specifically demanded that: 'all judicial processes and proceedings in the Common Law Jurisdictions should be conducted in the English language. In criminal matters this should be from [Police] interrogations through investigations to hearing and judgment'. See *Resolutions Made at the Inaugural All Cameroon Common Law Lawyers' Conference held at Bamenda in the North West Region of Cameroon*, 09/05/2015.

[8] While French and English were adopted as official languages, Cameroon is also complex in terms of diversity of its local languages which number over 250, and include Niger-Congo, Afro-Asiatic, Ubangian / Bantu, and Nilo-Saharan languages. The use of local languages in the public sphere, education, and media is low. The 2005 Cameroon Housing and Population Census placed literacy in local languages at 6.4%, compared to a literacy rate of 70% in the official languages (French or English).

[9] Paragraphs 1 and 2, Prime Ministerial Circular No. 001/CAB/PM of 16/08/1991.

cantons each have an official language among the country's four languages (German, French, Italian, and Romansch). Under this approach, while the over-arching State which brings together these different languages is considered officially bilingual (or trilingual) what the central State in effect does is to accommodate often *monolingual* citizens from the respective regions under the umbrella of one nation – through a perfectly bilingual central administration. The citizens themselves however, are *not* expected to be bilingual. As such, it is often said of Canada that it is for the central (federal) Government to be bilingual; Canadian citizens do not have to be.

The second approach, called the *personality principle*, is one in which the trait of bilingualism or multilingualism is attached to individuals, meaning that citizens of the country are themselves expected to imbibe and use both or all official languages. The languages in question are not granted territorial zones of use within the country, but the entire country is considered and expected to be bi- or multilingual. [10]

Following the reunification of Cameroon in 1961, it is this approach to bilingualism – the *personality* principle – that it adopted. Professor Bernard Fonlon, an Oxford and Sorbonne-educated Anglophone intellectual who served on the President' staff and Cabinet shortly after independence, is often credited with articulating the concept of Cameroonian bilingualism. The non-territorial, personality approach was supported by the then President, who was worried that a territorial approach would have fostered centrifugal identities. [11] In a seminal article in 1963, Fonlon argued for a Cameroon in which *the citizenry* would be bilingual in French and English, and specifically sought to depart from the Belgian and Canadian models in which bilingualism simply meant the accommodation of monolingual citizens speaking different languages within a single State:

> 'The vast majority of Canadians and Belgians have remained monolingual. [There], a bilingual State does not therefore necessarily mean bilingual individuals, or a bilingual citizenry. However for us in Cameroon, merely having a bilingual State would amount to ignoring the advantages that accrue from a bilingual citizenry, and would constitute a regrettable lack of vision. Our objective should be bilingualism at the individual level as a result of which every child who goes through our educational system should be able to speak English and French'.[12]

Thus, the *personality* principle of bilingualism, intended to achieve the free usage of both official languages everywhere in the national territory, irrespective of the linguistic history of parts of the country, has been in application during more than half a century of Cameroon's independence and reunification. It is reflected in Article 1.3 of the current Constitution, which provides, inter alia that: 'the State shall guarantee the promotion of bilingualism *throughout the country*'.

---

[10] For an overview on the *territoriality* and *personality* approaches to bilingualism, see generally: Jean Guy Mboudjeke, *Bilinguisme, Politiques, et Attitudes Linguistiques au Cameroun et au Canada*, Revue électronique internationale de sciences du langage (Sud-Langues), No. 6 , 2006 – and the multiple resources cited therein.

[11] The political context after Cameroon's independence and reunification likely contributed to the central Government's preference for a nationwide *'personality'* principle of bilingualism instead of a *territoriality* principle granting official language status to English and French in the different regions of the country. The latter would have strengthened the preference of leaders of the West Cameroon federated State, for more autonomy over education and other policy matters in the minority English-speaking region. See: Frank M. Stark, *Federalism in Cameroon: the Shadow and the Reality*, in An African Experiment in Nation Building: The Bilingual Cameroon Republic Since Reunification, Ndiva Kofele-Kale (ed.), Westview Press, Colorado (1980).

[12] Fonlon, Bernard, *A Case for an Early Bilingualism*, Revue Abbia, No 4, 56-94 (1963).

A key difference between the concepts of the bilingual State where the central State provides services in multiple languages to often monolingual citizens, and of bilingual citizenry, is the locus of responsibility. In the former, it is the State that assumes and is accountable for making sure its services are available in both languages, while in the latter, the citizenry is expected to take a more active part: the policy's success is in fact conditional on citizens themselves becoming bilingual. A critical test of the policy's effectiveness and outcomes therefore lies in querying the levels of bilingualism of Cameroon's citizens.

Over 40 years after the implementation of bilingualism policy, the tables below – drawn from Cameroon's most recent official census of 2005, whose results were released in 2010 – present a snapshot of how the official languages and bilingualism are faring in Cameroon: at national level, at regional level, and in urban versus rural settings. The data is then commented upon. [13]

Table I

Cameroon: Overall Usage of Official Languages: Persons aged 15 years and above - (General Population and Housing Census, 2005).			
French only	4,401,333	45%	
English only	1,283,908	13%	
French and English (Bilingual)	1,165,006	12%	
Neither French nor English	2,909,664	30%	
Undetermined	85,568	1%	
Total French users (incl bilingual)	5,566,339	57%	
Total English users (incl bilingual)	2,448,914	25%	

[13] The results of Cameroon's Third General Census of 2005 are available at website of the *Central Bureau of the Census and Population Studies, BUCREP* (accessed: May 2017).

Table II

Cameroon: Distribution of the Population aged 15 years and older, by region, and literacy level in the Official Languages (OL)

Source: General Population and Housing Census, 2005.

REGION	French & English	English only	French only	Illiterate in OL	Not declared	TOTAL	Literate in OL	% bilingual in OL	% illiterate in OL	% using French (+ bilingual)	% using English (+ bilingual)
ADAMAWA	30,864	7,809	151,924	260,934	10,181	461,712	190,597	7%	57%	40%	8%
CENTRE	378,114	57,611	1,281,149	162,188	7,142	1,886,204	1,716,874	20%	9%	88%	23%
EAST	27,437	2,930	240,942	139,885	2,843	414,037	271,309	7%	34%	65%	7%
FAR NORTH	63,595	8,399	393,032	1,048,153	19,227	1,532,406	465,026	4%	68%	30%	5%
LITTORAL	300,494	88,973	1,129,205	111,644	5,274	1,635,590	1,518,672	18%	7%	87%	24%
NORTH	39,973	4,463	249,831	542,173	22,026	858,466	294,267	5%	63%	34%	5%
NORTHWEST	81,210	576,487	39,896	254,534	4,327	956,454	697,593	8%	27%	13%	69%
WEST	99,040	23,571	584,384	213,074	7,139	927,208	706,995	11%	23%	74%	13%
SOUTH	47,340	11,034	286,902	42,809	542	388,627	345,276	12%	11%	86%	15%
SOUTHWEST	96,939	502,631	44,068	134,270	6,867	784,775	643,638	12%	17%	18%	76%
TOTAL	**1,165,006**	**1,283,908**	**4,401,333**	**2,909,664**	**85,568**	**9,845,479**	6,850,247	12%	30%	57%	25%

Table III

Cameroonian bilingualism: Urban/Metropolitan vs. Rural (GPH Census, 2005)

	French & English	English only	French only	Illiterate in OL	Not declared	TOTAL	Literate in OL	% bilingual
Urban Cameroon	925,318	663,684	2,877,125	685,655	23,912	**5,175,694**	4,466,127	18%
Rural Cameroon	239,688	620,224	1,524,208	2,224,009	61,656	**4,669,785**	2,384,120	5%
Mfoundi (Yaounde)	298,837	46,171	784,371	53,563	4,827	**1,187,769**	1,129,379	25%
Wouri (Douala)	253,909	64,818	901,944	53,558	1,757	**1,275,986**	1,220,671	20%

Analysis of contemporary data on official languages and bilingualism

A caveat that accompanies this data is that 12 years have elapsed since Cameroon's 3rd General Population and Housing Census, conducted in 2005. Cameroon's 4th census, authorized in 2015, is already under preparation and is expected to conduct its data capture exercise later in 2017 – which will provide a more up to date snapshot of the situation. During the intervening decade since the 3rd census, two factors *may* have had an impact on the data. First, the last census was conducted on the eve of Cameroon attaining the HIPC [Heavily-Indebted Poor Countries] completion point in 2006, which led to bilateral and multilateral debt relief, freeing up budget resources for education. So, overall *literacy* levels, which are linked to *education* outcomes, and have a bearing on official-language bilingualism, may have evolved. *Secondly*, an increased interest in English-language learning, driven by globalization and perceptions of increased opportunity with English, in education, business, professions, and commerce may also have had a bearing on bilingualism data. Nonetheless, coming 40 years after the implementation of current language policy, the 2005 census data offers some insights.

Table I presents the overall levels of use of the official languages. Of note – highlighted in blue – is that of the total population aged 15 years and above, only 12 percent were bilingual in English and French. An over-arching and structural constraint that should immediately be pointed out is the overall level of *illiteracy* in *any* official language, meaning persons who can read or write in neither English nor French. Per the 2005 General Population and Housing Census, that figure stood at *30 percent* of the population. In practical terms therefore, the prospect of official-language bilingualism (to read/write both English and French) is only open to 70% of the population. The challenge for the remaining 30% is to get them to read/write at least one official language, before asking for ability in the second. Table I also shows that persons who can read or write *in only French or English* make up 58% of the total population. Thus, monolinguals make up 83% of the *officially literate* population of Cameroon.

Table II provides a break-down by the 10 regions of Cameroon, of official language use and bilingualism data. A key observation to be made is an *a posteriori* evaluation of Cameroon's use of the *personality*, and not the *territoriality* approach to bilingualism, meaning that its official languages were – jointly – intended to be used throughout the national territory, without geographic distinction. The last two columns show the preponderance of official languages used in each of the country's ten regions.

The data reveals that each official language remains predominant in the regions where historically (prior to reunification) it was most spoken. As such (and taking into account that some persons are bilingual, i.e. use both languages) in the historically English-speaking Southwest and Northwest regions, the ratio of *English to French* use is 76:18 per cent, and 69:13 per cent respectively – *shaded in olive green.* In all the eight other regions of the country, the ratios of *French to English* use show similar preponderance – 88:23 and 87:24 percent respectively in the cosmopolitan Centre and Littoral regions, and as low as 34:5 percent in the North region, and 65:7 percent in the East region. This data indicates that cross-penetration of a second (that is, lesser-used) official language has occurred in all the regions. Yet, despite policy-makers' objective of a *personality*-based bilingualism of citizens throughout the country, the preponderance of official language use still largely follows geographic or *territorial* lines: *there remain significant concentrations of users of one official language in given parts of the country.*

Table II also suggests a logical correlation between literacy rates and bilingualism levels. Where the former is highest (Centre and Littoral regions have only 9 and 7 % respectively of

official language *illiteracy*), bilingualism levels are highest (20 and 18% per cent respectively) – *shaded in sky blue.* The reverse holds true since the Far North, North and Adamawa regions which have the highest official language illiteracy rates, also have the lowest bilingualism rates – *shaded in pink.* **Table III** disaggregates official language use and bilingualism between residents of urban areas and rural areas. It shows that urban areas have a much higher level of bilingualism (18%) than rural areas (5%). It also reveals that the country's two largest metropolitan areas, Yaoundé and Douala (which roughly correspond to the Mfoundi and Wouri administrative units / divisions) have higher levels of bilingualism than the overall regions (Centre and Littoral) within which they are located.

As a policy recommendation, it will be important that the 4th national census authorized in 2015 (data capture scheduled for 2017) fine-tunes the data it elicits on language use, language demand, and bilingualism. For instance, the published 2005 census data does not enable sorting out among the 'bilinguals', which official language is their first language. This would enable policy-makers determine trends in language demand, for instance, if more first-language French speakers are seeking to learn English, and vice-versa, which can inform State policies. The census may also consider disaggregating 'bilinguals' by a number of factors, such as level of education, income-level, and reason for learning the second language. These may help track why some citizens are more apt to acquire the second language. Consideration may also be given to lowering the age-bracket targeted (from 15 to 11-12, i.e. age of secondary school admission) to factor in the impact of bilingual primary education.

What international law requires of States on language policy and language minorities

As earlier mentioned, multilingualism, or the co-existence of more than one language *in the official sphere* within States, is not a new phenomenon. Due to its contentious nature within multilingual States, the issue of how official languages are used has therefore been the subject of regulation under public international law. Language rights, that is, rights to access services in, and to use a given language can constitute fundamental human rights, protected under international law.[14] Language rights are often conceptually divided into the *private* use of language and the *public* use of language. The former refers to the right to use a language in one's *private* interactions and communications, and is protected as part of the internationally recognized human rights to privacy and to freedom of expression. States may not – as some have in the past – impose restrictions on using languages in private. Of more germane interest for this paper are language rights in the *public* sphere, which covers two contentious areas in Cameroon, namely the right to access public or State services, and the right to education (especially State-organized or subsidized education) in a given language.

Linguistic minorities are recognized under international law

An important yet often politically-contentious hurdle to cross in approaching the issue of language rights is the concept of *linguistic minorities*, or persons whose language of expression is a (demographically) lesser-used language in a given country: a notion that is recognized under international law. The process of State formation over the centuries which has often yielded States that are heterogeneous in character means that the concept of minorities is not anathema under international law. Nearly a century ago, in the 1920s, the Permanent International Court of Justice (predecessor of today's International Court of Justice in the

[14] For an overview of international law standards in this area, see Fernand de Varennes, *Language Rights as an Integral Part of Human Rights*, International Journal on Multicultural Societies, Vol 3. No 1, 2001, pp 15 - 26 (UNESCO).

Hague), was already interpreting the meaning of treaties signed between States for the protection of minorities who resulted from plebiscites and the partitioning of territories after the Treaty of Versailles of 1919, ending the First World War.[15] According to an often-cited definition offered in 1977 by the Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, a minority is:

> A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members — being nationals of the State — possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.

