Implementing the Outcomes of the National Dialogue on the Anglophone Crisis

Contribution to:

A Legislative Whitepaper on Special Status Legislation for the Northwest and Southwest regions of Cameroon

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Summary

1. This note provides for the attention of Cameroon's policy makers, an overview of what it entails to establish Regions with Special Status, as has recently been proposed as a solution to address the crisis affecting the Anglophone Northwest and Southwest Regions. The note is structured into four parts: (i) an overview introduction to the *nature* of regional Special Status arrangements, (ii) the optimal *process or mechanics* through which Special Status arrangements are generated, validated in the concerned regions, embedded in peace agreements, and adopted through national legislation, (iii) how to link the Special Status framework to *delivering peace* in the affected regions, and (iv) the *substantive content* of potential Regional Special Status for the Northwest and Southwest regions, having regard to the underlying drivers of the crisis.

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Understanding regional Special Status arrangements

2. The recommendation of the National Dialogue to endow the Northwest and Southwest regions with a **Special Status**, was the consequence of intense reflection, discussion, and debate among Cameroonian stakeholders. In particular, it constituted a *compromise* between proponents of: (a) maintaining the State's currently **Unitary** form with decentralized features, and (b) proponents of a **Federal** form of State as the optimal model to accommodate the historical specificities of the Anglophone regions. While a Federal system of Government would change significantly the relations of *all* of Cameroon's regions with its central administration, a regional Special Status arrangement within the Unitary State will *focus only on the specific domains that are challenging for the historically Anglophone Northwest and Southwest regions*, and achieve a design of regional devolution and empowerment that addresses those problems.

3. The **basic meaning of Special Status regions** is that some of a country's regions are granted specific, additional domains of functional competence (different from those devolved to other parts of the country) due to the said regions' historical, linguistic, geographic, demographic, or other specificities. The **reason for this proposed approach** in Cameroon is that while all of the country's regions aspire for devolution to them of responsibilities for their economic, social, educational, health, and cultural development (as stipulated by the Constitution), the Northwest and Southwest regions have in addition, *to manage specific features arising from their unique historical trajectory*, notably the principal official language used, the educational system, and the legal system.

4. Cameroon will not be inventing Special Status regions: in over 40 countries worldwide, **there are more than 120 Special Status Regions, Special Administrative Regions, or Special Autonomous Regions**, which in each case, exercise specific competencies based on their different historical, linguistic, demographic, or other features. Globally, the establishment of such regions is used as a governance framework to resolve conflicts arising in States which have specific territorial units or regions with unique traits that differ substantially from the rest of the territorial units of the State.

5. The **nature and significance** of Special Status arrangements, once embarked upon in a country, should be grasped by all its key actors, notably the leadership at the State's centre, and the civic and political class in the concerned or beneficiary Region(s). In political and constitutional design, Special Status regions are crafted to build, and to function through a **high degree or level of trust** between the central State authorities and the leadership of the concerned region. This is demonstrated through arrangements such as: (a) requiring *mutual agreement* on key appointments (such as for the State's Representative to the Region), (b) the

existence of multiple domains in which the State or the Special Status region *can only act with the consultation, and the consent of each other* on matters affecting the region, and (c) the establishment of joint politico-legal *dispute resolution mechanisms* that resolve disagreements for instance over the State and the concerned Regions' respective powers and attributions.

6. In looking at regional Special Status arrangements around the world, the *foundation for this relationship of trust lies in a two-way bargain* or mutual accommodation, in which neither layer of institutions (the central State, nor the Special Status region) is attempting to do away with the other, or deny its relevance and legitimacy in the national governing order. Special Status arrangements start with the explicit articulation, often in the Constitutional text or in quasi-constitutional legislation that endows the region with such Status, that the State recognises **that some of its regions (in this case the Northwest and Southwest) and a segment of its national population, through their historical specificities, have social, cultural, educational, legal, institutional, or political particularities which the State seeks to protect**, the regulation and exercise of which is governed by Special Status legislation (an Act or Statute).

7. Articulated in clear and explicit terms in a superior national legal norm, this approach lays to rest any previous indecision in the country over how to treat the said specificities. This includes indecision over whether the State can or should recognise any specificities attaching to individuals or communities based on the French and English heritages. *Conversely*, it should be lost on no-one that Special Status arrangements are also intended as a bulwark against separatism, or proclivities in the said region to exit from the national fold. Civic and political leadership in the concerned regions agree to manage certain aspects of their affairs *within and under the uncontested overall sovereignty* of the central State institutions, and do not aspire for the region, a status *outside* such sovereignty.

The Process to arrive at regional Special Status arrangements

8. To give the process a chance to broker peace in the two regions, the State of Cameroon should **adopt a participatory and inclusive approach**, to develop the content of the Special Status arrangements. **Prompt and deliberate – but not precipitated – action is required** to implement the National Dialogue's recommendations.

9. Building on the National Dialogue's approach, a cross-section of Anglophone constituencies (educators, education unions, legal community, religious bodies, civil society, political leaders) **should freely discuss, debate, and propose** what domains should be prioritized for enhanced devolution and self-management by the two regions. The meaning, content, and implications of the Special Status

arrangements should obtain substantial public support, especially in the affected regions and among their population. **Forums that aggregate the views and aspirations of the population** of the Northwest and Southwest regions (such as the Anglophone General Conference) should be encouraged to convene and submit their proposals.

10. **Preparation of Special Status legislation:** Building on the momentum of the National Dialogue process, the pooling of expertise through an Expert Group, to flesh out the contents of the proposed regional Special Status is important, given some of the complex implications of proposed legislation or constitutional provisions on this issue. It can also serve to learn comparative lessons from other countries that have crafted regions with Special Status. In the process of preparing draft Special Status legislative instruments (initial research, legal drafting, Executive branch approval, submission to Parliament) it will be very important that appropriate, technical-level consultations be held especially with *stakeholders and specialists in the likely affected sectors* (such as education, official language use, legal system, public administration) and with key *opinion and thought leaders* from the concerned regions, while being open to input, memoranda, and submissions from Cameroon's community of *constitutional lawyers and publicists* who can help to optimise the Special Status design.

11. **Enactment and Formalization of Regional Special Status arrangements**: Special Status arrangements can be enacted and formalized through a combination of different means. They could be: (a) embedded in a constitutional provision (which may require a constitutional amendment), (b) enacted through a quasi-constitutional legislative instrument (Statute) adopted by Parliament, (c) linked to a national or internationally mediated or brokered peace agreement, and (d) the involve regional or international partners as *supporters or guarantors* of the process (especially where linked to a peace agreement).