Although *defining* minorities has not been totally effected in international law treaties, one of the principal global human rights treaty, the International Covenant on Civil and Political Rights (to which Cameroon is a party) provides in its article 27 that:

> *In those States in which ethnic, religious or linguistic minorities exist*, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

It must be noted that States may have the policy instinct to negate the existence of minorities – linguistic or otherwise – within their territory, or to question the usefulness of the concept. In multi-ethnic, multi-lingual States for instance, the retort is often why one group (and not another) should be considered as having specific 'minority' status? Is the State itself not a collection of minorities? The United Nations Human Rights Committee, established to supervise the implementation of the above-mentioned treaty, has adopted a General Comment (No. 23, of 1994), which offers an authoritative interpretation of what Article 27 of the treaty means. On establishing whether a minority exists, the U.N. Human Rights Committee's approach in the above General Comment (para 5.2), is clear: '*the existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria*'.

Cameroon's historical and contemporary situation also raises the question of whether a degree of *'permanence'* is required, in defining such a group. Framed otherwise, if an official language (English in this case) can be learned by persons who did not speak it initially, in particular where State policy is actively to encourage all citizens to speak both official languages (the *personality* approach to bilingualism), should language not be considered as a *fungible or mutable trait*, for which its primary speakers do not deserve specific protection? This approach has some resonance in contemporary Cameroon because – as discussed subsequently – under the weight of globalization during the past decade, demand for English as a second language has grown exponentially, among first (official) language French speakers in Cameroon.

Therefore, instead of the often-seen (and historical) scenario of speakers of the *lesser-used* official language needing the *more-used* official language, the reverse is holding true. However, the resulting policy based on dilution of language communities (that no-one is 'English' or 'French'-speaking) is not without consequences, as the near-shutdown of part of the country in late 2016 and 2017 has shown. It also negates data from the country's own census which shows that substantial parts of the population still only use one official language.

---

[15] See: Permanent Court of International Justice, *Rights of Minorities in Upper Silesia (Minority Schools), Germany v. Poland*, Judgment No. 12, 26 April 1928.

Probably the most appropriate response is to be found in the U.N. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in 1992, which requires that even the *existence* of minorities should be protected. Its provisions suggest that *outright denial* that language communities exist (i.e. stating that no-one is 'Anglophone' or 'Francophone') should probably be proscribed, or in any event, should never constitute the basis for official policy, in a *multilingual* State, where bilingualism remains an aspiration for many citizens.

> States shall protect the *existence* and the national or ethnic, cultural, religious and linguistic *identity* of minorities within their respective territories and shall encourage conditions for the promotion of that identity. (Article 1, U.N. Minority Rights Declaration, 1992)

It should be noted that minority rights – under international human rights law – protect the individual rights of members of minorities, and not a collective right of such minorities to self-determination, as the U.N. Human Rights Committee has pointed out in both the above General Comment, and in handling cases and complaints from specific countries. These rights, as the Committee has noted do not 'prejudice the sovereignty and territorial integrity' of States (paras 3.1, and 3.2. General Comment No. 23). Rather, as the preamble to the 1992 U.N. Minority Rights Declaration states, the promotion and protection of minority rights 'contributes to the political and social stability of States in which they live' (preamble, para. 5).

International law standards: in what language should Governments provide public services in multi-lingual States?

A survey of the guidance under international law, as to the language in which States should provide services – in particular in multilingual States, or States which have substantial segments of the population speaking lesser-used languages – points to an over-arching rule, known as the *proportionality principle*. Simply expressed, the proportionality principle provides that *where the numbers and the geographic concentration of speakers of a language make it reasonable or justified, the State should provide access to its services in that language*. The proportionality principle is pragmatic: it is based on the relative numerical strength and concentration of a language group (and therefore on demand for services in that language), which therefore makes it feasible, and not disproportionately onerous for the State to be able to provide services in the given language, in that area. The proportionality principle applies as a guiding framework not only in provision of *public services*, but also in areas such as the *language of education*, and the use of language in *public broadcasting*. [16]

In view of the proportionality principle under international law that should guide multilingual States' policies on language use policy, there are some policy lessons that could be drawn for Cameroon. In doing so, due consideration is given to the fact that it is a developing country which has more limited resources. The principal policy implication for Cameroon is linked to

[16] For an overview of the international human rights law standards on language, including an enunciation of the proportionality principle, see: United Nations Special Rapporteur on Minority Rights, *Language Rights of Linguistic Minorities: A Practical Guide for Implementation* (2017); Fernand de Varennes, *Language Rights as an Integral Part of Human Rights*, International Journal on Multicultural Societies, Vol 3. No 1, 2001, pp 15 - 26 (UNESCO). An example of the proportionality principle is Section 6 of the South African Constitution, which, while setting forth the eleven (11) official languages of the country (Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu), also states that: 'the national government and provincial governments may use any particular official languages for the purposes of government, *taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned*.'

the findings of its census data regarding the presence of significant concentrations of speakers of the official languages, along broadly geographic or territorial lines. In the Southwest and Northwest regions, *English speakers outnumber French speakers* by a ratio of 4:1 and 5:1 respectively. Conversely in all the other eight regions of Cameroon, *French speakers outnumber English speakers* by a ratio of 4:1 in the very metropolitan Centre and Littoral regions (which host the cities of Yaoundé and Douala) and by ratios ranging from 5:1 (in the Adamawa region), going up to as high as 10:1 (in the East region).

Considering these language demographics, a direct application of the proportionality principle in Cameroon would dictate that public services be provided, and that *the principal working language in Government departments, should be French in the eight (8) regions of the country where its use as an official language is preponderant* by a factor of at least 4:1, and that the principal working language for State service provision *should be English in the two (2) regions of the country where it is preponderant* by a factor of at least 4:1. Of note, the proportionality principle would not only apply at national level. At *regional* level, the cross-penetration of official languages would need to be recognized. It would mean that where nearly 20% of the population speak French (as in the Southwest region), or 15% of the population speak English (as in the South region) availability of public services, including services such as education should be available in that lesser-used language, proportionately to the number or percentage of users. Adopting the proportionality principle will require the collection of regular and accurate data on language demographics – which is the only way to apply the principle appropriately.[17]

Concerns may be raised that 'formalizing' geographic areas in which each of the official languages applies as a working language could create a disincentive to bilingualism, discourage second official language learning, and act as a disincentive towards mobility of persons across the country (a vector of national integration) by encouraging people to stay within their first-language 'cocoons', as opposed to going out to embrace a new national, bilingual identity. A few responses could help address these concerns.

First, organizing State service provision to respect the user language demographics does not necessarily mean conferring to devolved entities (at regional or municipal level) control of official language policy,[18] but rather that the State will arrange its service provision in a manner that takes into account the country's own history, and that is most *optimal* to reach the population. Secondly, such regulation would not fix indefinitely, language use guidance for a given area, but would evolve with demographic trends. However, this approach must be pursued while firmly respecting *the national Constitutional commitment to promoting the two official languages*. In particular in respect of the lesser-used national language (English), caution should be exercised about the risk of large demographic shifts, which – without protection – could render it a minority language, even within the historically English-speaking regions. Such an eventuality would weaken the language's vitality and long-term development,

[17] In countries such as Belgium where language policy is intensely political, and linked to long-standing rivalry between the French-speaking Walloons and the Dutch-speaking people of Flanders, the issue of language *demographics and headcount* is very contentious. This is in particular due to intricate rules and disputes over the provision of public services and education to minority populations (French speakers in the Dutch area, Dutch speakers in French area). The matter is so contentious that, after a previous language census was characterized by widespread rigging and malpractice, language censuses are presently banned under Belgian law.

[18] In Canada for instance, such devolution which is recognized by law, is the battleground for virtual 'language wars'. The province of Quebec, the bastion of French and a minority in Canada, surrounded by English-speakers in North America, has often taken drastic measures – such as bans on the public use of English, or restrictions on English language schooling – in order to preserve the French language.

whereas the country stands to gain from preserving its dual heritage.[19] One approach would be to *assign the official languages regions wherein they are considered the primary working official language* – irrespective of demographic evolution – and focus regulation based on demography on the provision of *second* official language services in each region.

It also remains to be seen whether a policy of ensuring the two official languages are deployed as principal languages in specific regions would weaken bilingualism, considering that its effect is likely to increase the stature of the lesser-used national language (English). The State would retain – and may use – the levers at its disposal to encourage across-region mobility, in particular through the use of incentives. For instance career management policies (hiring, promotions) for public employees and scholarships/State subsidies for students are valid tools the State can use to spur bilingualism. Beyond State incentives, the interplay of market and economic factors – including regional integration and globalization – should also be borne in mind, as students, job-seekers, employees, and businesses all quickly realize the added-value of the second official language, in being able to function across national borders.

Recommendations for Language Use Policy, Law, Regulations in Cameroon

Based on the above-mentioned analysis, and the fact that a specific trigger of the 2015 to 2017 escalation of the diversity management crisis was the issue of use of the official languages (e.g. arising from the deployment of monolingual French-speaking State employees to the Northwest and Southwest regions), this paper makes some broad proposals that may be considered in future legislation, regulations, and policy on language use.

1. **Adopt legislation on the use of official languages, and prohibit the denial of language communities**: Specific legislation should be adopted that implements the Constitution's provisions in this area, and strengthens the Prime Ministerial Circular as an operative text. Many multi-lingual States, such as Canada, Belgium, and South Africa, have specific language legislation which specify among other things, language use in the public administration.[20] Outright denying of the existence of *language communities* should be proscribed. Language is a prohibited ground of discrimination under international law, in a manner not too dissimilar from religion, ethnicity, and gender. As the United Nations Human Rights Committee has clarified (General Comment on Article 27 of the International Covenant on Civil and Political Rights, ratified by Cameroon) it is immaterial to establish the degree of *'permanence'* of such a language community (and by extension its *immutability*). It is therefore unfounded to argue that since languages can be learnt – and presumably unlearnt as well – language is therefore a *fungible and mutable* trait undeserving of protection.

   While prohibition of the denial of language communities need not be implemented through *criminal* law, it should be probably be clearly stipulated in a *clause prohibiting*

[19] Conversely, the same could be said of factors such as globalization-induced surge of English language learning, which by virtue of the Constitution, should not be allowed to undermine the vitality of the French language in Cameroon.

[20] See for instance, Canada: Official Languages Act of 28/07/1988 and Official Languages (Communications with and Services to the Public) Regulations as amended through 2007; South Africa: Use of Official Languages Act 2012, and Regulations on S.13 of the Use of Official Languages Act. The University Chair at Canada's Université de Laval on French Language and Culture in North America, runs an extensive global database on language policy and legislation covering most countries of the world. See: *Chaire pour le développement de la recherche sur la culture d'expression française en Amérique du Nord* (accessed : May 2017).

discrimination on the basis of language. This would render null and void any policy, directive, or action based on that premise. Fortunately, article 3.2 of the January 2017 decree establishing the National Commission for the Promotion of Bilingualism and Multiculturalism envisages for it, an enforcement role against language-based discrimination (non-compliance with the constitutional provisions on bilingualism). It is also empowered to propose draft legislation (Bills) pertaining to bilingualism, i.e. official language use. Considering the weight of this area, an eventual *constitutional* provision, improving on its current article 1.3, and specifying language rights or a non-discrimination principle, could also be warranted.

2. **Reiterate that prohibition of language community denial, is consistent with the promotion of bi or multilingualism**: It would be very important, specifically to include in such legislation that the recognition of language rights or protection of linguistic communities *in no way prevents the State* – considering the country's multilingual character – from implementing measures designed to encourage the learning of more than one official language (bilingualism) or the promotion of national languages. The only conditions should be that such measures must be *reasonably* necessary for the objective of promoting bilingualism, and must not be *discriminatory*, i.e. they should treat all citizens – irrespective of their first official language – equally. For instance, this may mean that the State can lawfully create incentive-based programs (e.g. education opportunities or training scholarships) which would only accrue to persons willing to study or work in their 2nd official language. Provided, where applicable, that the State makes available on an equal basis, language lessons to such persons (English for Francophones, French for Anglophones) on an equal and non-discriminatory basis.

3. **Provide public services in different *regions and metropolitan areas*, proportionate to official language use:** a public service charter or regulations on standards of public service delivery which would apply across all Government departments and parastatal entities should incorporate the principle that *State services would be provided taking into account the proportion of users of official languages, in a given region or area*. Such proportions would be determined on the basis of official census data. To this effect, national census exercises shall elicit specific information on official language use disaggregated by region and other relevant factors. (As previously mentioned however, very strong consideration should be given to the preservation of *principal working language status* for both languages in respective regions along geo-historical lines, in line with the constitutional commitment to promote both languages, in order to ensure their vitality as co-existence enablers for Cameroon).

   Based on current census data (2005), the preponderance of public service delivery in the Northwest and Southwest regions will be in English, and in the other eight regions will be in French. The country's two largest metropolitan areas of Yaoundé and Douala may be considered for a special bilingual regime considering their high number (in absolute terms) of second language/English speakers, and their being windows to the external world. [21]

[21] About 350,000 out of 1,187,769 residents of the Yaoundé conurbation can use English (30%), while about 318,000 out of 1,275,986 residents of the Douala conurbation can use English (25%). These are the highest rates of second-language among all parts of the country. These figures include both English monolinguals and bilingual persons. See Census, 2005 (tables above).

A number of subsidiary rules and considerations would follow from this proportionality principle:

3 A) All public sector employees must meet a pre-defined language proficiency requirement for the preponderant official language in their region of posting / assignment. This would, for most employees, be a condition for being posted to a given area. The State would create, standardize, and organise a language proficiency testing system for public employees.

3 B) While providing the preponderance of public services in the principally used official working language of the region or area concerned, in application of the *proportionality* principle, and recognizing the cross-penetration of the second official language in *all* regions of Cameroon, a quantum of essential public services – especially for critical services like hospitals, courts, and law enforcement and education – must be available in the lesser-used official language in each region.

3 C) Nothing in the implementation of the above-mentioned principle shall prevent the State, in the interests of *personnel mobility, professional language skills learning and immersion, and career diversification*, from posting public employees, who otherwise meet the technical competence criteria, from their first-official language area to their second official language area. However, where the State moves such employees when they do not yet meet the language proficiency requirements in their area of posting, it shall ensure that such movements do not impede the administration's ability *to provide services to the public* in the preponderant language.

3 D) Where the State decides to provide a service, or where the State or a private person tenders a document in official settings in a language *other than* the preponderant language of use in the region in question, it shall bear the costs for interpretation and/or translation thereby generated.

4. **Establish standards for public service delivery in both official languages by the Central administrative services of the State, and bilingualism-related personnel policies**: While providing as proposed above, public services attuned to the linguistic composition of specific *regions and metropolitan areas*, the State should reinforce the bilingual capabilities of its *central administrative services* – which refers to the headquarters of all Ministerial departments as well as parastatal and other public entities. Unlike their regional or city outposts, these services are national in character, irrespective of their location. For instance, the language quotient for the provision of public services by the headquarters of a Ministry, of the Electoral Commission (ELECAM), or the national airline (Camair-Co) is not as such the language preponderance of Yaoundé or Douala, but a nationally-defined standard for language access. Some accompanying policies that could be envisaged include:

   4 A) requiring that such central services be able to ensure the availability in both official languages of their principal deliberations, decisional documents, tenders, and normative texts adopted by them,

   4 B) specifying an administrative unit size (such as a Department or a Service) which must have within it, sufficient language proficiency to serve the public in both official languages,

4 C) requiring successful completion of language training, marked by passing of the second official language proficiency test/examination, as a pre-requisite for graduation, or for entry into the public service for students from ENAM and all the higher public institutes which lead to public service recruitment, at and above a certain job/personnel category (e.g. Category B),

4 D) for in-service personnel, making conditional certain types of grade advancements or assignments, upon improvements in, or passing the second official language proficiency examinations,

4 E) rewarding personnel who have effectively discharged tours of duty outside their first-official language area (or within bilingual units of the central administrative services) with faster-track grade advancement to r effective bilingualism,

4 F) specifying a certain level of seniority in the public administration (e.g. rank of Director and above) for which successfully passing a senior public manager language assessment test, is a pre-requisite.

5. **Enforce corrective measures against patent cases of unequal treatment of the official languages**: Careful analysis of the complaints underlying the 2015-2017 crisis shows that Cameroon faces a challenge in ensuring that the users of either official language, receive the same treatment in their daily interactions, including with State entities. The two official languages being of equal status (as the Constitution requires) means that persons requesting a public service need to be able to do so on an equal basis, irrespective of their official language of expression, as the Prime Ministerial circular of 1991 envisages. In practice however, considering the demographics between primarily French and English speakers – and the significant bilingualism deficit the country faces, including in the public administration – first official language English speakers frequently complain of differential and inferior access, such as dealing with second-rate translations into English, or switching into French (their second official language) in order to be understood.[22]

   These complaints are particularly acute in areas such as education, competitive examinations for State employment, and public procurement. For instance, where examinations are organized which are open to candidates from both educational sub-systems (Anglophone and Francophone), questions are often prepared and homologated in one language and translated into the other (most often from French to English). Care is needed to ensure that the English translation is both accurate and grammatically correct.

   Similarly, candidates in such examinations often write in their official language of preference, and examiners are expected to correct them irrespective of the latter's first language. The result, having regard to the demographic composition of both exam-takers and correctors, is that it is statistically more likely for an English-speaking student's script to be corrected by a second-language (French) examiner and statistically more likely for a French-speaking candidate that their script will be corrected by an examiner using the same first-language. In an area of exactitude such as

[22] For an extensive compilation of the differential language access problems faced by English-speakers in Cameroon, see: Isaiah Munang Ayafor, *Official Bilingualism in Cameroon: An Empirical Evaluation of the Status of English in Official Domains*, (2005), PhD thesis, Albert Ludwigs University, Freiburg, Germany. Chapter 7: Status of English in public communication, pp. 358.

examinations, including those for entry into the most coveted institutions that train the core of Cameroon's public administration, the matter is often contentious.[23]

The National Commission on the Promotion of Bilingualism and Multiculturalism has an explicit mandate in this area, namely to *'[receive] petitions against [sic] discriminations arising from non-compliance with the constitutional provisions on bilingualism and multiculturalism, and reporting thereon to the President of the Republic'*.[24] This function of the Commission is, and should be treated as quasi-judicial since it is tasked with watching over violations of a Constitutional (or legal) provision. Inherent in this function is the power to interpret 'the constitutional provisions on bilingualism' violations of which are within its mandate. The said provisions state that both official languages are of equal status, from which a logical deduction is that their *users* should be treated equally. It should also be able to determine when a given action or situation constitutes a violation of such equality.[25]

The provision does not appear directly to authorize the Commission *to order corrective measures* when it finds a violation has occurred, but rather that it documents this in a (likely annual) report to the President of the Republic.[26] Such a power would have appeared essential for the Commission, given that it is empowered to receive complaints from individuals. It could conceivably use dialogue or good offices to resolve complaints, but given the potentially large number of institutions which may find their actions challenged before the Commission, such an approach would deplete its resources. It is important that the Commission command respect and compliance from all entities coming under its watch, which includes '*all government services, semi-public bodies, as well as any State-subsidized body*'.[27] It should at a minimum in resolving each case, *specify* corrective measures to be taken by the defaulting public body, require it to report-back on compliance, and include such compliance/non-compliance in its annual report.

6. **Regulate public signage**: A study published in 2005 demonstrates the extent of the problem of unequal treatment of the official languages in public signage, including by State institutions in Cameroon. The problems include signs and notices with glaring grammatical and vocabulary errors, and unequal representation or sometimes lack of visibility of the inscription in English.[28] Public signage is an obvious area for public

[23] Illustratively, among the measures announced by the Minister of Justice on 31/03/2017 to address complaints in the legal sector, for future examinations to admit pupil magistrates into the National School of Magistracy, not only will they test for common law and romano-germanic law knowledge of candidates trained in the English and French systems respectively, but also *'the scripts of English-speaking candidates shall be marked by English-speaking examiners'*. See Cameroon Tribune, *Revendications des avocats anglophones: la réponse du Chef de l'Etat*, 31 mars 2017.

[24] Article 3.2, para 6 of the decree establishing the Commission (Decree No. 2017/13 of 23/01/2017).

[25] The French version of article 3.2 para 6, of the decree uses the term 'requête'. This translates into English as 'petitions', but connotes in French the sense of a *legal* application, filing, or complaint.

[26] This form of oversight has been used with other bodies placed under the Presidency of the Republic, such as the National Anti-Corruption Commission (CONAC), which uses its annual public report to highlight both overall trends, and individual agencies or departments where it found public financial integrity irregularities.

[27] Article 3.2 para 2, Decree of 23/01/2017.

[28] See: Isaiah Munang Ayafor, *Official Bilingualism in Cameroon: An Empirical Evaluation of the Status of English in Official Domains*, (2005), Thèse de Doctorat (PhD), Université Albert Ludwigs, Freiburg, Allemagne. Voir le Chapitre 7 intitulé : ''Status of English in public communication'', pp. 358.

regulation as to official language use.[29] It covers not only signage (bill-boards, posters) by public / State institutions, but extends to signage by private entities. Such regulation would include both standards of spelling and grammatical correctness, and fairness in representation of the two official language versions. The Prime Ministerial circular of 1991 on bilingualism in the public sector does cover the issue of notices, posters, and bill-boards and requires that they be prepared in both official languages with equal visibility (paragraph 4). However, it is only applicable to the public sector and not to private entities.

The law governing private/commercial advertising signs and bill-boards (Law No. 2006/018 of 29 December 2006 on advertising in Cameroon) does not include specific requirements as to language content. Similarly, law No. 2015/018 of 21 December 2015 regulating commerce in Cameroon does not address signage by them. It only requires registered businesses – in particular when they sell non-perishable consumer goods – to provide their customers 'in French and/or in English', a delivery slip, a leaflet with the key features and instructions on use of the product, and a certificate on the scope and duration of warranties provided (articles 42 and 52).

While this paper emphasizes some *legislative and regulatory* safeguards that could accompany official language use in Cameroon, it is worth noting briefly some *policy* approaches that could be considered in the area of managing languages and bilingualism:

7. **Track evolving language demand driven by globalization:** Cameroon's recent tensions have also been influenced by *globalization*, which has brought with it increased demand for English-language learning by French speakers in Cameroon, and challenged the language balance and strained the language infrastructure that is in place. One area where this has produced tensions is in higher education, where institutions initially created two decades ago (early 1990s) primarily to address challenges faced by English speakers in the previous lone University (in which instruction was largely in French) have become nationally sought-after, including by first-language French speaking students.

   A recent work by a Cameroonian linguistics specialist shows that the past two decades have been marked by an upsurge in English-language learning by French speakers in Cameroon, driven principally by perceptions of increased professional opportunity and upward social mobility (globally) for English speakers. Salient feature of this trend include: (i) the enrolment of large numbers of children by French-speaking parents into English primary and secondary schools, (ii) the acquisition of English which is primarily driven towards interacting with *global* English users (perceived as major purveyors of education, employment, and business opportunities) as opposed to its use for engagement within Cameroon's bilingual environment, and (iii) the formation of new attitudes and identities around the two official languages.[30] Comparative

[29] In some multilingual or language-competitive States such as Canada and Belgium, signage-related disputes border on the extreme. In Canada's Quebec province, where French is the official language, legislation (often subsequently annulled by the Courts) has at times been proposed or adopted specifying that English would be allowed on outdoor commercial signs only if the French lettering was at least twice as large as the English, or that only French could be used on exterior signs while English would only be allowed inside commercial establishments.

[30] See: Eric A. Anchimbe, *Global Identities or Local Stigma Markers: How Equal Is the 'E' in Englishes in Cameroon*? pp 47-62, *in* Englishes in Multilingual Contexts: Language Variation and Education, Ahmar Mahbob and Leslie Barratt, (Eds.), Springer Publications, Netherlands, 2014. This includes a newfound positive *attitude*

experience shows that such *economic factors* weigh heavily on language use trends: they explain for instance the rise of French over Dutch in Brussels from the 19th century till date. Individuals' perceptions of *language usefulness* also often outweigh State intervention as a factor for language acquisition, as the secondary status of Irish Gaelic to English in the Republic of Ireland shows.

At first glance, considering the low levels of bilingualism noted earlier in this paper, any upsurge in second official language learning should be highly welcomed. However, its dynamics need to be understood and managed. Its extroversion or global orientation should be noted, and an effort made to ensure that learners are rooted in Cameroon language realities, interact with its English language speakers, and later contribute to the country taking advantage of its large bilingual workforce. Opportunities for learning in English may need to be increased across the country so as not to overwhelm existing resources, which are substantially located in the historically English-speaking regions. Consideration may need to be given to French language learning incentives and use for English first-language speakers. As more persons from French-speaking backgrounds learn in English, there is also the likelihood that nuanced *sub-identities* will develop, such as between persons who were historically English-speaking regions, and newer English learners.

8. **Assess the economics and cost of language policy and bilingualism**: It is important that national language and bilingualism policy be informed by economic realities. On the one hand, in addition to being a factor for cohesion, language policy and bilingualism have a potential positive bearing on Cameroon's economic competitiveness, especially a bilingual services sector and workforce. The cost of language policy and bilingualism especially on the public sector and to a lesser extent to the private sector should also be assessed, so that the most effective, least costly approach is pursued. In some States, such as Canada, the cost of the bilingualism policy appears staggering. A 2012 study by the Fraser Institute, a think-tank, put the cost of bilingualism to the federal and provincial governments combined at 2.4 billion Canadian dollars annually (or 1.7 billion US dollars) – nearly a quarter of Cameroon's annual budget.[31]

9. **Consider a national cross-language / cultural immersion program**: In addition to the various efforts for language learning and bilingualism through the formal school system, consideration may be given to a specific cross-cultural and language immersion program which would be compulsory for Cameroonian youth. This would help them imbibe national cultural and historical values, as well as bridge linguistic gaps and forge understanding of the diverse heritages of the country. Illustratively, in Nigeria, following the civil war of 1967 to 1970 which revealed the rifts prevailing among its population along ethno-regional lines, the National Youth Service Corps (NYSC) was established in 1973 'with a view to the proper encouragement and development of common ties among the youths of Nigeria and the promotion of national unity' (Decree No. 24 of 22 May 1973). The program is a year-long mandatory immersion program during which recent graduates are assigned to perform community service and learning

towards English by French-speaking Cameroonians, and *identity* differentiation between historical English-speakers and newer English speakers.

[31] See Institut Fraser, *Le cout du bilinguisme au Canada*, janvier 2012. In the 2017 financial year, Cameroon's public budget is 4,373.8 billion XAF, or approximately 7.3 billion USD. That said, viewed as a proportion of GDP in 2012 (1,824 billion USD for Canada, versus 24.6 billion USD for Cameroon), Canada spent 0.1% (one-tenth of 1 %) of its GDP on bilingualism. The equivalent percentage of GDP for Cameroon would have been 24.6 million USD.

far away from their region of origin, to improve their interaction with persons from other parts of the country. Cameroon's current National Youth Service for Civic Participation scheme could emphasize cross-linguistic learning and immersion, for its participants.

AREA II: CO-EXISTENCE AND PRESERVATION OF EDUCATION SYSTEMS

Scope of the problem

The second area in which specific legislative reforms should be considered, emerging from Cameron's recent crisis, in order to provide a durable framework in which matters pertaining to its dual systems and heritage can be appropriately resolved, is the educational system. This is because the education sector has been one of the flash-points of the 2015 to 2017 crisis.

First, the appointment of teachers to the Northwest and Southwest regions – especially in secondary technical and vocational education schools – who did not possess sufficient English language skills was one of the main complaints of the various teachers' trade unions that resulted in the teachers' strike late in 2016. *Secondly*, in 2015, the proposed harmonization of University education curricula among Universities in Cameroon, which would have required the harmonization of course content and academic sufficiency between the eight (8) State-owned Universities in Cameroon (and the myriad private Universities under their supervision) also drew specific criticism from the higher education academic staff unions of the English-speaking Universities of Buea and Bamenda. The essence of their complaint was that the template for harmonization of curriculum content were based on the French educational system while the existing academic content offered in the English-speaking Universities was not envisaged in these templates. In some degree areas – such as political science, law, and management – they asserted that the proposed templates would have removed course content considered central to the English-based educational system.[32] The process was contentious and was only resolved in 2016 when it was agreed that the two English-speaking Universities shall harmonize their programs between themselves. [33]

The education sector has also been one of the most deeply affected by the recent crisis. The prolonged teachers' strike, the 'ghost-towns' in substantial parts of the predominantly English-speaking regions, and resulting insecurity have led parents to keep students, especially those in primary and secondary schools, at home. The onset of these events was in November 2016 (Cameroon's academic year runs from September to June), meaning a large number of students in the affected regions were not able to meet the country's requirements of studies to constitute

[32] See National Union of Higher Education Teachers – University of Buea Chapter, *Memorandum to the Minister of Higher Education on the Harmonization of University Programmes to Enhance the Mobility of students from one University to another*, 22 May 2015. (on file)

[33] The 2015 harmonization process was intended to enhance mobility of students between Universities in Cameroon, in line with the *Bologna process* higher education reforms. The Bologna process is a set of reforms which originated in the EU (and under implementation in many African countries) which seeks to ensure comparability in higher education academic studies between universities and countries, in order to foster mobility of labour and personnel. A key feature is the stream-lined 'BMD' (Bachelors, Masters, Doctorate) or 'LMD' (*Licence, Master, Doctorat*) system as the principal degrees awarded.

a valid academic year. Article 22.1 of Cameroon's Framework Law on Education of 1998 provides that 'an academic year shall consist of at least 36 weeks of *effective classes*'.