12. Comparatively, a **detailed legislative instrument** (Statute, Act of Parliament) appears to be the optimal method of specifying the scope and nature of Special Status arrangements. Typically, such legislation includes: (i) an affirmation of the reasons (historical, cultural, linguistic) for the grant of Special Status to the said region, (ii) the extent or scope of self-governance powers assigned to the region (regional legislative and administrative powers), (iii) a presentation of the functional domains or areas for self-rule or management by the Special Status region, (iv) domains of competence retained by the State with respect to the region, (v) domains of 'shared' competence meaning in which either the State or region can act, *only* with the consultation or consent of the other as pertains to the region, (vi) financial and fiscal arrangements to cover the costs of the Special Status regions' responsibilities, and revenue/resource sharing and allocation, (vii) the nature of the

central State's representation and services in the region, and (viii) mechanisms to resolve disputes such as over jurisdiction or interpretation of the Act.

13. **Legitimacy Threshold Requirements for creating a regional Special Status arrangement**: Since Special Status arrangements are generally designed in response to specific political demands emanating from the concerned/beneficiary regions, or to abate a crisis or conflict, the legislative instrument that establishes them often goes through a *different process* for its enactment, than would ordinary legislation. The different process is intended to endow the Special Status arrangements with *legitimacy in the concerned or affected region, over and above the legitimacy which the national legislature confers* on any Statute by voting it into law. In a number of countries therefore (such as Spain and Portugal), legislation establishing and organising Special Status regions is *first voted by a representative body or Constituent assembly* in the said region or assented to by a *popular referendum*, and then is subsequently voted into law *by the national legislature*.

14. Given the present context in the Northwest/Southwest regions, one should note: (i) the challenge of not having their Regional Councils (representative bodies) yet constituted to serve this function, (ii) the prevailing security context which renders referendum operations problematic, (iii) that the National Dialogue process, despite its challenges, demonstrated that it was possible to convene a cross-section of those Regions' leaders, and (iv) the need progressively to extend adherence to, and endorsement of the Special Status framework, to dissenting armed groups (a peace-generating linkage we return to below).

15. **The enactment and solemnization of the Special Status arrangements should reflect the profound significance of this process.** They constitute a *profound effort to resolve an underlying national challenge* – that of managing and accommodating the specificities of certain regions within the State, in order to bring an end to tensions, crises, or conflict, and provide a collaborative framework for improved, harmonious national coexistence. The Special Status arrangements should be put in historical perspective, as a *crucial opportunity to learn from the past, and improve for the future* for a better country. Historically, the milestone moments upon the reunification of Cameroon, in crafting an optimal State model to accommodate the country's unique historical features and legacies have been:

    (a) the **1961** Foumban process to create the first reunification arrangements under a Federation,

    (b) the **1993 to 1996** constitutional review process which resulted in the Unitary, decentralized State model, and

(c) the current efforts to resolve the crisis between **2016 and 2019**, which has bordered on a full conflict, with loss of lives, displacement, and hardship in the concerned regions and nationwide.

Using Special Status Arrangements to deliver an effective Peace

16. *From Constitutional Ordering to a Comprehensive Peace Process*: Profound hopes were placed by a broad cross-section of Cameroon's population in the recently convened National Dialogue on the Anglophone Crisis, as a step towards resolving the crisis plaguing the country's Northwest and Southwest regions. Efforts such as crafting regional Special Status arrangements are not undertaken in a vacuum, when intended to resolve a crisis such as presently afflicts both regions. The gains and potentials of **these arrangements need to be used as a foundation for an all-englobing peace process, offering an opportunity for all actors in the crisis and conflict to adhere, and join in its dividends**. These arrangements therefore need to be developed in tandem with efforts to engage all belligerent, armed actors to work towards:

    (a) terms for a **cessation of hostilities or ceasefire** agreement,

    (b) disengagement of all fighting troops from **offensive military positions**,

    (c) the **cantonment** of identified fighters **leading to DDR,**

    (d) a **framework for amnesty** for separatist actors, their progressive rehabilitation, and a **national reconciliation program**, and

    (e) their **partaking in the improved governance arrangements** for their regions under Special Status, and in their **reconstruction and development**.

17. The **resolution of the armed conflict in the Indonesian province of Aceh, provides an important example of the use of Regional Special Status agreements to resolve an on-going armed conflict** and crisis, over demands arising from a territorially distinct unit within a Unitary State. The resolution of that crisis followed three (3) decades of intermittent armed conflict (between 1976 and 2005) in the Indonesian province of Aceh, which has specificities of a cultural and religious nature (more conservative form of Islam) and resisted policies by former Indonesian President Suharto to create a uniformly secular Unitary State.

18. Following thousands of deaths in this prolonged armed conflict, the insurgent Free Aceh Movement which had previously sought to secede from Indonesia, renounced those demands (through international mediation) in favour of the grant of Special Autonomous Region status to the province of Aceh within the Unitary State of

Indonesia. A Peace Agreement, documented in a Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement was signed on 15 August 2005, bringing an end to the conflict. The Peace Agreement outlined all the major components and guidelines for the exercise of regional autonomy by Aceh province. This was followed by the enactment of Special Status legislation, through the Law on the Governing of Aceh, adopted by Indonesia's Parliament on 1 August 2006.

The Content of regional Special Status arrangements

Principle 1: Constitutional regulation of Special Status and the concerned Regions' constitutional right of existence

19. Given the important distinctive features that Special Status regions introduce into the mode of administration of the country, including the relationship between central State institutions and the concerned region, there is merit to **explicitly envisaging or regulating the acquisition of such status in the highest legal norm**, namely the Constitution. Where the said status is constitutionally regulated, legislation that implements it will be better protected from legal challenges that may arise if parts of the law are argued to violate constitutional norms (such as the principle of equality of citizens), or other laws in force.

20. In some countries (such as France and Spain) there is recognized a category of legislation referred to as *Organic Laws* – these are laws which are envisaged in the text of the Constitution itself and are therefore considered to be constitutionally-derived in character (The laws regulating Spain's Autonomous Communities or regions with Special Status, are for instance, adopted under this rubric). In these systems, Organic Laws stand between the Constitution and ordinary laws in terms of the hierarchy of legal norms: they are inferior to the Constitution but override ordinary laws. Cameroon does not formally employ Organic Laws in its legislative drafting, hence consideration should be given to the importance of grafting the Special Status arrangements onto Cameroon's legal framework in a way that clearly **protects it from multiple legal challenges on the basis that it violates ordinary legislation**, in any given sector or domain.

21. In some countries, the Constitutional text itself identifies 'as such' the regions entitled to a special status (Portugal) whereas in other countries, the Constitution regulates the framework for acceding to Special Status, but does not itself indicate when a given Region will accede to such status and leaves the same to an ulterior process negotiated between the State and the region in question (Spain). Portugal's Constitution for instance recognizes 'special political and administrative

arrangements' for two of its *named* regions 'based on their geographic, economic, social, and cultural characteristics'. (Section 225)

22. An important corollary of regional Special Status arrangements is their **implication on the constitutional existence, stability, and territorial borders** of the concerned regions. In comparative political theory, a distinction is drawn between *territorial units seen as instrumentalities established for purposes of administration of the State* (which do not have a constitutional right of existence, and can be modified by Executive branch decision of the State), and *territorial units which are recognised as possessing certain specific historical traits warranting Special Status regimes* (which do have *prima facie*, a right, expectation, and say as to their existence, and any modifications thereof).