The school closures and insecurity in the affected regions resulted in lower than expected numbers of students effectively registered for the General Certificate of Education (G.C.E.) examinations in the secondary school system. In recent years, the number of candidates who register for these examinations annually is around 180,000 students. For the 2016-2017 academic year, at the registration deadline of 28/02/2017, only 70,000 had registered. The deadline was extended, and registration numbers were reported as 129,000 by May 2017, on the eve of the examinations.[34] That number would still have left 54,000 expected exam-writers un-registered, a situation education authorities sought to mitigate by allowing even unregistered students to sit the exams provisionally.[35]

Beyond the numbers of students registered, the requirement of '36 weeks of effective classes' under the 1998 law would not have been met by many students who were out of school. National education authorities appeared to state that while many schools were shut down in the two affected regions, those students (significant numbers of whom are boarders whose families reside outside those regions) had been re-enrolled in schools in unaffected regions, or were studying at home.[36] From a qualitative standpoint, of the best performing schools in the English secondary school GCE examinations during the 2014-15 academic year, only two out of the top 10 – being schools located *outside* the Northwest and Southwest regions – were open for the full 2016-2017 academic year. [37]

In seeking solutions to the recent crisis in which the co-existence of Cameroon's education systems has been one of the points of contention, it is important to note that Cameroon's own *historical experience* demonstrates that the preservation of the two systems' harmonious co-existence is an important education policy matter. In the 1980s, proposals to expand pilot programs under which secondary school students would be enrolled to sit examinations in both the French and English school sub-systems were heavily resisted, while English secondary school teachers' unions strikes in the early 1990s led to consolidation of the systems' separateness through the creation of dedicated semi-autonomous examination boards (the *Office du Baccalauréat* and the GCE Board). Following a national education summit (*Etats Généraux de l'Education)* held in 1995, the 1998 framework law on education further

[34] See: CameroonInfo.Net, *Anglophone crisis: Students Boycott GCE Exams, Board Records Low Registration*, 01/03/2017; Cameroon-Info.Net, *Anglophone Crisis: GCE Board "Exceptionally" Extends Registration to Lure Teachers, Students to Go Back to School*, 03/03/2017; Cameroon-Info.Net, *Anglophone crisis: End of Year Certificates Will Have No Credibility If Strike Continues - Prof ABETY*, 05/03/2017; Cameroon-Info.Net, *Anglophone crisis: My Life Is In Danger- GCE Board Registrar*, 05/03/2017.

[35] See : CameroonInfo.Net, *Crise anglophone: Face à un risque de boycott des examens relevant du GCE Board, le gouvernement implore les non-inscrits à aller composer où qu'ils se trouvent*, 13/05/2017, CameroonInfo.Net, *2017 GCE Examinations: Unregistered Candidates Will Still Be admitted in Exam Hall*, 13/05/2017, CameroonInfo.Net, *Crise anglophone: Le ministre Ngalle Bibehe (Enseignements secondaires) maintient le calendrier des examens officiels*, 13/05/2017.

[36] See: Le Messager, *CAMEROUN : Examens Officiels : L'admission des candidats non-inscrits dans les salles*, 15/05/2017. Such improvised home-schooling would be unlikely to meet the 1998 law's requirements for 'effective classes', in particular for students in a critical official examination year marking the end of a 5-year first cycle of secondary school (GCE O level) or a 2-year second cycle (GCE A level).

[37] See: Fako News Centre, *2015 Cameroon GCE Results Analysis: the best 20 English-speaking schools*, September 2015.

delineated the existence of two separate sub-systems of education, in French and English respectively.[38]

It is also essential for Cameroonian stakeholders to keep in mind that *comparative experience* from other multi-lingual States shows that the education sector, including the right to access education in a given or preferred language is a *hotly-contested issue* in States which have more than one official language. In Belgium for instance, there has been contention, including litigation over the right of French-speaking parents living in the majority Dutch-speaking areas (i.e. in Flanders) to have their children educated in French.[39]

Similarly in Canada, with a view to preserving the use and vitality of French which is a minority language in the country, provincial authorities in Quebec (where French is the sole official language) have frequently passed laws which limit the right to access State-funded English-language education to only persons who are historically English-speaking, who constitute a minority in Quebec. Such legislation is intended, given Quebec's status as a minority French-speaking region surrounded by English in North America, and its interest in protecting the French language, that its government should not subsidize education in English generally to all its residents, at the risk of spreading its use. Canada's highest court has frequently waded in on the constitutionality of these laws: in doing so, they have upheld that the right to (State-funded) English language education only accrued to members of Quebec's English speaking minority and not to members of its French majority, as part of measures to preserve the French language.[40]

Proposed areas for education sector legislative / policy reform

1. Recognize in law, the French and English education sub-systems in all layers of education

A first area for reform would be recognition of *the existence* of the two educational sub-systems in Cameroon – one in French and the other in English – *across the entire educational spectrum*. Such recognition would establish a high threshold – namely a compelling, articulated national interest which overrides the constitutional principle of accommodating Cameroon's dual French and English heritage – for reforms to be made for the purpose of merging or combining parts of the two systems. In Cameroon's experience, while each sub-system has successfully upgraded its own content and processes to meet national development needs, attempts at creating direct standardization of content and methods between them have often met with resistance, in particular, complaints about erosion of the English-based system.

Under current Cameroon law, the existence of these two sub-systems is recognized in primary, secondary, and technical education, but not in higher (University) education. The Framework Law on Education in Cameroon, Law No. 98/004 of 14 April 1998, which was an outcome of the National Education Summit (*Etats Généraux de l'Education*) of 1995, regulates *nursery*,

[38] See Henry N. Tatangang (PhD), Education-Formation-Emploi: La Clef du Développement de l'Afrique a l'ère de la mondialisation, USA, 2011 (619 pp). Section entitled ''L'éducation *tri-systémique au Cameroun depuis la réunification en 1961"*, which documents the trajectory of Cameroon's education system, including attempts at its harmonization, at page 80 infra.

[39] See: European Court of Human Rights, *Case "Relating to certain aspects of the laws on the use of Languages in Education in Belgium" v. Belgium (merits)* - often referred to as the Belgian Linguistics Case, Strasbourg, 23 July 1968.

[40] Supreme Court of Canada, *Gosselin (Tutor of) v. Quebec (Attorney General)*, [2005] 1 S.C.R. 238, 2005 SCC 15.

primary, general and technical secondary, and teacher-training education (Article 1.2, 1998 law). It provides that 'Cameroon's educational system is structured into two sub-systems: one Anglophone, and the other francophone, through which the national policy of bi-culturalism is affirmed' (article 15.1). It further provides that 'the above-mentioned sub-systems shall co-exist, with each maintaining its specificity as to its methods of assessment and certification' (article 15.2). Articles 16 and 17 of the law then spell out, for the Anglophone and Francophone sub-systems respectively, the duration of the study cycles at the primary and secondary levels. It should be noted that – while accommodating the two sub-systems – this law also provides that 'the State is dedicated to bilingualism at all educational levels as a vector of national unity and integration' (article 3).

By contrast, the Framework Law on Higher Education in Cameroon, Law No. 2001/005 of 16 April 2001, does not provide a similar recognition of university education along the lines of language systems. As to language, the law only provides – as does the law regulating all other educational spheres – that 'the State is dedicated to bilingualism in higher education as a vector of national unity and integration' (article 5), that the 'promotion of bilingualism' shall be one of the fundamental objectives of higher education expected by the State (article 6.1), and that higher education shall support bilingualism, the inter-mixing of populations, and national integration (article 6.2). It also provides that the State 'shall guarantee *equal access* to higher education for Cameroonian citizens', and 'shall protect any applicant for entrance into University against discrimination on grounds of race, gender, age, religion, *and linguistic* or geographic *origin*' (article 11.1 and 11.2a).

The absence of formal recognition in law that sub-systems exist in higher education had practical consequences in the recent crisis. As mentioned above, one of the early harbingers of the 2016 events were complaints by the academic staff unions of the universities of Buea and Bamenda about the process to harmonize the content of University programs in law, political science, and management, using French-speaking Universities' curricula as the template.[41] The process arrived at a resolution in 2016 by the national higher education authorities to the effect that, in harmonizing programs: 'the *specificities of the Anglophone subsystem of education* will have to be respected *as prescribed by the law*. The Universities of Buea and Bamenda will, therefore, harmonize their curricula among themselves without necessarily conforming to the francophone model'.[42]

While this was an appropriate outcome on the specific issue of harmonization, it should be noted that the 'specificity' of those two Universities rests on their Charters (the Presidential Decrees establishing them) and not on the general law regulating higher education in Cameroon, which as seen above, is *silent* on the existence of two language sub-systems in University education. The legal texts establishing the University of Buea (Decree No. 92/074 of 13 April 1992, and Decree No. 93/034 of 29 January 1993) explicitly established the University in the 'Anglo-Saxon' (English-speaking) tradition. Similarly, Decree No. 2011-45

[41] See Memorandum of Higher Education Teachers' Union to Minister of Higher Education (May 2015), cited *supra*. See also: Cameroon-Info.net, *Universités d'État: Les enseignants des Universités de Buea et de Bamenda s'opposent à l'harmonisation des programmes académiques*, 13/06/2016, Cameroon-Info.net, *Universités d'État: Buea et Bamenda refusent les programmes francophones*, 01/06/2016, The Median Newspaper, *Professors, parents unite against joint university programs*, 30/05/2016. It should be noted that the coalescing of complaint actions between teachers unions and lawyers unions in the English-speaking regions (through joint statements about erosion of English-based systems) began during these events in 2015 and early 2016, well before they degenerated into a general strike late in 2016.

[42] See: *Release from the Minister of Higher Education, 09 June 2016* (pertaining to the harmonisation of University curricula – unofficial version).

of 08 March 2011 on the organization of the University of Bamenda provides in article 1.a. that 'there shall be established a body corporate conceived in the Anglo-Saxon tradition by the name of The University of Bamenda'.

In order to ensure, *sustainably and for the future*, that the existence of higher education systems in French and in English is recognized, it will be important that this be reflected in the general (framework) law regulating higher education.[43] This will enable Universities, based on which of these systems they conform to, to determine matters such as the language of instruction and teaching, and language competencies required of their academic staff (this is important as State Universities do not autonomously recruit their staff and may have staff with different language competencies assigned to them). It will also make clear how the educational sub-systems apply to the growing *private* University sector. Such a provision need not, and should not (where a University is objectively, fully capable of doing so) prevent the running of bilingual universities. The alignment of a University with a language sub-system would also not prevent it from dispensing – when demand and other factors so require – some course content in another language, such as second language-learning, or language-specific content such as *French private law (droit privé francophone)* in English universities or *English private law (droit privé anglophone)* in French universities.

In essence, a firmer legal recognition of the existence of two educational sub-systems would be an important outcome for posterity. It would also respond to specific demands by English-speaking teachers' unions for a 'separate pedagogic chain' for both sub-systems, in <u>all</u> the ministries with oversight of education in Cameroon (Higher Education, Secondary Education, and Basic Education). This would ensure that at all educational levels, oversight and quality control of each sub-system is in the hands of professionals familiar with the given system.

It should be stressed that the above reform only goes to the issue of the State *recognizing that there exist two separate educational sub-systems* – and ensuring that its policies foster the existence and co-existence of those systems, and do not – even inadvertently – undermine each system's specificity. They do not address the separate and no less contemporarily contentious issue of *which Cameroonian* gets access to each of these systems, especially when State-funded or subsidized. While this was not an issue two decades ago when Cameroon first established a University in the English-speaking tradition (they logically attracted large numbers of Anglophone students), the onset of globalization, and the corresponding surge in demand for English-language learning by Francophone students, has brought it to the fore. It is to the issue that we turn, next.

2. Clarify University catchment areas, taking into account the potential effect of Cameroon's policies on regional balancing

Historically in Cameroon, contention over access to education in one's first (official) language has largely been limited to the area of higher education. Persons who reside in a region where their first (official) language is not the predominant language may face limited choice in school selection at nursery, primary, and secondary levels for their children, but in absolute terms, the supply of school spaces at those levels in both languages is not significantly out-stripped by

[43] Cameroon's legal framework on education could also recognize a third category of educational sub-system, namely a fully 'bilingual' education system. However, such a sub-system would be *additional* to the two existing sub-systems, and would have to be regulated, since no such sub-system exists in law, today.

demand.[44] In higher education however, there were substantial complaints about the insufficiency of opportunities for University education in English. Before 1993 when six (6) public universities were created, the lone university (University of Yaoundé) functioned on a language co-existence policy between French and English, in which lectures were delivered in the language of preference of the lecturer, and students wrote term papers and examinations in their language of preference. However, the country's demographics (a larger Francophone teaching and student population) meant that the overall levels of use of French far out-stripped English, and Anglophone students generally needed to acquire sufficient French skills to succeed at the university.

It is in this context that the University of Buea was created in 1993, with a charter specifying that it was established in the English-speaking tradition.[45] The context of its creation, and its charter, suggest that it was indeed created to enhance language minority access to higher education. In 2011, the University of Bamenda was created as a second public university in the English-speaking tradition – therefore out of eight (8) public universities, two (2) have an English-language charter. Both Universities are located within the predominantly English-speaking regions of Cameroon.

It should be noted however that these universities function as institutions of a *national* character, and do not – at least textually – apply a 'catchment area' or preferential access principle based on applicants' prior use of the English language, or on their region of origin or residence. The Universities have admitted applicants without prior education in the English educational system, including students who switched from francophone primary and secondary education to English at university level, as well as foreign students (such as Spanish speakers from Equatorial Guinea) in search of university education in English. Such students are required to undergo – at their expense – an intensive English language course prior to admission. This open approach notwithstanding, the University of Buea – in place for over two decades – significantly expanded higher education access in English, for those who historically used English as their first (official) language.

The vocation of the English-chartered Universities has been tested by two factors: one drawing from Cameroon's framework for integration and balancing between regions of the country, and the other from globalization-induced increased demand for education in English including voluntary switching by French-speakers to the English education system. On the *first* factor, under Cameroon law, the State may, for admission to study in public institutions from which the State intends to recruit graduates, apportion spaces based on a system of quotas allocated to each of the country's ten (10) regions. Cameroon's quota law, Decree No. 2000/696/PM of 13 September 2000 establishing the overall framework for competitive examinations for State employment (*régime général des concours administratifs*) provides as follows:

> Article 60:
>
> 1. A Prime Ministerial decision shall establish the quota of spaces available for candidates from each region during competitive examinations for State employment.

[44] Key to this availability has been Government's establishment of bilingual primary and secondary schools in all regions of the country. These are schools that offer the French and English primary and secondary education tracks, largely running *in parallel* within the same establishment.

[45] For a detailed account of the context preceding the creation of the University of Buea, see: Dorothy L. Njeuma et al, *Reforming a National System of Higher Education: The Case of Cameroon*, Association for the Development of Education in Africa (ADEA), Working Group on Higher Education, July 1999.

2. In this context, the region of origin of a candidate shall be that of the father, or where unknown, that of the mother.

3. Under no circumstances may the application of quotas mentioned in sub-section 1 above, result in the admission of candidates who do not meet the minimum scores required for a pass mark [previously stated in articles 52 and 53 of the decree].

The regional quotas currently established are as follows:

- Adamawa region: 5%
- Far North region : 18%
- North region : 7%
- Centre region : 15%
- East region : 4%
- South region : 4%
- West region : 13%
- Littoral region : 12 %
- Northwest region : 12%
- Southwest region: 8%
- Ex-servicemen and women: 2%

It is beyond the scope of this paper to analyse in detail the regional balancing policy applied in Cameroon, which has been the subject of extensive treatment elsewhere.[46] Its relevance for this paper is that this is the sole policy in place that apportions access to higher and professional education access, notably where the State intends to recruit the graduates. (It is immaterial in practice, if the candidates decline State employment upon graduation, as some do in globally competitive fields such as medicine and engineering. The strategic nature of the field and the State's recruitment intentions would bring such studies within the purview of the balancing policy).

Under current Cameroon law, there is no impediment to the application of this policy to admissions into the English-speaking Universities, and the issue has emerged in the past in connection with admissions for medical studies at the University of Buea. In 2006, the Minister of Higher Education stepped in to rectify the first ever admissions process into the University of Buea's medical school, on grounds that the list of 127 admitted candidates included only anglophones, whereas 33% of the 870 students who sat the entrance examination where francophone. The admissions therefore 'did not take into account sociological balance, as a safeguard of national integration and stability'. As such, the 26 best francophone candidates were also admitted, bringing the total to 153. While the decision did not perhaps reflect application *as such* of the above-mentioned quotas by region (but rather a balancing between candidates based on primary language of expression), it rested firmly on the same grounds that uphold the regional balancing law and quotas. As an indication of the issue's sensitivity, the incident was marked by violent demonstrations in and around the University leading to two (2) deaths.[47]

[46] See the extensive collection of articles in Paul Nchoji Nkwi and Francis B. Nyamnoh (eds.), *Regional Balance and National Integration in Cameroon: Lessons Learned and the Uncertain Future*, Langaa RPCIG, 596 pp, 2011.
[47] See: Cameroon Tribune, *Situation à l'Université de Buéa: l'éclairage de Jacques Fame Ndongo (Ministre de l'Enseignement Supérieur)*, 04/12/2006, The Post, *Disturbances at UB as Students Protest against Controversial Medical School Examination List*, 28/11/2006, The Post, *Two Shot Dead, Several Wounded In UB Strike*, 30/11/2006.

The co-existence of the *regional balancing policy* under which the State may apportion entry into strategic sectors of State-funded higher education based on region of origin, and the presence of *English-chartered Universities*, raises an important policy issue which Cameroon's recent crisis has brought to the fore. In the words of their founding managers, the English-speaking Universities, such as the University of Buea 'conceived in the Anglo-Saxon tradition and therefore an English-speaking university, answered the call of Anglophone students and parents for a university system of education consistent with the education system prevailing in Anglophone primary and secondary schools'.[48] This context would make these Universities logically 'minority language education' institutions which could exercise a 'catchment area' policy, *primarily* catering to persons of English expression, such as those: (i) who live in the predominantly English speaking regions, (ii) who irrespective of their area of residence, underwent their studies (primary / secondary) in English, or (iii) who use English in their daily life at home and work.

However, the notion of a catchment area or *primary linguistic community* served is *not* explicitly secured in the legal charter of these Universities. Instead, a general form (ensuring anglophone-francophone equilibrium) or textual application (ensuring representation of all ten regions) of regional balancing, which *is* provided for in law, may be applied to selected programs in these Universities. The argument is often made in defence of this approach that Cameroon's commitment to bilingualism 'throughout the country' (article 1.3 of the Constitution) means there is no legal entitlement to preferential access to English-language higher education for persons who claim more historical attachment to the language, based on their area of residence or origin, family history, prior educational system of attendance, or primary language used in daily life.

While noting the *differences* between the contexts, in Canada, this issue has been resolved through constant jurisprudence by its Supreme Court to the effect that measures affording *minority access* to education in a language (specifically, Section 23 of the Constitution's Charter of Rights and Freedoms) cannot be impugned and overridden by resorting to the general constitutional protection of equality and against non-discrimination between all citizens – as the *differential* treatment of minorities is in itself the vehicle used to achieve substantive equality. [49]

3. Ensure system integrity for the French and English educational sub-systems:

In order both to preserve the right to education in one's primary (official) language, and to ensure the country continues to benefit from harbouring these two education systems which are a window to Africa and the world, it will be important that while meeting the same educational targets to foster national development objectives, both educational systems should, at a strategic and conceptual level, be *allowed to develop without unplanned and unmanaged cross-systemic influences from one to the other.*

Among the specific concerns raised by English-speaking teachers unions during the recent crisis was the loss of system-integrity in the English educational system due to the fact that when planning and conceptual work in the education sector is completely unified (and having regard to demographics), there is a tendency for strategic thinking to be done based or modelled on the French educational sub-system, and then transposed into the English sub-system. The latter then becomes tied in its structure and content to the former. They therefore

[48] Dorothy L. Njeuma et al, 1999 (op cit.)
[49] See *Mahe v. Alberta*, and *Gosselin vs. Quebec* (cases discussed in more detail, *infra*).

called for separate pedagogic chains, or for the presence of English-education system specialists with oversight capacity on that sub-system at all levels of the education chain – in order to ensure each system's management, reform, and quality control are in the hands of persons well-versed in that educational sub-system.[50]

The Canadian Supreme Court has rendered decisions in a number of cases whose reasoning – while based on Canada's specific context – may be useful in thinking about system integrity between educational systems in a multi-lingual State. These cases concern Canada's arrangements for minority language education rights (Section 23 of the Canadian Charter of Rights and Freedoms) which enables persons who are part of a linguistic minority *within a given province of Canada*, to access education in their (minority) official language. In interpreting that entitlement, Canada's Supreme Court has often emphasized the importance of the linguistic minority's control and management of its educational system – and noted the risks inherent in allowing the other (majority) language community equal access to and control over, the education system in the minority language.

In *Mahe v. Alberta* which was examining the issue of control of school/education boards at provincial level, the Court noted that: 'minority language groups cannot always rely upon the majority to take account of all their linguistic and cultural concerns. Such neglect is not always intentional: the majority cannot be expected to understand and appreciate all of the diverse ways in which educational practices may influence the language and culture of the minority'.[51] Adapted to the Cameroonian context where use of both official languages by *all* citizens is on an open personality principle and encouraged by the State, this reasoning would nonetheless argue for ensuring that specialists with expertise in each sub-system have the principal oversight role on it.

As argued in the post-script to this paper on institutional arrangements to secure diverse systems, it could strongly be considered to establish institutions such as *National (Advisory) Councils on Education* – with one for each educational sub-system. Cameroon's 1998 Framework Law on education envisages the establishment of such a Council (article 11.2), while organizing the education sector into two sub-systems in French and English (articles 15 to 17). It would appear consistent with the legislative intent behind the 1998 Framework Law for such a superior consultative body (Council) on the education sector, to reflect this dualism.

4. Long-term language planning: plan ahead to handle the surge in demand for education in English without straining existing English-based education infrastructure

In addition to the regional balancing policy, the *second* contextual factor that surrounds language and access to higher education *is the surge in demand for English-language* (*higher*) *education* in Cameroon, driven by globalization, which has been discussed above. Empirical data from recent studies in the country show that over the last decade, the trend of enrolment of pupils and students from historically French-speaking families in English sub-system schools at both primary and secondary levels is steadily increasing. Some studies revealed the percentage of children from historically francophone families was as high as between 50 and 70% in English primary schools in the capital Yaoundé, and up to 30% in elite boarding secondary schools in the Northwest region. Among parents surveyed, the principal reason

[50] Excerpt on challenges presented by Anglophone teacher unions, late 2016 (on file).
[51] Supreme Court of Canada, *Mahe v. Alberta*, [1990] 1 S.C.R. 342.

advanced for electing for English-based education was a perception of increased future professional opportunities, especially abroad or internationally for their children.[52]

This trend – if it continues – portends another challenge that policy-makers should anticipate and plan for. The bulge in English language primary and secondary enrolment will over time translate into further increased demand for English-language higher education, as – irrespective of their families' language background – the years spent in the English education system will render those students pre-disposed to English higher education. Furthermore, reflecting the evolving identities driven by globalization, hitherto minority-language educational institutions will be faced with two categories of English-speaking applicants: (i) those from historically English-speaking backgrounds seeking to pursue studies in English, and (ii) those for who it was *elected*, often as early as primary school, to pursue studies in English. For University entrance, if a catchment test or criterion is previous studies in English, those in the latter group qualify, thereby broadly expanding the number of eligible applicants.

A policy recommendation – based on legal principles – here is that the State should cater to its basic obligation to ensure education is available in the first or principal language of its citizens (including those whose first official language is English), while implementing other policies it may put in place to enhance bilingualism or increase education spaces for persons who *elect* to study in a different language. The infrastructure and facilities in place for education in English (especially of the public sector) were established within a framework of Cameroon's language balance being majority French-speaking (57% of the population) and minority English-speaking (25% of the population) – per the 2005 census data. Unless the supply of private and public facilities to meet the increased demand for English increases, tensions over access to the scarce number of spaces available are likely to flare – which given the country's recent crisis, are to be avoided at all costs.

Faced with this wind of change, and the formation of new, nuanced language identities, the temptation to resort to arguments based on formal equality – but devoid of historical context – is huge. Such arguments would posit that Cameroonian law (such as article 11.2.a of the Framework Law on Higher Education of 2001) requires the protection of all applicants to University against discrimination on several grounds, including their 'linguistic and geographic origin', hence there is no basis for distinguishing between persons from historically English-speaking communities or backgrounds, and persons who more recently elected for English. However, while hours of productive time and energy can be lost in arguments over who is entitled to what language identity, the real solution is likely elsewhere.

If entire communities or substantial numbers of persons have indeed undergone a *firm language mutation* (within or outside official State policy) and now seek primary, secondary, and tertiary education in English, the appropriate response is likely increased supply. For various geo-strategic reasons, including the languages spoken in its sub-region and the widespread use of French in Africa, Cameroon *may eventually need to take – as is constitutionally required – measures to ensure balance in French language use and demand*. A corollary of globalization (perceived as English-inclined), is regional integration and

[52] See Eric A Anchimbe, *Global Identities or Local Stigma Markers: How Equal Is the 'E' in Englishes in Cameroon*? Pages 47-62, *in* Englishes in Multilingual Contexts: Language Variation and Education, Mahbob, Ahmar, Barratt, Leslie (Eds.), 2014. Data presented at pages 55 and following. English-speaking primary schools with 50 to 70% Francophone enrolment included Holy Infants, Jumping Jacks, and St. Joseph Anglophone primary school Mvog-Ada, while the English-based Our Lady of Lourdes Secondary School in Bamenda had close to 30% francophone enrolment.

considering widespread French use among Cameroon's neighbours, an increasingly integrated regional economy will also enhance French language demand.

AREA III: CO-EXISTENCE AND PRESERVATION OF LEGAL SYSTEMS

In addition to regulating the use of language in *access to State and public services*, and legally re-affirming the co-existence of the two language-based systems across the *education* chain, the third area in which improved legislation and policy instruments should be considered to provide durable solutions from the recent crisis is the co-existence and preservation of *legal practice systems.*

To address concerned raised by lawyers of English-speaking extraction, an extensive range of measures was announced by the Minister of Justice on 31/03/2017 at the instruction of the President of the Republic, which address the issues of judicial training in the common law, the posting of Magistrates according to their language and legal system competence, and the hearing of appeals from common law Courts of appeal to the national Supreme Court. This paper offers some suggestions that may deepen and strengthen their application and bequeath to Cameroon's legal community, a durable framework to help prevent recurrence of the type of crisis faced in 2015-2017. [53]

1. Adopt in law, a clear *legal basis* for application of common law and romano-germanic law in Cameroon.

A contentious issue in the recent crisis has been the survival of the common law, as a legal practice system within Cameroon, exacerbated by the appointment of Magistrates trained primarily in a romano-germanic legal culture to the Northwest and Southwest regions (where legal practice is based on the common law) in particular through an extensive series of judicial sector appointments made on 18 December 2014. Within a few months of those appointments, namely early in 2015, the impact of transferring significant numbers of judicial personnel whose primary language (French) and legal culture (romano-germanic law) competencies were different from what previously obtained in those regions, was felt. In addition to objecting to

[53] These measures include: **(1)** establishment of a Common Law Bench (Chamber) at the Supreme Court, **(2)** identification of senior English-speaking Magistrates to be assigned to the Supreme Court, **(3)** an evaluation of language competency, and mastery of the Common Law and romano-germanic law by Magistrates which would lead to the transfer of judicial personnel to regions based on their competencies, **(4)** maintenance of the teaching of Common law in areas not yet subject to uniform Cameroonian laws, **(5)** upgrading the University of Buea's Law Department to a Faculty of Law and Political Sciences, **(6)** creation of Departments for the teaching of English private law in four primarily French-based public Universities, **(7)** introduction of 'droit public' as a legal learning area in the English-based Universities of Buea and Bamenda, and on-demand training for Anglophone judicial personnel to serve in administrative (State litigation) and audit (State Audit Institution) sections of judicial bodies, **(8)** establishment of a working group supervised by the Ministry of Justice to establish the content of law programs in Universities leading to legal careers, and course content at the National Magistracy School, **(9)** creation of a Common Law section at the National Magistracy School, the increase of English-speaking lecturers at the school, the introduction of test questions aligned to candidates legal background (common law or romano-germanic law) in the Magistracy school's entrance exam, and a special recruitment exercise for Anglophone Magistrates-in-training for a four (4) year period, **(10)** recruitment of specialized interpreters for Courts. Implementation of these measures has begun.

their use of French language in court proceedings and submissions, the lawyers objected to the fact that those judicial personnel were not conversant with common law.