23. In this regard, **it will be necessary to review Section 61(2) of Cameroon's Constitution, to determine whether it is compatible with the Special Status regime** and the associated expectation and right of stable existence of the said regions. That sub-section provides as follows:

> "The President of the Republic may, as and when necessary:
>
> a. change the names and modify the geographical boundaries of the [ten Regions of Cameroon].
>
> b. create other Regions. In this case, he shall give them names and fix their geographical boundaries."

24. This power to alter or modify existing Regions, or create new ones is unfettered, neither *horizontally* (by requiring legislative assent) nor *vertically* (in requiring consent of their concerned regions, through their respective regional authorities or representative chambers). Neither is it a prerogative to be exercised by means of a *constitutional* revision – an Executive decree suffices. It is difficult to conceive of regions with Special Status, whose very existence is tenuous. In addition to the legal personality and the notion of 'regional interests' which all Regions of Cameroon are to acquire (under Sections 47(2) and 55(2) of the Constitution), Special Status regions assume responsibilities to manage a historical legacy or specificity recognised as important. At a minimum, **consent (an assenting supermajority vote) of the concerned Special Status Regions would be required for such modification**.

25. Given Cameroon's peculiarity of an overlay of *received official language constructs* (English/French), and *nationally indigenous cultural, language, and social traits*, which in many instances lie on both sides of the English/French divide, it is important to **allay concerns that a constitutional right of stable existence of**

the Northwest and Southwest regions will permanently 'freeze' national identities around the markers of the English/French line, materialised exactly *100 years ago* by the Franco-British Declaration signed on 10th July 1919 by Henry Simon (for France) and Viscount Milner (for Britain).

26. An important safeguard that exists in this respect is the **option for Regions (such as bordering regions which share social, cultural, national language, and other affinities) once operational, to establish cooperation mechanisms** between themselves. Section 83 (1) of the 2004 Law on Regions provides that such cooperation may result where "2 or more regions decide to pool their various resources with a view to attaining common objectives". Given Regions' remit of competence which includes social, economic, educational, and cultural development, bordering regions with affinities (such as Northwest and West, Southwest and Littoral) could contemplate joint initiatives in domains such as cultural festivals; archives, history, and protection of cultural heritage; arts; or national language development.

Principle 2: Legal entrenchment of the Special Status, requiring both State and concerned Region legislatures' supermajorities to modify it

27. It is standard practice with **Special Status arrangements that they cannot be substantially altered, modified, or abrogated through unilateral action by either the central State authorities or by the concerned region's authorities**. To do so would require a consenting majority and often *super-majority* (two-thirds) vote by the representative body (Assembly, Council) of the Special Status region itself, *and* by the State-wide legislature at national level. Contrary to decentralization or devolution in which the State-wide legislature can unilaterally change the scope of powers transferred to the Regions, a Special Status arrangement is therefore more binding on the State's central Government – due to the higher threshold require to change it. In at least one comparator country, modification of the Special Status arrangements is required to go through the same procedure as a *constitutional amendment*.

28. Underlying these provisions are the notions of *entrenchment* and *legitimacy* of Special Status legislation. On the one hand, given its delicate character for national cohesion, legislation conferring regional Special Status is **protected from repeal or abrogation based on just the vagaries of majorities, for instance in the national legislature**. If such protection is not present, a single electoral outcome could result in repealing a hard-won, and carefully crafted national balancing act. On the other hand, to mirror the requirements of legitimacy to establish Special Status regions in the first place (often requiring an assenting vote or referendum in

the concerned region), the said legislation cannot be *substantially* altered by the central legislature alone: it requires an assenting vote in the concerned region. Logically, the concerned/beneficiary Region's authorities also cannot of their own accord substantially modify it: they require central level cooperation in the State-wide legislature, to do so. This feature reinforces the pre-requisite of trust which underlies the functioning of Special Status regions.

Principle 3: An explicit agreement/statement on division of responsibilities between the State and the Special Status region

29. Special Status implies that the concerned region(s) are **assigned certain specific responsibilities over the functional domains and areas** that make them unique from the rest of the State's regions, and for which tensions may arise if centrally managed within the Unitary State. An important differentiator between Special Status region arrangements and a framework of decentralisation **lies in the nature of the assumption of responsibilities** that is operated in favour of the sub-national unit (the Region) in both processes. Where Special Status regions are established and specific domains of competence are assigned to them for self-management, **they assume full functional competence in those domains, and have 'the final say'** (as opposed to the central authorities) on legislative and administrative action within those areas, in the said region.

30. This is to be contrasted with what obtains under Cameroon's currently envisaged framework for decentralisation to its Regions. Under that framework "the powers devolved upon regional and local authorities by the State *shall not be exclusive*. They shall be exercised *concurrently* by the State and the [regional and local] authorities" (Section 15 (2), 2004 Framework Law on Decentralisation). This means that under the 2004 Laws on Regions and Local Councils, when a transfer is undertaken of certain functional domains of responsibility (social, economic, cultural, educational, health, and sports), the **central State retains the plenitude of rights of action in those same domains it has 'transferred' to the Regions**.

31. Furthermore, the concurrence thus created (meaning both the State and the Region can *legally* act in a given domain) is further **marked by primacy of the State over the Region, the former acting as a primus inter pares** *(first among apparent equals).* Section 3(2) of the Framework law on Decentralisation of 2004 provides that regional and local authorities "shall carry out their activities with due respect for the national unity, territorial integrity, and the primacy of the State". As guarantor of "national interests" (as opposed to "regional" and "local" interests assured by Regions and Local Councils respectively), the State also has

unreserved ability to intervene in any functional domain, across all the Regions and Councils.

32. Under Special Status arrangements as examined comparatively around the world, the *carefully selected schedule or listing of areas of competence assigned to the beneficiary / concerned Region, divests the central State of primacy of action in the said domains*, while often requiring that the State and Region collaborate, in order to act in their respective domains. It should be noted that these Regions: (a) operate under the overall legal order of the State (as elaborated upon in a specific Principle hereunder), and (b) that they cannot pursue their own "regional interests" without consideration of the wider "national interests" which the State represents. However, instead of moderating between regional and State positions through a rule of hierarchy which automatically vests primacy in the State, these arrangements **require an almost consociational relationship based on the underlying principle of trust**, to arrive at the right balance.