Common law and romano-germanic law briefly explained

While a differentiation of the common law and romano-germanic legal cultures is outside this paper's scope, a few areas of difference should be noted. *First*, the common law (while applying Laws enacted by parliament or Statutes), places major emphasis on the role of the Judge in formulating the law, and the decisions by Judges of the *highest courts* – which have to be written in elaborate judgments specifying the Judge's legal reasoning – constitute a core source law in themselves. It applies a rule of *binding precedent*, which means that lower courts have to follow the decisions made by superior courts on the same legal issue. By contrast in romano-germanic systems, the primary source of law is coded or codified law, and the starting point for a Judge is those codes and prior Judges' decisions do not constitute as such, the principal source of law-making.

Second, the rules of procedure are often specific to each system. In law, the outcome of a case depends not only on whether one's cause is founded on the merits (substantive law), but also on how the parties conduct their case in court (the rules of procedure, or procedural law). These procedural rules are adopted for reasons such as ensuring equity between the parties. For actors with key roles in cases in court proceedings, such as the Legal Department (Prosecutors) or Bench, familiarity with rules of procedure of a given system is critical. Around the world, lawyers trained in either system need to be retooled to operate in the other.

They are not however hermetically closed systems: national uniform legislation may be adopted which apply *across both legal practice systems* (in Cameroon, this includes major laws such as the Penal Code, the Labour Code, and the Criminal Procedure Code). Participation in regional and global law-harmonization bodies – which render legal rules uniform *across several countries* irrespective of their underlying legal culture – may reduce the systems' specificities. Rules of procedure specific to a given system may be reformed or simplified in the interest of justice. Considering the impact of Statutes, treaties, and other reforms, the common law / romano-germanic systems may therefore best be seen as the sub-structure or skeleton on which the actual laws applicable in any given field, are built.

Constitutional basis for the application of romano-germanic and common law in Cameroon

In the half-century since reunification of the previously French and English-administered parts of Cameroon, the two legal systems (romano-germanic and common law) have been prevailing on a *territorial* basis: the former in the predominantly French-speaking regions, and the latter in the English-speaking regions. Cameroon is therefore *bi-jural*; in that within one overall judicial system (headed by a single Supreme Court) there coexist two different legal traditions. However compared to another common law/civil law bijural country (Canada) Cameroon has a single parliament legislating in a unitary (not a federal) State, which can pass laws governing persons in the entire territory, irrespective of the primary legal tradition in their region. Cameroon's bi-juralism is a product of its pre-independence history. The reception of these foreign legal systems upon independence (as opposed to its repeal) was to ensure that legal vacuums did not occur, since the newly-independent country did not have its own complete legislation or system. However, as a country with dual legal *heritages*, which were intended over time to undergo a process of reform, modernisation, and rendered uniform with national

content, the *status* of these legal sub-structure systems (common law, and romano-germanic law) could be better clarified.[54]

Two observations shed light on how their current status may contribute to tensions. First, the basis for the application of these two legal systems appears more *as a transitional measure while awaiting future nationally-adopted legal rules, than as – conceptually – stable or durable bodies of law*. Cameroon's Constitutions since independence have always contained a clause which receives or maintains laws and the legal system which were in place prior to independence, unless subsequently repealed. The current clause which receives foreign law uses transitory language. The clause (Section 68 in Part XIII of the Constitution, devoted to Transitional Provisions) provides that:

> The legislation applicable in the Federal State of Cameroon and in the Federated States *on the date of entry into force of this Constitution shall remain in force insofar as it is not repugnant* to this Constitution, and as long as it is not amended by subsequent laws and regulations.

This provision carries forward to the present day pre-independence texts, which extended to Cameroon the laws *and the legal systems* applicable in France and Great Britain respectively, and constitute the basis for the two legal sub-cultures. In the predominantly English-speaking region, the law *which was in force upon independence*, and which makes the common law applicable in those regions of Cameroon today, is the Southern Cameroon High Court Law, 1955, under which the common law, equity, and statutes of general application in England at 1900 were rendered applicable to that part of the country. In the predominantly French-speaking region, beginning with a decree of 22 May 1924, France extended legislation developed for its then colonies in central Africa (*Afrique Equatoriale Française)* to the part of Cameroon it administered.

The legal basis for the common law and romano-germanic law – which are not laws governing a specific issue, but each an *entire system of legal rules, methods, and processes* – is therefore *circuitous*, which makes them (in a strictly legal sense) easily subject to repeal. Under current arrangements, a law of Parliament (e.g. pertaining to judicial organization) could directly repeal the 1955 law or 1924 decree, thereby removing the entire basis for applying common law or romano-germanic law principles in Cameroon.[55] The nature of a country's legal system is sufficiently important to warrant direct mention in a stand-alone, superior norm, which would remove the need for the circuitous reference to pre-independence laws carried forward. In addition to the modification of the Supreme Court to introduce a Common Law Section, consideration may be given to specifying romano-germanic law and common law as *residual* legal practice systems inspiring the legal system, in a law of general application such as the 2006 Law on Judicial Organization (Law No. 2006/015 of 29/12/2006).

In legal drafting, the use of transitory provisions generally suggests that the framer's intent is that the concerned text *will* eventually be supplanted by subsequent legislation. The fact that not just specific laws, but the entire legal system sub-structure could be argued to be transitory,

---

[54] For analysis of the reception in Cameroon of foreign legal systems prior to independence, this paper is indebted to constitutionalist, Professor Charles Fombad. See: Charles Manga Fombad, *Cameroonian Bijuralism at a Critical Crossroads*, in Mixed Legal Systems, East and West, Vernon Palmer, Mohamed Mattar, Anna Koppel (eds.), Routledge Publishers, New York, 2016, pp 101-122.

[55] While this point may seem unthinkable, it appears legally correct to state that such repealing legislation would *not* be unconstitutional. The Constitution in itself (Section 68) only keeps an inherited law in force if it has not yet been repealed by subsequent *legislation*, and it affords no special protection as such to the 1955 law or 1924 decree – on which the dual legal practice systems rest.

does not convey a sense of stability which is important for legal systems; it creates an unsettled environment as to what the law is, or will be. The legal practitioner faced with a problem otherwise *wholly* unregulated by nationally-passed harmonized laws must revert to these heritage systems. Yet often, he/she may only revert to those systems 'as frozen' upon reception by Cameroon (decades ago) and cannot have recourse to how the U.K. or France resolves that problem today.

Long-term policy intent: preservation of bi-juralism or progressive creation of a whole, mono-jural, uniquely Cameroonian legal system?

From a policy perspective, Cameroon's law reform initiatives over the past two decades reveal two main strands: reception of new *community / regional law* through multiple instruments directly applicable based on regional treaties (predominant in business law), and the adoption of *uniform, national Codes* which govern other major areas of law. These include a uniform Criminal Procedure Code (in force since 2007), a revised Penal Code (in force since 2016), and a uniform Civil Code and Civil and Commercial Procedure Code (drafts being worked on since 2008). It will be useful to determine whether the process of rendering *national core* bodies of law uniform (criminal law, civil law of obligations, rules of procedure) is intended eventually *to cover completely* the legal environment, such that no recourse will need to be made to any residual foreign law sub-structures or traditions, which in Cameroon's case results in dualism – due to recourse to romano-germanic and common law. Framed otherwise, would the law reform objective over the long-term be to move from a *bi-jural* country, to one that is *mono-jural*, based on a (new, uniform) complete legal system that is developed nationally? [56]

It is one thing – and fairly commonplace in Cameroon – to *repeal* specific common law positions (found in Judge-made law) or romano-germanic law rules (such as those found in the *Code Civil*) that govern a given legal issue, through the adoption of a new uniform national Code or regional treaty. It is a much more all-encompassing project to repeal or replace the legal sub-structure that common law and romano-germanic law constitute, even subconsciously, to practitioners in Cameroon. To do so, there would need to be new, Cameroonian rules and principles that replace the rules of interpretation and general principles of law, for which Cameroonian law currently reverts to these two 'received' systems.

It is within Cameroon's sovereign remit to institute a new uniform, holistic national legal system, which specifically *excludes* recourse to the legal systems introduced by the 1924 decree and 1955 law respectively. However, the benefits from such an undertaking need to be weighed against its costs, especially what would be required in terms of university, in-service, re-training for all legal actors, and also the loss of system-comparability and user mobility: the two current sub-structure systems (common law and romano-germanic) are among the most widely used systems in the world,[57] whereas a new Cameroon-specific system would be a small country-specific system.

[56] Another comparative example worthy of study is Mauritius which due to its being under successive rule by France (1710 to 1810) and by Britain (1810 up to its independence 1968) has a mixed legal system which draws on key elements of both Common Law and Civil law. It is different from Cameroon in that the two systems do not just *co-exist*, but are actively *mixed* into a single national legal practice system. See: Tony Angelo, *Mauritius: Capitulation, Consolidation, Creation*, in: Sue Farran and Esin Örücü (eds.), A Study of Mixed Legal Systems: Endangered, Entrenched or Blended, Routledge Publishers, 2014. See also the presentation by Akchay Ramdin et al, *Foundation of Mauritian Laws*.

[57] See Wikipedia, *Map of Legal Systems of the World* (accessed May 2017).

As the country retains its bi-juralism, some accessory structures could be set up to support it. The Cameroon Bar Association could establish a Commission on bi-juralism among its permanent or statutory Commissions, with a parity of members from romano-germanic and common law backgrounds, including comparative law expertise, which advises the Bar Council and advocates on matters of co-existence between legal practice cultures. The Ministry of Justice could also have a service within its structure to handle issues arising from bi-juralism.

2. Establish a *consultative* law reform body on uniform national laws, and strengthen regional norm development in English.

As recourse to received foreign law recedes, new uniform *national* legislation, and received *regional* law (substantive law from regional bodies – such as OHADA, CIMA, and CEMAC) will be the principal *future* sources of law in Cameroon. For legal practitioners to be aware of current and *imminent* law, it is important that these processes be well communicated within the entire legal community, and even influence the direction of legal *education* (at university, and for all legal careers, including the Magistracy).

Once there is recognition that for 50 years the country has in many respects relied on the residual application of romano-germanic law and common law, it is understandable that more than a generation of legal practitioners have functioned within those realms, and that each of those systems (which have *variations* in approach and methods) now influence how practitioners see the law. Specific tools which have been used in other bijural countries may also be needed to bring those two view-points together in national and regional law-harmonisation processes. [58]

The call for a national Law Reform body – which will study and review proposals in *structural* areas of national law under reform, intended to produce uniform national laws – was an explicit recommendation by English-speaking lawyers during the past two years. Due to the significant shifts in the bodies of applicable law that will be inevitable in Cameroon over time, such a consultative body on law reform appears important. Such a body would be representative of the broader legal community (including the Justice Ministry's Legislation Directorate, the Bar, legal academics, with fair representation across the existing legal communities of romano-germanic/French-speaking, and common law/English-speaking legal experts). Its consultative and advisory role would ensure that a cross-section of the legal community is able to engage or interact with reform processes, and help provide clarity and predictability as to the scope and nature of reforms.[59]

Cameroon's Justice Ministry has also (since 2008) commissioned a legislative study designed to inform the adoption of a new, bilingual *Civil Code* (which will regulate most aspects of private law such as the law of obligations, contract, and torts) and a *Civil and Commercial Procedure Code*. The Consultants who conducted the legislative study have submitted their

[58] In Canada for instance, a number of mechanisms to accommodate its bi-jural nature. This includes legal dualism (allowing both legal systems to be taken into account when interpreting legislative and other texts of a legal nature) and co-drafting or legislative bijuralism (intended to ensure that national/federal law – which is common law dominated – is complementary to the minority civil law system in operation in Quebec). See, Canada: Department of Justice, *Legal Dualism and Bilingual Bisystemism*,(accessed: May 2017), and France Allard (General Counsel, Legislative Services, Department of Justice), *The Supreme Court of Canada and its impact on the expression of bijuralism* (accessed May 2017).

[59] *Fombad (op cit.)* notes that such Commissions were put in place in the 1960s for reform of criminal law, and civil and customary law, and produced Cameroon's first indigenous Penal Code in 1967.

report to the Justice Ministry, whose Directorate in charge of Legislation is reviewing the proposals in collaboration with judicial personnel of both civil and common law extraction, prior to wider consultations.[60] The proposed codes will replace areas presently regulated by static, received foreign laws (the *Code Civil* and *Code de Procedure Civile*), and for the primarily-English speaking regions, will replace aspects of substantive common law and received common law rules of procedure. The adoption and implementation of a substantive civil code for jurisdictions which previously applied common law rules – noting that common law and civil law courts adjudicate *differently* in the presence of uniform Codes – will be a challenge. This heightens the need for consultative processes to accompany and/or implement such cross-system reforms.[61]

As regards legislative drafting, in bilingual/multilingual countries where legislation has to be made concurrently available and applicable in more than one language, drafters face the need to create two language versions of the same law that are equivalent. In *Multilingual Law: A Framework for Analysis and Understanding*, the author presents the options as follows:

> The *[first and] simplest method* is to produce a text in one language and translate it into the other. This is understood to be the method in Ireland. [*Our note:* this is the approach adopted within OHADA.] The downside is that this can create an imbalance between the two languages as the translated language becomes tied to the terms, forms, and style of the first or source language. To remedy this tendency, one can consult informally between the languages in the drafting of the source text. A *second approach* is to draw up the two language versions at the same time and adjust and align them while at the draft stage. A *third variant* is co-legislation (co-drafting), where each language version is drafted in parallel from scratch and revised and adapted together. This third variant [is] followed in Canada [which] embraces both civil law and common law systems and needs to merge them within a single set of rules.[62]

At national level, Cameroon appears to use the first and second approaches above. The second (simultaneous drafting and alignment of both language versions) appears particularly suitable for the drafting of major, structural *uniform* national laws such as the Criminal Procedure Code and Penal Code – for which legal experts from both legal and linguistic backgrounds are involved.