33. All the key Special Status legislation examined around the world contain a Schedule, Annex, or Provision that delineates the division of domains of responsibility between the State and Region. This is typically achieved in four parts:

    a. Functional domains that fall within the responsibility of the Special Status regions, for which they have **exclusive or pre-eminent rights of action**. These typically encompass the domains in which there have been the strongest demands for regional self-management.

    b. Functional domains that remain the preserve of **central authorities**. In these areas, the central State retains full competence, including when it is acting within the Special Status region (typically on matters such as defence, monetary issues, or foreign relations).

    c. Functional domains or areas of **shared competence**. In Special Status arrangements comparatively, the concept of 'shared' competence is not to vest concurrent rights of action in both the central and regional layer. Rather a careful articulation and presentation is made of: **(i)** domains, areas, or types of decisions within the central State's prerogatives, which in order to be exercised as concerns the Special Status region, require the latter's prior consultation and/or consent, and **(ii)** domains and types of decisions ordinarily within the remit of the Region, which to be effected, require consultation with/consent of the central State.

    d. A 'reserve' of **potential domains for future progressive transfer** to the regions, based on a periodic, jointly agreed upon process between the State and the said region.

Principle 4: Exercise of Legislative and regulatory powers, and Administrative authority by the Special Status region within its domains of competence

34. Within the domains of competence that are conferred to them under Special Status arrangements, *the concerned regions should exercise a measure of direct legislative authority and administrative powers*. Therefore, regions under Special Status should have **powers to enact or pass legislative instruments in domains that fall within the competence** of the region. This may entail in practice, adapting national legislation in the said domains. The legislative function within their domains of competence, would also be accompanied by *regulatory power* to issue rules, provisions, and ordinances necessary to apply them.

35. Special Status regions comparatively, also have the prerogative to establish, regulate, and control the **public administration which delivers on the Region's mandate in its domains of competence**. In the said domains, the Regions exercise direct public powers due to full *devolution*, and do not act as agents of a central authority under a *decentralization* process. Acquiring new domains of functional competence would require the Special Status regions to have a *regional public administration* capable of discharging its domains of responsibility and executing its programs. The oversight, recruitment, management, evaluation, discipline, and the Charter for public service delivery by this regional public administration would fall within the powers and purview of the Special Status regions.

36. Under the current legal framework for Cameroon's ordinary Regions (without Special Status), the envisaged administration to be set-up under each region will be coordinated by a public official known as the "Secretary General of the Region", who shall run the services of the regional administration under the authority of the Region's Executive (Section 68(2), 2004 Law on Regions). However, Section 68(1) of the same law provides that "*the President of the Republic shall appoint the secretary-general of the region upon the recommendation of the [central Cabinet] Minister in charge of regional and local authorities*". This **provision is patently incompatible with the prerogatives of a Special Status region to organise and man the public administration that delivers services within its domain of competence**, in that both the *recommending* authority and the *appointing* authority are outside the regional structure.

Functional Domains of Special Status Regions' competence

37. While it remains for an inclusive and participatory process to identify those domains in which the historical and current specificities of the Northwest and Southwest regions warrant priority devolution for self-administration, national experience and the current crisis suggest, *indicatively*, attention to the following:

Domain 1: Language – Use of Official Languages for public services in the regions

38. The non-regulation of the official languages used for delivery of public services, meaning by State institutions and officials, in the Northwest and Southwest regions, was undoubtedly a trigger factor for the current crisis. This was demonstrated by retroactive efforts to test the mastery of English by State officials assigned to both regions, and their subsequent redeployment out of those regions. To resolve this issue sustainably in the future, while providing an incentive for public officials to acquire skills in both official languages, the **Special Status regions should have the prerogatives to establish norms for the use of the official languages, by public entities in the region.**

39. Establishing the norm for use of official languages in the regions could take into account the following parameters: stipulating the language to be used in *official transactions, documents, and proceedings* in the Region, the *preponderance of use* of Cameroon's official languages in the Northwest and Southwest regions (comparative examination of Data from Cameroon's most recent General Housing and Population Census shows the ratio of French to English use is **1 : 5** in both regions), and the particular requirements of *public agencies that interact with, and deliver services to the public* in both regions (such as Police/Law Enforcement).

40. Comparatively, a strikingly **high number of Special Status arrangements around the world include stipulation of an official language** (the principal and historically preponderant language) for the said region – which is typically different from the most widely-spoken language in the rest of the country. This points to the importance of regulating official language use as a key domain addressed by Special Status arrangements.

41. Notably, these provisions *do not apply only to the Region's public administration*, meaning those agencies staffed/employed by it to deliver on its domains of competence. Instead, since they regulate the conduct of 'official business' in the said regions, they *extend to the performance of the State's duties by centrally managed State personnel* assigned to the Region. Hence these Special Status arrangements require that (central) State personnel assigned to the Regions have the required

language proficiency in the principal language. Some comparative arrangements also stipulate the language to be used in official correspondence, documents, and proceedings (in the framework of their cooperation) between central State institutions and the Special Status region.

Domain 2: Education - Management of the predominant Educational sub-system

42. The sustenance of the English educational sub-system, including preserving its integrity from unplanned influences from the (larger) French educational sub-system is also a contentious issue at the origins of the current crisis. Prior to the crisis, data from Cameroon's Education sector authorities showed that of all students enrolled *in the English secondary education sub-system* in the country, over **75 per cent** were in schools in the Northwest and Southwest regions. Conversely, both regions accounted for just **1.2 per cent** of all students enrolled in the country in the *French secondary education sub-system*.

43. Such clear trends of preponderance show that the Northwest and Southwest regions have an undeniable stake in the content, vitality, and direction of the English educational sub-system. (A detailed presentation of trends in adherence to, and enrolment in the English/French educational sub-systems is presented, by regions/parts of the country, in the *Frequently Asked Questions* document, annexed to this Whitepaper submission).

44. Subject to further refinement, and taking into consideration the nature of demands related to the educational sub-system in English, the following *indicative* areas of competence could be envisaged for the Special Status regions, within the education sector:

    a. **Oversight of the English educational sub-system** (at primary, secondary, technical/vocational, teacher-training, and tertiary/higher education levels) for establishments of learning located within their remit.

    b. Definition and **approval of school learning curricula and educational content** dispensed in schools in the Region. Substantial curriculum changes or directional changes in the Regions could be subject to mandatory prior consultation with State authorities, to align educational content with medium and long-term regional and national workforce demand trends.

    c. **Recruitment, career and personnel management, and deployment of teaching staff** in the Regions. This could take effect in the near term for State/public nursery, primary, secondary, vocational/technical, and teacher training sectors (where the existing workforce is largely aligned to the two

educational sub-systems in English/French). For the tertiary / University lecturer workforce, a timed approach could phase the transition over a few years. *Inter-regional arrangements* could also permit academic mobility (e.g. of the secondary, tertiary education workforce) *within* institutions of the same educational sub-system (in NW/SW, or other regions).

d. Administration and **management of publicly owned schools** in the region.