However, it does not appear that such simultaneous drafting and alignment of the language versions is resorted to in preparing regional normative instruments (such as from OHADA).[63] Under Article 42 of the revised OHADA treaty of 2008, French is the drafting language for OHADA laws (Uniform Acts), which are then translated into the other working languages

---

[60] See Minister of Justice, *Remarks at Meeting with lawyers of 22 November 2016*, at page 4 (supra); Ministre de la Justice, *Exposé à l'occasion de la 2eme session du Cameroon Business Forum*, Yaoundé, 09 mars 2011; Quotidien de l'Economie, *Cameroun - Code pénal: Le cabinet de Maurice Kamto rompt le silence*, 08 juillet 2016.

[61] In Europe, efforts towards the unification of key areas of private law (through the adoption of uniform codes) have faced significant challenges. The sources of resistance include both the civil law – common law dichotomy (with the latter not being satisfied with the civilian approach of codifying all law), and intra-continental European concerns about the need to anchor private law in national reality and not in regionalisation. A Europe-wide Contract code and Civil Code have been mooted but – following criticisms – been re-cast as non-binding guiding principles or frames of reference. See: Pierre Legrand, *Against a European Civil Code*, *Modern Law Review*, Vol. 60, No. 1. (Jan., 1997), pp. 44-63; David Schmid, *(Do) We need a European Civil Code?*, Annual Survey of International and Comparative Law, Vol 18, Issue 1, Article 11, (2012); Yves Lequette, *From the European Civil Code to the revision of the Community Acquis: just how legitimate is Europe*, Sorbonne-Assas Law Review, 2012.

[62] Colin D. Robertson, *Multilingual Law: A Framework for Analysis and Understanding* (Law, Language, and Communication), Routledge, 2016, at page 77.

[63] See generally, Justin Melong, *Implementation of Ohada laws in a bilingual and bijural context: Cameroon as a case in point*, Revue de l'ERSUMA, No. 2, mars 2013.

(English, Spanish and Portuguese), with the French text controlling in case of disagreement between the translations. Considering the increasing scope of regional (community) laws, the normative development of community law or its rendering in translation should aim to achieve about the same quality as the products of Cameroon's own national simultaneous drafting process – which to date, has yielded uniform laws I n both language versions largely without reproach.

3. Require the teaching of *comparative* law (the study of the *relationship between* legal systems or between legal rules of more than one system, their differences and similarities) as a *compulsory* subject in the law curriculum in all Universities in Cameroon.

Among the measures announced on 31/03/2017 to address the current challenges in accommodating legal practice cultures in the country, are the establishment of departments for the teaching of English law in primarily French-speaking Universities, and the teaching of 'droit public' in the English-speaking Universities. These measures point in the direction of ensuring that lawyers in Cameroon be trained in both legal sub-systems that inform practice in the country.[64]

This paper suggests that an accessory initiative to those mentioned above, should be the introduction of *comparative law, with an emphasis on romano-germanic legal systems and common-law based systems, as a compulsory or mandatory subject in under-graduate legal education in Cameroon, and its pursuit in professional legal education (Bar exam and Magistracy school).*[65] Comparative law is the legal discipline dedicated to the study of different legal systems. It enables students grasp the differences and similarities between various legal systems, grounded in an understanding of the 'why', i.e. the socio-historical context that gave rise to the different major legal traditions, such as romano-germanic law, common law, Islamic law, etc. Skills in comparative law – acquired early in one's legal studies as an undergraduate – enable the budding lawyer to understand why another legal system is different, and orientates the jurist away from the inclination towards legal system parochialism, i.e. an erroneous belief in the 'innate' virtue or superiority of the primary legal system they work in.

In a world of ever-expanding cross-border exchanges and trade, fostered by globalization and new technologies, the different legal cultures around the world are increasingly coming into contact with each other – so lawyers need to understand more than their primary legal system. Cameroon's uniform legislation will also likely in the future continue to reflect a synthesis of different legal traditions, while received international or regional treaty law or norms will draw upon different legal systems, as the UNICTRAL and OHADA legal models demonstrate.

---

[64] Cameroon's authorities have indicated their support for such cross-system knowledge and learning. See : *Communication de Monsieur Laurent Esso, Ministre d'Etat, Ministre de la justice, garde des sceaux à l' occasion de la concertation avec l'ordre des avocats*, Yaoundé, 22 novembre 2016 : 'Il est bon que les magistrats camerounais, francophones ou anglophones, s'imprègnent des méthodes de travail teintées des principes de la *common law* et de ceux du droit romano germanique parce que, à l'international et de nos jours, toutes ces aptitudes sont requises'.

[65] Some universities offer courses that develop comparative legal skills. The University of Buea's courses which introduce English-speaking students to romano-germanic law include: (i) French family and personal status law, including marriage and succession law, (ii) French law of obligations including the law of contract and delict, and civil law systems' approaches to: (iii) criminal procedure and, (iv) civil procedure. Harmonizing such content, offering in-depth contextual explanation of the structure of French/romano-germanic and common law legal cultures, and making them required at university level and in professional legal training will be important.

Within Cameroon, being a bi-jural country, it is distinctly important for legal professionals to understand the essentials of both romano-germanic and common law legal systems. Lawyers are called to a nationwide Bar, Magistrates may be posted to different parts of the country, legislative drafters need to draft laws that are applicable across both legal cultures, and system planners at central level need to cater to organizing judicial services in both legal environments. Given the country's harbouring of two legal cultures, the attachment to comparative law and cross-legal system skills could be mainstreamed into legal career management, such as inclusion and testing on the Bar exam, in Magistracy school, in-service training for lawyers and Magistrates, and in assessing competencies for judicial promotions and Bar leadership.

An approach based on comparative law can help mitigate or resolve certain legal structure challenges which Cameroon's dual heritages generate. For instance, most common law systems do not distinguish between administrative courts (before which the State can be sued) and regular courts (which handle all other claims), while such separation is a long-standing feature of French law. It finds its origin in the specific historical foundations of the modern French State, which sought to exclude Judges (whose monarchy-era excesses were reversed by the Republic) from reviewing purely administrative acts. However, while dedicated administrative Courts (such as exist in Cameroon) are more in the civil law tradition, a review of such systems worldwide shows that both civil law and common law traditions have a strong corpus of administrative law principles which can be drawn upon in Cameroon. Similarly, the legal roles of court advocacy and legal advice, versus conveyancing and incorporation, represented by the Barrister/Solicitor and *Avocat/Notaire* professions in common and civil law systems respectively, could be addressed through emphasizing the benefits of specialization, especially in the English-speaking regions where the functions are currently merged.

4. Emphasize the dynamic evolution of modern common law in university law programs, legal personnel training, and in-service professional development (codification of norms in common law jurisdictions world-wide, its interaction with received community / regional law, and procedural reforms).

It has been stressed above that the process of rendering Cameroonian law uniform – as it moves away from received foreign legislation and legal rules frozen in time – must necessarily be inclusive of both legal cultures that have served as its legal sub-structure for half a century. In this process, where the approach of one legal sub-system is adopted as the new national norm, it should be transparently recognized as such and accompanied by training and skills development to ensure practitioners from the other legal culture become familiar with it.[66] A key requirement for this process of uniform law-making to function is openness to different legal traditions.

An analysis of the issues raised by legal practitioners in Cameroon's primarily English-speaking regions, in particular concern about progressive erosion of common law principles in new national and regional instruments, suggests an effort is needed to bridge Cameroonian practitioners with global developments which have seen the common law: (i) increasingly codified as opposed to Judge-made, which is its traditional bedrock, (ii) placed alongside other legal systems notably civil-law to produce globally uniform legal rules especially in commercial and trade law, and (iii) increasingly receptive to regional community law deriving

[66] Cameroon's *Criminal Procedure Code* (in force since 2007) is uniform national legislation that draws on both systems, but especially from English criminal procedure. It introduced country-wide, practices such as cross-examination of witnesses, and placing the Prosecution and Defence on an equal footing in criminal trials.

from treaties. To illustrate one view on the common law, the following legal opinion was issued in the primarily English-speaking part of Cameroon:

> The common law and the civil law co-exist in the Republic of Cameroon even today by virtue of the Constitution to the extent that neither of the systems is at variance with the said Constitution or any other legal instrument made in pursuance [thereof]. *And it is common knowledge that whereas the common law is largely uncodified, the civil law consists of codes. The two systems are therefore incompatible* with the logical consequence that without [their] harmonization, the one system cannot apply the laws of the other system and be within the law.[67]

A forward-looking approach to the common law, which increasingly co-exists and interacts with other legal systems around the world, may require a more dynamic view. As one writer put it, in all common law jurisdictions, an abundance of statute law exists and the legislator frequently intervenes to consolidate judge-made law, while every civil lawyer knows that the courts have developed, supplemented, and sometimes even altered codified law. Civil law judges start off reasoning from codified law, while common law judges start off from courts' decisions, yet the latter must contend with the fact that major areas of law (such as criminal law) are heavily codified.[68]

In the U.K. and other common law jurisdictions, especially the United States, varying levels of codification have occurred, including in areas such as civil procedure, criminal law, and commercial law.[69] Due to the exigencies of global commerce, there was a long historical tradition within England itself as far back as the 16th century, of the common law receiving or applying bodies of law developed by civil law countries. As one author notes: 'the Law Merchant, including maritime law constituted a legal system, with rules and institutions of its own, which relied *upon codified principles in the [civil law] manner*. Even in England, it was this transnational, essentially civilian *jus commune* which governed commercial and maritime litigation conducted before the High Court of Admiralty sitting at Doctors' Commons in London'.[70]

In addition to being increasingly codified, as part of the process of globalization, *common law principles are being increasingly placed alongside those of legal systems from around the world* – especially *civil law* systems – to produce new substantive legal rules on which there is widespread agreement around the world, in fields such as international trade, commerce, and maritime law.[71] These rules subsequently find their way into treaties being ratified by African

---

[67] See Legal Opinion of the Procureur General of the South West Court of Appeal on Motion for Stay of Execution in Suit No. HCK/68OS/99-2000, *Registrars in Chief (High Court Meme and Kumba Court of First Instance) v. Meme Lawyers Association*, Suit No. CASWP/86M/2000. At issue in the case was the application of a 1996 Executive branch decision which required civil lawsuit claimants to pay a 'security for costs' caution of 5% of the claim amount. Such payments were once required (but are now abolished) under French civil law.

[68] J.G. Sauveplanne, *Codified and Judge-Made Law: the Role of Courts and Legislators in Civil and Common Law Systems*, North Holland Publishing, 1982.

[69] See Gunther A. Weiss, *The Enchantment of Codification in the Common-Law World*, 25 Yale Journal of International Law (2000), at pp 515 - 531. As early as the 18th century, English philosopher and jurist, Jeremy Bentham, devoted much of his work to legal reform work to the common law's codification; which was never accomplished in his lifetime but has increased ever since. See Dean Alfange Jr., *Jeremy Bentham and the Codification of Law*, 55 Cornell Law Review 58 (1969), at p. 61.

[70] William Tetley, *Mixed Jurisdictions: Common Law v. Civil Law (Codified and Uncodified)*, 60 Louisiana Law Rev. (2000).

[71] For overall resources on this global unification / harmonisation process, see: Ralf Michaels, *The UNIDROIT Principles as global background law*, Uniform Law Review, Vol. 19, 643–668 (2014); Paul Norman, *Listing of*

States, such as Cameroon. It is important for common law practitioners in Cameroon to see that it is these new forms of global legal rules, sometimes called the modern '*lex mercatoria*' which inform the instruments (such as OHADA) which are introduced into the country.[72] The move towards harmonization and unification of laws – driven largely by globalization and its resulting increasing in global trade and legal interactions – is a trend that needs to be taken into account in Cameroon's legal *sector planning, legal education, in-service training, law reform, and actual practice*. Due to its bi-jural tradition, there is a need amply to communicate the global processes underway, to avoid misunderstandings over received unified or harmonized laws, such as OHADA.

Among the entities driving the emergence of these global trade and commerce legal rules are UNIDROIT (the International Institute for the Unification of Private Law), UNICTRAL (the United Nations Commission on International Trade Law), and the Hague Conference on Private International Law. For instance, the UNIDROIT's Principles of International Commercial Contracts – which influenced the OHADA Uniform Act on General Commercial Law – were drawn up by foremost experts from common law, civil law, and socialist legal systems. Common Law countries such as the UK, USA, Australia, India, and Nigeria are all members of UNIDROIT, and use its instruments. That there is a *civil or romano-germanic law* slant in these instruments – if only by the recourse to codification – is not in dispute: the spread of civil law jurisdictions across multiple continents, and increased demand with globalization for expressly codified (as opposed to jurisprudential) legal rules, may help explain this.[73]

To the extent that these instruments bring civil law elements to Cameroon's common law lawyer, it is a reflection of processes in place to establish global legal rules for commercial transactions: these processes involve reception from different legal traditions. Globally as well, common law lawyers critique aspects of this new 'lex mercatoria'. For Cameroon, one global observer's assessment of codification of *global commercial law* may be re-assuring: 'the strongest advocates of the new [body of global commercial law] are from civil law jurisdictions where general legal principles constitute the primary source of law and specialized courts have long handled commercial disputes at an intermediary level of the legal system. Nor is it astonishing that the most virulent critics of *lex mercatoria and* delocalization are steeped in the common law tradition where decisional law is the foremost source of law and courts are its oracles.'[74]

Faced with Cameroon's variant of this resistance, national judicial authorities have strained to make the point that these laws are legal system neutral (neither common law nor civil law), are part of an emerging set of global legal usages, and that when introduced into national law through treaties, they should super-cede common law.[75] Noting that these tensions are not Cameroon-specific but global, and Cameroon's unique sensitivities when either of the heritage

---

Comparative Law Resources, Institute of Advanced Legal Studies, UK. UNIDROIT's Uniform Law Review is an important vehicle which communicates trends in this global law unification and harmonisation process.

[72] For a quick assessment of business law unification in Africa's legal systems (with necessary caveats on the author's common law perspective), see: Hogan Lovells, *Exponential growth of African business law and the spread of common law*.