e. Licensing approvals, quality control, and **supervision of private educational institutions** – at all educational tiers – in the regions.

f. **Oversight of school examination certification Boards** for the English educational sub-system.

g. The prerogative to conclude **foreign educational partnerships or exchange agreements**, including merit and other scholarship-based programs. This would be aligned with current State-wide prerogatives of the central Higher Education Ministry as a clearinghouse for these agreements/programs, with foreign partners having the ability to engage the Special Status region, as core interlocutors for English sub-system learners.

h. The **verification, certification, and equivalence of foreign diplomas** and academic qualifications. Given that this function touches on current and potential sub-regional (inter-State) or international agreements in the domain of education contracted by the State, this function will be exercised *in consultation* with the central State Ministry tasked therewith.

i. **Extra-regional reach of education sub-systems**: Consideration needs to be given to the extra-regional reach of Cameroon's education systems, notably the level of adherence to the English educational sub-system outside the NW/SW regions (placed at around 25% of all its learners prior to the onset of the crisis), and the small but not insignificant enrolment in the French educational sub-system in the NW/SW regions. In essence, these regions have the *preponderance, but not exclusivity* of use of the English educational sub-systems.

   Potential vehicles for managing these extra-territorial aspects include: (i) early conclusion of agreements between examination certification boards and other English educational sub-system entities with central State authorities for continued support and access to learners of that sub-system in the other 8 regions of the country, (ii) the conclusion of similar agreements by the NW/SW regions with central State Ministries or French

system examination boards for certification of that sub-systems' learners in NW/SW, and (iii) integrative nation-wide processes such as nation-wide Educational Councils or Boards, which foster learning and exchange between the two stand-alone educational sub-systems.

Domain 3: Legal & Justice system: Legal Education; Judicial appointments to the region; nation-wide Uniform Law reforms, and application of supra-national Treaty-based laws in the regions

45. Examination of triggers of the crisis among lawyers and legal professionals trained and working primarily in the English Common Law tradition, suggest that consideration should be given to the following specific powers or domains in the Justice sector, under Special Status arrangements for the Northwest and Southwest regions:

    a. **Legal Education:** The Regions would have: (i) full oversight of legal education dispensed by institutions of tertiary (higher) education within the Region; (ii) the prerogative to establish regional centres or institutions that specifically train candidates for access to the legal professions, (iii) a right of consultation on national-level initial professional training requirements and examinations for entry into the legal professions; and (iv) continuing legal education for professionals working in the said regions.

    b. **Appointment of Judicial Personnel to the Regions:** The regions would have a right of *prior consultation and consent* for the appointment of Judicial Service Personnel to serve in the regions. This would include the Magistracy Corps (Judges, Prosecutors) as well as Court Registrars. The consultation/consent would be exercised by Regional authorities when seized of pending Judicial appointments/postings, prior to their finalisation by Cameroon's Higher Judicial Council.

    c. **Exercise of Legal Professions within the Regions**: The Regions would have the *right to consultation and consent* by central State authorities on modifications to the exercise of the legal professions in the said Regions, including such professions as lawyers at the Bar, sheriffs-bailiffs, or notaries.

    d. **Adoption of Uniform laws of intended nation-wide application including in the Special Status region**: A number of areas of Cameroonian law are presently not uniform across the national territory, such as aspects of the laws of contract, delict, and parts of family law (The annexed FAQs document examines this issue in more depth). In these areas, where the

nationwide objective is to arrive at a *Uniform Law* applicable in both Romano-Germanic-law tainted legal environments (8 French-speaking regions) and Common-Law tainted legal environments (2 English-speaking regions), the Special Status regions' authorities shall have:

(i) a right of *prior consultation* on the Uniform-Law development process,

(ii) *parity representation* of the Common-Law tainted environments in a statutory National Law Reform Commission which shall be the sole body tasked with tabling Uniform Law amendments to Government/Cabinet.

(iii) Additionally, where *significant instruments of law are under adoption at national level*, the State's Justice Ministry shall certify with justification documents to the State's legislature, and to the Special Status Regions' authorities that the proposed law or instrument (in both its French and English versions) has been *verified to meet the requirements of bi-juralism*. This means that the text in each language version has been found to conform to the *norms, terms, and expressions of usage in the respective legal culture* environment (Civil Law/Common Law), in a manner to ensure its application with the same effects, in each legal culture.

e. **Treaty-based laws, directives, regulations, and codes intended for application in the Special Status regions**:

(i) The Special Status region would have a *right to consultation during the preparation* of sub-regional, supra-State legal norms that are intended for application in the country, including in the Region. This would be achieved by the inclusion of persons designated from the legal community in the Special Status Region as part of Cameroon's negotiating teams in such sub-regional or supra-State bodies when the norms are being prepared. They will be entitled to make *direct* representations to the said sub-regional or supranational body on the said Region's position or concerns on the pending instrument.

(ii) The said supranational legal instruments would not be immediately applicable in the Special Status region. *After* the ratification, adhesion, or signature of a legal instrument by Cameroon's State representative to the sub-regional or supra-national body, or its issuance by a competent organ of the said

body, and *before it is rendered applicable in the Special Status region, an "accessibility assessment"* shall be conducted *jointly* by the sub-regional/supranational body in question, and the designated authorities of the Special Status region, to determine the specific needs and requirements to render the said instrument/body of norms *accessible on an equal basis* to the citizens and legal professionals in the Region.

(iii) The specific function of the accessibility assessment shall be to identify specific, costed activities, programs, and inputs that will sustainably render the said laws/instruments accessible in the regions. The costs of these accessibility mitigation measures shall be appropriated for and expended under the budget of the Special Status region, *with a view to a recommendation by the Region's administration and the sub-regional/supra-national body, to the Region's legislative organ, that the text/instrument is sufficiently accessible to go into effect*.

Domain 4: Public Order and Policing within the Region

46. Although policing and the maintenance of public order has not been highlighted as prominently as the three preceding domains (official language use, the educational system, and the legal practice traditions) as warranting specific self-management in the Northwest and Southwest regions, there are reasons for considering substantial devolution of this function to the Special Status regions.

47. The most prominent **reason for an enhanced regional role on policing and public order is the fall-out of the current political and security crisis in the said regions**, which has affected each of the 13 administrative Divisions therein, has seen the involvement of thousands of young men and women in localized, armed groups organised under the banner of defending a separatist project. Alongside the organised but nonetheless fragmented armed groups that have emerged in both regions, a *substantial rise in crime has occurred with armed gangs* engaged in kidnapping persons for ransom, looting economically productive outfits, and targeting businesses for protection money. The rise in drugs (opioid) use in both regions, sexual violence against women and girls, and a climate of insecurity for civilians have all marked this increase in crime.

48. When the hoped-for process for a return to normalcy in both regions begins, and even alongside enhanced Disarmament, Demobilisation, and Reintegration (DDR) program for formal ex-combatants, or Community Violence Reduction (CVR) programs for youths engaged in violence, an immediate, important task will be to

provide a *basic level of security for civilian life within communities* – schools, markets, roads, economic activities – to function unhindered, and thus permit return of IDPs and refugees. That task should be the primary responsibility of the *internal security forces* (Police), as opposed to the *external defence forces* (Army).

49. Comparative experience shows that in such post-crisis contexts, it is challenging for police units without sufficient proximity to, and trust of the local population to discharge this mandate. Gathering effective intelligence to anticipate potential security incidents or undertaking community (proximate) policing are critical tasks for which local access (including knowledge of local languages and culture) can be very important. Hence, it would be reasonable to consider **an enhanced role for the authorities of the Special Status region, in the constitution, oversight, and effective delivery of policing and internal security services.** A clear delineation would be needed between *defence* tasks (which fall squarely with central State authorities) and internal security and policing tasks at regional and local levels.

50. A further rationale for this domain of competence is that Special Status regions should *have powers to exercise direct public authority* (including administrative authority) within their domains of competence. A corollary of these powers is necessarily the **ability of their institutions to enforce compliance with their mandatory orders**. Comparatively, a number of Special Status regions have the prerogative *to establish offences or violations of legislation, regulations, or administrative decisions* taken by them in the functional domains of their competence. Since such legislation, regulations, or administrative decisions become part of the corpus of laws applicable in the said Region, their violation would incur legal consequences, enforced by Judicial bodies, with necessary recourse to Policing powers.

51. It should be noted that the **Policing functions referred to in this functional domain, are superior to and fundamentally different from the facility granted to Local Councils to create a "municipal police" or "council police service"** under Section 86(1) and (2) of the 2004 Law pertaining to Local Councils. To underscore the difference from full Police powers, *the duties of those services are limited to*: ensuring safe passage on public streets, ways, and thoroughfares; interment of deceased persons and public order in cemeteries; weights and sanitation in public sale of foodstuffs; assistance in response to accidents, fires, floods or disasters; handling mentally disabled persons in public places; handling stray animals; demolition of unauthorised buildings; and regulating road traffic and public parking (Sections 87(2) and 89, 2004 Law on Local Councils).

Domain 5: Territorial Administration within the Special Status region

52. The issue of administration of the territory, in the sense of *which authorities exercise what powers in the regulation of the territorial sub-units* into which the State is divided (in the case of Cameroon, its Regions, Divisions, Sub-Divisions, and Municipal Councils) is critical to any process of devolution, and more so, in the establishment of Regions with Special Status. It should be noted, to underscore that this issue is germane to the legislative history of Special Status legislation for the Northwest/Southwest region, that during the National Dialogue of September/October 2019, its Commission on Decentralisation and Local Development recommended, *inter alia*,

> "(i) A substantial reduction of the powers of the supervisory authority [held by centrally-appointed officials over elected Regions and Local Councils, namely by Governors over Regions and by Senior Divisional Officers over Local Councils], and (ii) The suppression of the provision for the appointment of Government Delegates provided for within the Special Regime applicable to certain agglomerations [large urban areas]".

53. The above recommendations, emanating from what was – by the account of the said Commission's own Chair – the most heavily attended and highly-contested of the National Dialogue's Commissions, point to the underlying challenges and tensions resulting from the co-existence and relationship, and specifically the exercise of direct supervisory authority over Regions and Local Authorities, by centrally-appointed officials. In the current architecture of the State's territorial units, this supervisory authority is exercised:

(i) By Governors over Regions' authorities,

(ii) By Senior Divisional Officers (Préfets) over Local Council Mayors,

Additionally,

(iii) Once Government Delegates are appointed to lead City Councils in large urban areas, they assume most of the functional competencies, at the expense of the elected mayors of the constituent sub-divisional councils within the city. (Sections 110 to 119, 2004 Law on Local Councils).

(iv) Sub-Divisional Officers (Sous-Préfets) assume key functions in regulating public activities, such as regulation and *de facto* authorisation of all public meetings or events.

54. The above architecture for the administration of the State's territorial sub-units, involves the presence of central State appointed officials in all parts and sub-entities of the State, including in the institutions of regional and local government. This *conception of the central Executive's influence and control projected through its appointees at all hierarchical levels in the country's territorial sub-organisation is a specific heritage of territorial organisation of the State in France, following the 18th century French revolution*. In order to do away with the pre-French Revolution system in which inequalities arose due to the granting of monarchical privileges to certain territories based on personal or nepotistic considerations, *the Prefectorale was introduced (by Napoleon Bonaparte) as an instrument to ensure equality and uniformity in the State's treatment of all its citizens, guaranteed by the central Executive* which would regulate all territorial sub-units through Prefects (Préfets) appointed by and accountable to the Centre.

55. It should be borne in mind that this mode of territorial governance of the State's sub-units *is not the only model possible or feasible around the world*. In the United Kingdom (a Unitary, devolved State) central appointees to govern local government institutions have progressively disappeared, while in Spain (a Unitary State with autonomous regions) the role of the State's delegate or representative is to direct the administration of functions which remain with the central State in the territorial sub-unit, and to coordinate with the administration of the autonomous region. To illustrate the continuing resemblance between Cameroon's territorial administration of its sub-units and that of France, the *French Constitution* provides in Section 72 that the State's representatives to territorial sub-units (Regions/Departments/Communes) "*shall be responsible for national interests, administrative supervision and the observance of the law*". Cameroon's Constitution provides in Section 58 that the State's representative in the Region "*shall be responsible for national interests, administrative control, ensuring compliance with the laws and regulations, as well as maintaining law and order*".[1]

56. Section 58 of Cameroon's Constitution further provides that the State's Representative to the Region "*shall exercise the supervisory authority of the State over the Region*". It should be recalled (as expounded under *Principle 3* above) that in political theory, the establishment of Special Status regions as a mechanism for a country to manage territorially distinct populations or regions that have special historical features, requires the establishment of a unique type of relationship between the State's centre and the said Regions.

57. **Instead of a relationship which moderates between the State's positions and those of the Region through an automatic rule of hierarchical State primacy**

[1] There are however substantial differences in how the State appointees relate to Regional and Local Authorities between France and Cameroon, whose examination is outside the scope of this paper.

or superiority, the Special Status arrangement requires instead a collaborative, trust-building relationship, in which the State, and the Region each have defined, delineated domains of action, but are legally required to consult, or obtain consent of each other when their prerogatives affect each other. As such, it is questionable whether the supervisory powers enshrined in Section 58 of the Constitution, which are further specified in the 2004 Law on Regions (powers of the Governor to suspend Regional Council sessions, and powers to pre-approve, approve, validate, or annul, or substitute for decisions of Regional/Local Authorities) can be maintained in a Special Status region.