[73] See: Wikipedia, *Map of Legal Systems of the World* (accessed: May 2017). *William Tetley* (op cit, at pp 722) notes that the great importance of the new *lex mercatoria*, such as UNIDROIT principles, is that they are a synthesis of legal rules from countries of the world which need inter-operability between their legal systems to trade; furthermore the principles exist on paper and can be referred to.

[74] Thomas E. Carbonneau. *The Remaking of Arbitration: Design and Destiny, in* Lex Mercatoria and Arbitration 37 (Carbonneau, ed., Transnational Juris Publications, 1998), cited in *William Tetley*, op cit.

[75] See : Cameroon Tribune, *Protocole d'interview à monsieur le Ministre d'Etat, Ministre de la Justice, Garde des Sceaux*, 2016.

systems (especially the majority one) is introduced as the national norm – the requirement to explain legal reforms in Cameroon is high. Whether through treaties or uniform national legislation, legal constituents should understand why the country is taking a given approach.[76]

A key element in the reception and application of this 'lex mercatoria' in Cameroon through the OHADA treaty is the understanding that it does not totally obliterate the common law, whether in contract, commercial law, or company law: it does not always constitute an approach to codification that covers the entire domain of law. Rather, it would appear that with the primary purpose of *giving effect* to the legislative intent in the text (enacted by way of treaty), relevant common law *principles and rules of interpretation* – as do those of romano-germanic law – may be applied *unless contrary to* the text.[77] This means that pre-existing legal principles can be used to complement or give effect to the text, and serve the interests of justice. They need not be seen as self-contained codes standing apart from the remaining corpus of law.

Lastly it will be important for its practitioners in Cameroon to keep in mind the dynamic and evolving nature of modern common law. In a 2016 paper on the extent to which English Common Law has been influenced or eroded by Britain's accession to the EU and other European treaty law, Lord David Neuberger, current President of the UK's Supreme Court (which took over the House of Lords' judicial functions in 2009), a former Master of the Rolls – frequently citing another Master of the Rolls, Lord Denning – stressed the dynamic nature of the common law.

He describes its interaction with other legal systems over multiple centuries. He notes how the very appellation of the *common law* itself drew from ecclesiastical (and hence continental) law, while procedures such as *discovery* and the writ of *subpoena*, the *lex mercatoria*, and *admiralty (or shipping) law*, all originated from influences of continental or civil law. He notes how a principle such as the doctrine of *proportionality* (a test for review of an Executive branch action) has migrated from its origins in German administrative law, to Europe-wide courts' jurisprudence, to Canada, and finally onto other common law countries.[78]

5. Ensure a national process for expert translation into English of received regional treaty-based laws adopted in French, in consultation with legal practitioners in the target language, including regulatory texts (*règlements*) or Codes of a normative nature

As this author has argued elsewhere, there will be a need for Cameroon to establish a permanent institutional process at national level, to ensure the translation into English of normative instruments arising from its participation in sub-regional bodies.[79] The Constitution

[76] It appears that the challenges faced in applying the OHADA laws in the English-speaking regions of Cameroon arose both from *language* barriers (most of the jurisprudence, academic commentary, and learning resources on application of the instruments is in French), and from underestimating the training and support needed for common law practitioners to adapt to its use. On the latter point, See Martha Simo Tumnde, *The applicability of the OHADA treaty in Cameroon: Problems and prospects*, Annales de la Faculté des Sciences Juridiques et Politiques, Université de Dschang, Tome 6, 2002, p. 23

[77] The OHADA treaty provides that 'the Uniform Acts shall be directly applicable and binding in the States Parties notwithstanding any *contrary* provision of previous or subsequent national legislation' (Article 10).

[78] Lord David Neuberger, *Has the identity of the English Common Law been eroded by EU laws and the European Convention on Human Rights*, Lecture at Faculty of Law, National University of Singapore, 18 August 2016.

[79] See: Paul N. Simo, *The challenge of regional integration and incorporation of regional normative instruments, in Cameroon's bilingual and bi jural context: the case for a national process for translation of regional normative laws, and a specialized Centre for the study of regional business law, in English*, 2017, (publication forthcoming).

provides that the official languages shall be English and French, both languages having the same status (Section 1.3), and that laws passed by Parliament have to be published in the Official Gazette in English and French (Section 31.3). However, under current arrangements, some instruments adopted by sub-regional bodies can become law in Cameroon, without fulfilling what is required of laws adopted by Cameroon's own Parliament, namely that they be published in both official languages in the Official Gazette. This includes certain key texts adopted by way of regulations (*règlements*) within sub-regional bodies which are sufficiently normative in nature to warrant their being translated and available in both official languages. Examples include the 2003 CEMAC/UMAC Regulation governing negotiable instruments in finance and banking (cheques, bills of exchange, promissory notes, and payment debit/credit cards), the 2012 CEMAC Merchant or Commercial Shipping (Maritime Law) Code, and the 2012 CEMAC Civil Aviation Code.

6. Extend the rules on the *principal working language of use* in the provision of public services (proportionality principle) to pre-trial interrogatories and to Court proceedings.

Lastly, the proposals enunciated earlier in this paper with respect to the use of official languages in the regions of the country following the *proportionality principle* (that State services be provided in proportion to the preponderance of official language use in regions of the country) would also need to apply to the penal chain and court system in the country. In criminal matters for instance, statements and reports from the Police are important evidentiary elements in case files. In the predominantly English-speaking regions, their reports tendered into legal proceedings would have to conform to the preponderant or official working language, in those regions.

POST-SCRIPT: INSTITUTIONAL ARRANGEMENTS TO SECURE DIVERSE LANGUAGE, EDUCATION, AND LEGAL SYSTEMS

Throughout this paper, emphasis has been placed on advancing legislative and policy proposals – including based on comparative experience in multilingual States – to accommodate two different language, education, and legal practice systems within a multilingual Cameroon. An important corollary question to these reform proposals, is what *institutional arrangements, or ordering of State institutions*, may be necessary to achieve effective coexistence of different language, education, and legal systems. This post-script briefly reviews some comparative approaches and Cameroon's historical experience in this area, while presenting a core institutional design question.

Comparative approaches

The over-arching premise in this post-script is that States needing to accommodate such diversity of systems may have to consider *institutional arrangements* which enable all communities involved to participate fully in national life. In a 1999 overview article, U.S. expert on comparative politics, Alfred Stepan, articulated the issue as follows: 'in multinational polities,[80] some groups may be able to participate fully as individual citizens only if they acquire, as a group, the right to have schooling, mass media, and religious or even legal structures that correspond to their language and culture. Some of these rights may be described

[80] An important and politically contentious caveat is that Cameroon's dual official language, education, and legal systems result from the World War I partition of a conquered, previously German-administered entity by Britain and France, into two separate trust territories (similar to their partition of German Togoland).

as group-specific collective rights.'[81] He notes the concern expressed in many States about the slippery slope that a reduction of *unitarism* – e.g. through *federal* arrangements – constitutes, specifically through the mobilization of separatist regional or ethnic nationalists. He argues however that in States with large populations, extensive territories, and ethnic and linguistic fragmentation – such as Indonesia, Nigeria, and Russia – their being stable democracies hinges on finding a model of centrifugal government capable of attending to and preserving the interests of their constituent groups. [82]

On legal systems' coexistence, there are many States around the world that harbour multiple or mixed legal systems: such as both civil law and common law, or a combination of either system and religious (Islamic) law, sometimes applicable to only part of the population.[83] Following a comparative study of a number of which harbour both common law and civil law legal practice systems (such as Canada, the U.S.A's State of Louisiana, and South Africa), the late Canadian legislator and law professor William Tetley concluded that the survival of mixed (civil law and common law) jurisdictions is unlikely unless there are two official languages, as well as *legislative* and *judicial* bodies which function for each system.[84] It is worth however noting countries like Mauritius which do not have common law and civil law systems running in parallel, but a single, *mixed system featuring core elements of both*: and which has a unified legislature and judiciary.

Cameroon's previous experience and key question for the future

To summarize Cameroon's ordering of State institutions to accommodate the diversity arising from its dual French and English systems' heritage, it should be noted that its political system is currently based on a unitary State with a strong central government. However, upon independence in the early 1960s, when the two previously separate trust territories were reunified, a formally federal system was adopted, with the French and English-speaking regions each constituting a federated State. This federal experience lasted from 1961 to 1972 (the first decade after independence), whereupon it was changed to a unitary State, which has been in place in the 45 years since.

An exhaustive analysis of how well Cameroon's federal arrangements served the purpose of accommodating the *different language, educational, and legal traditions* within the State is beyond this paper's remit, and its functioning has been examined in detail elsewhere.[85] In an article of 1980, contemporaneous to those events, Frank M. Stark noted on the Cameroonian experience that the *demographic* and *sovereignty-status* imbalance between the constituent entities, and the circumstances of reunification meant that federal arrangements were not

[81] Alfred Stepan, *Federalism and Democracy: Beyond the U.S. Model*, Journal of Democracy, 10.4 (1999) 19-34. National Endowment for Democracy and Johns Hopkins University Press.
[82] While Cameroon (23 million inhabitants, 475,000 sq. km) may not meet these thresholds, he notes Sri Lanka (population: 20 million) as a unitary State which faced violent conflict over relations between its constituent Sinhalese and Tamil ethnic/language groups.
[83] See Wikipedia, *Map of Legal Systems of the World* (accessed May 2017). See also: Vernon Palmer, Mohamed Mattar, Anna Koppel (eds.), Mixed Legal Systems, East and West, Routledge Publishers, New York, 2016.
[84] William Tetley, *Mixed Jurisdictions: Common Law v. Civil Law (Codified and Uncodified)*, 60 Louisiana Law Rev. (2000). He argues for instance, that the civil law tradition in the U.S. State of Louisiana is unlikely to thrive as it meets none of these three criteria.
[85] An extensive analysis of the establishment, functioning, and demise of the federal system with an emphasis on the predominantly English-speaking part of Cameroon is found in Frank M. Stark, *Federalism in Cameroon: the Shadow and the Reality*, in An African Experiment in Nation Building: The Bilingual Cameroon Republic Since Reunification, Ndiva Kofele-Kale (ed.), Westview Press, Colorado (1980), pp 101 – 132.

perceived by the post-independence government as a *long-term*, constitutionally water-tight bargain agreed to between the formerly French and British-administered areas.

Stark recounts that while leaders of the former British-administered part sought a loose federal system to safeguard their specificity in a reunified State wherein they would be a minority, they had no leverage to obtain it. Rather, the Federal President (from the majority French-speaking area) emphasized a strong centralized Federal government which would drive the creation of a new national identity, drawn in principle indistinguishably from the French/English heritages. Federal arrangements were therefore seen by the majority as a means of reuniting the two parts of the country in the short term, *en route* to a union perfectible in a unitary State.

Stark posits that few of the 1961 to 1972 institutional arrangements could, in the common understanding of comparative political systems, be considered federal. These include: (i) the non-adoption of a new Constitution reflecting a political bargain between the constituent entities, (ii) an extended list of areas of federal jurisdiction which left the federated States with un-enumerated residual powers, (iii) the Federal President's ability to appoint the chief executive (Prime Minister) of the federated States, (iv) the establishment of a federal civil service that paralleled and controlled the States, and (v) the non-adoption of a revenue-sharing formula between the State and federal layers of government, which left the States dependent on federal subventions.[86]

A keen observer on Cameroon's institutional arrangements that were in place to accommodate its diversity of language, legal, and administrative systems after independence, has commented that the essence of recent complaints by the English-speaking community could be summarized as a criticism of: (i) the increasingly centralized State, (ii) the transfer of most decision-making from the periphery to the centre, and (iii) the non-respect of commitments made upon reunification, to preserve elements of the English-speaking tradition, as well as ensure bilingualism in the State.[87]

The recent incidents from 2015 to 2017 described in this paper have demonstrated that the *national arrangements to accommodate diverse language, educational, and legal traditions are perfectible*. The recurrence of this problem suggests that it would be good policy to examine – beyond responding to specific flashpoints of the recent crisis – how the State may better durably protect these heritages, in the interest of constituent communities living together.

A recurrent institutional design choice that emerges throughout this paper is the management, oversight, and quality control of the respective educational and legal systems either: **(i)** through central bodies or entities that are required to manage both sub-systems indistinguishably, or **(ii)** through system-specific oversight bodies, councils, or boards which take responsibility for the sub-systems respectively. Key to this issue is whether specialists in each system have responsibility for managing it, and in particular for English-based educational and legal systems the risk, driven by demographic factors that they will lose their specificity if an affirmative effort is not made to protect the demographically smaller, or minority sub-system.

---

[86] Alfred Stepan (op cit) advances three types of federal system-formation from comparative politics: (i) *come-together* federations (resulting from a bargain between the constituent units), (ii) *hold-together* federations (created from unitary States facing challenges in keeping constituent communities together), and (iii) *put-together* federations (units held together by any means).

[87] David Abouem a Tchoyi, *Cameroun - Opinion: Le problème anglophone*, 10 January 2017. The author previously served as Governor in Cameroon's primarily English-speaking regions.

Recent experience has shown that attempts to place language, education, and legal practice systems under a single aegis and treat them identically tend to provoke avoidable tensions, which can be resolved through separate, but cohesive management arrangements.[88] It could be appropriate for the English-speaking educational and legal practice systems to have dedicated bodies with responsibility for ensuring their development and quality control.[89] In the legal sector, the Supreme Court's Common Law Section / Bench could assume a broader role on that legal culture's sustenance and development, which would go beyond hearing and deciding common law appeals. This could include annual judicial and/or practitioner conferences on contemporary common law practice, reviewing common law legal education content, and common law perspectives on national law harmonization (*uniformisation*) processes. The National Educational Council, envisaged in law as the key consultative body in the education sector, could be established with attention to the two sub-systems.

Alternatively, if certain functions and roles are best handled within cabinet departments, Ministries with oversight the concerned sectors could be re-organized to enable them have a managerial chain with experts from each sub-system handling at the central level, matters specific to it. The country is a net winner from having dual language, educational, and legal systems, and it could innovate by making such institutional design changes.

[88] An example in this regard is the *Cameroon G.C.E Board* and *Office du Baccalauréat*, established in the early 1990s after years of tension over central bodies' capacity to manage both French and English secondary school examinations. Since their establishment as separate school examination oversight bodies 25 years ago, contention has largely ended over the issue.

[89] Such bodies would supplement the *National Commission on the Promotion of Bilingualism and Multiculturalism* whose remit includes the effective use and protection against discrimination in respect of the two official *languages*.