58. One of the fundamental reasons for the required shift in the prerogatives over administration of territory, is *that once Special Status regions are afforded primacy of action within specified domains assigned to them for self-management, the central State bodies no longer hold the plenitude of rights of concurrent action on the said domains. The basis for a central State Representative to supervise, oversee, and direct every facet of public activities in the Region, is therefore removed*.

59. As such, the appropriate role of the State Representative is to coordinate the delivery of those central State functions that have *not* been assigned to the Region (such as matters related to defence, monetary affairs). Comparatively, and as further spelt out in Principle 8 hereunder (on State Representation to the Special Status region), it is standard practice where such regions have been established that the State Representative assumes this more confined role within the Special Status region. The modalities for their appointment by the central Executive (which in some instances requires consultation with the Region's authorities) underscores the nature of their relationship with the latter – a *collaborative, but not a hierarchical* relationship.

60. Once it is settled that the mode of administration of territorial sub-units through projection of central State appointees to coordinate and supervise over every territorial sub-unit (Region, Division, Sub-Division, Local Councils) is incompatible with regions in Special Status, the appropriate approach would be to **place administration of territory (territorial administration) within the list of domains of functional competence of the Special Status region**. This may however subject to the specification of areas in which such competence may only be exercised with the consultation or consent of central authorities. This could include prerogatives in the area of delimitation/demarcation of sub-units within the Region, which may be subjected to national norms on unit viability, geography, population, and access to services.

61. A subsidiary question that arises, is that if the specific inherited concept of the *Prefectorale* is unlikely to be adopted in the Special Status regions, **what mode of governance of its territorial units/sub-units would be considered germane or**

contextually-adapted to the Northwest/Southwest as Special Status regions? An examination of the models for local government that were attempted during British mandate/trust administration of those regions, and during the federal experience from 1961 to 1972 is beyond the scope of this Legislative Whitepaper contribution. However, a few markers are important to *clarify and distinguish the historical approaches to administration of territorial units* in those two regions:

(i) Unlike the French mandate/trust administration of Cameroon which relied on a cadre of French overseas administrators for the entire territory and its sub-units, *the British overseas project faced a shortage of British administrators willing to be deployed to the foreign territories under its mandate*. This resulted in the seminal doctrine of 'indirect rule', formulated by Frederick John Lugard, who served as Governor-General, Governor, and High Commissioner of the British Nigeria Protectorates between 1900 and 1919, and published in his work 'The Dual British Mandate in Tropical Africa' in 1922. Largely inspired by the *sultanates of Northern Nigeria which were characterized by the existence of strong traditional leaders*, indirect rule sought to offset the British overseas manpower shortage, and contain the costs of administering the territories (which were to be borne by the territories themselves, per British policy) by working through pre-existing local power structures, typically the structure of traditional chiefs.

(ii) Recourse to indirect rule meant that **Britain did not introduce a 'complete' external model for modern administration of the territory under its mandate.** Now to be governed as an integrated unit**,** the territory's components were previously a series of tribal and ethnic groups, in some instances having relatively hierarchical traditional structures (such as Fondoms) but no collective super-structure, and in some instances were "acephalous" societies (that is, without distinct leaders or organisational hierarchies). Instead a *hybrid administration* was put in place, involving: (a) British administrators in a supervisory role, (b) institutions of local administration (tax and revenue collection, labour provision, dispensing justice) run principally by traditional Chiefs through Native Authorities, and (c) the gradual introduction into governance of the younger, Western-educated elite (often without chieftaincy lineage).

(iii) Historically however, **institutions of local government with a leadership *elected* by universal popular suffrage, and *staffed* by modern/Western-educated administrators were *not* established in these regions in the period up to independence**, principally because the reliance on the traditional Chiefs' structure to govern (as part of indirect rule) was at variance with both of these innovations. While the modern educated elite, would, in the 1950s lead the territory politically in the major

processes for assertion of its status and specificities while administered as part of the Eastern region of Nigeria, and lead the pre-independence causes for Integration (with Nigeria), Unification (of the non-contiguous British Southern and Northern Cameroons), and Reunification (with French-administered Cameroon), local administration remained influenced by the traditional structures.

(iv) The 1st September 1961 reunification, federal Constitution placed the "regulation of territorial administration" [Section 6 (1) (l)] under the competence of the Federal Government of Cameroon in Yaoundé, as opposed to under the jurisdiction of the Federated States, meaning the West Cameroon Federated State could not organise how it would administer its territory. As early as December 1961, Federal President Ahidjo had passed a law re-organising the entire country into administrative regions, under the authority of *centrally appointed* Federal Inspectors of Administration (the predecessors of today's Regional Governors) who reported directly to the Federal President. In the case of the West Cameroon federated State, which was now treated as one of these administrative regions, the said appointed Federal Inspector tussled for jurisdiction with its Prime Minister, whose tenure was derived from an *electoral* majority.

(v) As such, a **model of administration which could have evolved organically within the said regions never emerged** during the period between 1961 and 1972, when unitarism intervened – and with it an unquestioned extension of the *Prefectorale* and other appointed officials, projected to direct all territorial sub-units within the said regions. *Thus, began the model wherein <u>appointed</u> territorial officials did not report to <u>elected</u> leaders within a given territorial unit (Region, Federated State); instead the appointed would exercise supervisory authority over the elected (as Governors/SDOs are now empowered to do over Regions/Local Councils' elected leaders).*

Domain 6: Local Government – Councils and Municipalities

62. Based on comparative experience, **the mode of organisation and functioning of *Local Governments and Municipalities lying within the region*, is often included among the domains of competence of the Special Status region**. There is an important conceptual reason for extending to Special Status regions, the regulation of local governments and municipalities lying within their territory. Based on the division of functional domains of competence between the central State and the Special Status region, the latter acquires the plenitude of action within certain specified domains or areas, subject to consultation or consent requirements where applicable. As such, to the extent that the actions of Local Councils or

municipalities fall within or contribute to achievement of the Region's attributes in the said areas, only the Region (and not the State) is fully empowered to regulate the said actions.

63. An example of this principle would be in the domain of education. Going by Cameroon's present attribution of competencies to Local Councils (across all its regions – so without Special Status) this tier of government is entrusted with the running of *pre-nursery, nursery, and primary schools* (Section 20(a), 2004 Law on Councils) whereas the Regional tier is entrusted with running *secondary and high schools* (Section 22(a), 2004 Law on Regions). Under Special Status arrangements for the Northwest/Southwest regions, Functional Domain No. 2 above (*Education*) is an emphatically centrifugal area at the centre of demands underlying the crisis. If competence in that domain moves to the Special Status region, and Local Governments/Councils are entrusted with the earlier tiers of education (such as nursery/primary), oversight of their delivery in that area would logically shift to the Regional authorities, and not to the central State educational authorities.

64. Admittedly, there are comparative models in which the central State retains multiple linkages with the Local Council/Municipalities tier of government, despite the existence of the intermediate Regional tier (such as in Spain). However, **the peculiarity of Cameroon's current articulation of its lower tiers of Government and the *outright prohibition* for Regions to exercise oversight over Local Councils within their remit, sits uncomfortably with the expected prerogatives of Special Status regions**. In this regard, it should be noted that Sections 8 and 10 (1) of the 2004 Framework Law on Decentralisation provide, that:

> Section 8: "The devolution of power provided for by this law *shall not authorise a regional or local authority to establish or exercise supervisory powers over another*."
>
> Section 10: "The [central] State shall exercise supervisory powers over regional *and local authorities*".

65. The meaning of these provisions, embodied in the over-arching text that governs how Cameroon's Regions and Local Councils are ordained to function, is clear: **the Law formally proscribes the Regional layer of authorities from exercising any oversight functions over Local Councils, and formally vests the power of oversight of local Councils, not to the Region above them, but to the central State**. The same Framework Law on Decentralisation of 2004, under Part IV (Supervision of Regional and Local Authorities) then spells out in practice how such oversight is conducted: it is entrusted to the [central Cabinet] Minister in charge of regional and local authorities, and further to Governors to supervise Regional authorities (Section 67(1)), and to Senior Divisional Officers to supervise Local

Councils (Section 67(2)). Hence continuing a pattern previously noted, in any given region, Local Councils are not required to align with, or defer to the *elected* Regional authorities lying above them, but instead to *delegated appointees* of the central Government assigned to their area.

Domain 7: Traditional Authorities and Institutions

66. The regulation, or articulation of the role of traditional authorities within their geographical remit could constitute another important domain of primary responsibility by Special Status regions. A first reason for such attribution would be *historical*, given as discussed above, the system of 'indirect rule' in administering the Northwest/Southwest regions, which placed traditional authorities within the same administrative chain as the formal administrative chain.

67. A second reason for this approach would be *contemporary* and arise from the context of the current crisis. Like most social institutions that constituted the fabric of society in the Northwest and Southwest regions, **the institutions of traditional chieftaincy have been badly bruised by the on-going crisis**. These assaults on traditional authority include: (i) the desacralisation of Chiefs and Fon's palaces by belligerents in the crisis, (ii) physical attacks on traditional rulers and Chiefs, resulting in loss of life and bodily injury in their ranks, (iii) displacement or evacuation of traditional rulers from their seats of authority due to insecurity and the usurpation of their prerogatives by belligerents, and (iv) tampering with or destruction of sacred traditional artefacts and objects in Chiefs' palaces (which for the most parts, host museums with items of traditional heritage). While the above-mentioned assaults on traditional authority in both regions have been widely reported in the media, the exact scale of this loss of heritage has not even been precisely assessed.

68. In this context, **a special dispensation may be required in both regions, in order to restore the traditional institutions to their proper role as custodians of traditional customs, norms, languages, and heritage**. This dispensation may be best achieved by entrusting the Special Status Regions' authorities with enhanced responsibilities (and corresponding resources) to restore these traditional institutions. Given its importance to overall State interests, this could constitute an area of consultation with national authorities.

69. The *assumption of prerogatives in this area could enable both regions to modify how they regulate traditional chieftaincies*. Presently the regulation of traditional authorities consists principally of their placement as auxiliaries of the formal State administration whose enthronement is validated by the public administration, who execute its directives, are remunerated through the formal State payroll, and may be sanctioned by the public administration (Decree No. 77/245 of 15 July 1977, and

Decree No. 2013/332 of 13 September 2013 Organising the Functioning of Traditional Chieftaincies). Traditional Chiefs also constitute part of the electoral college for voting Regions' representative bodies (Regional Councils), per Section 57(2) of the Constitution.

Domain 8: Archives, History, Cultural Heritage, Museums

70. It should be noted that under the prerogatives of ordinary Regions in Cameroon, the domain of "cultural development" is already recognised by Section 55(2) Constitution as a functional competence to be transferred to Regions. This is further developed in Section 24 of the 2004 Law on Regions which specifies in detail the functions ordinary Regions will assume in the domain of culture.

71. With respect to Special Status regions, and without creating a redundancy, the specification of Archives, History, Cultural Heritage, and Museums as a domain of competence for the Special Status regions would serve a specific function in **empowering those regions to manage the special duty they have to preserve and hand-down their historical specificities for future generations, in a manner that is conducive to both (i) the sustenance of the Regions and their heritage, and (ii) Cameroon's national cohesion**.

72. A specific marker of the present crisis since 2016 has been its revelation of *two dimensions of mis-understanding and non-appropriation of the history of the country*, including the period of foreign colonial, mandate, and trust administration; the reunification process; and governance thereafter. *On the one hand*, among Cameroonians of Anglophone extraction or from the Northwest/Southwest, confusing or inaccurate historical statements (including separatist or pro-independence messaging) have often filled vacuums or gaps in the understanding of Cameroon's pre-colonial, colonial/mandate/trust territory, and post-independence history. *On the other hand*, several Cameroonians of Francophone extraction or from the other Regions (including those having gone through formal schooling) still show stark levels of lack of knowledge of the key historical events around Cameroon's partition, foreign administration, reunification, and arrangements thereafter.

73. Assumption of this responsibility by the Special Status regions will enable them to address their own internal history deficits, and also to engage/cooperate with national, State efforts to build cohesive historical knowledge. It is striking for instance (given the importance of these events in Cameroon's national history) that while much has been committed to writing on the events around partition and reunification of Cameroon (by historians), *very little thereof has been conveyed into popular culture and the arts, such as documentaries or true-story based filmography*. *At present, no dedicated museum accessible to the general public in both regions*

contains elements of video, audio, pictorial, or documentary accounts of the reunification process, which is so critical to their history.[2]

Domain 9: Economy, development, and reconstruction

74. Under Cameroon's arrangements for devolution to its regional tier, all of its Regions will have **transferred to them a limited number of mid to low-level functions in the domain of 'economic 'development'**. These include promoting Small and Medium-Sized Enterprises (SMEs); promoting farming, livestock, and fisheries; supporting income/job-generating micro-projects; developing tourism; management of protected areas, natural sites, and regional water resources; formulating and implementing regional development plans, and *participating* (without being the lead implementer) in managing intercity public transport, urban planning and municipality master plans; and repair of regional and divisional roads. (Sections 18, 19, and 20, 2004 Law on Regions).

75. At the same time, the **existing legislation also shows that Cameroon's Regions and Local Councils were intended to be actors in the economic development space**. The 2004 Framework Law on Decentralisation provides that "Regional or Local Authorities may operate public services of an industrial or commercial nature where the public interest so requires, especially where private initiative is lacking or inadequate" (Section 52(2)). It also envisages that Regional and Local authorities may acquire and transfer corporate securities (such as shares) through the floating of corporations or through shareholding of the Region in public enterprises or private companies, and further regulates how the Regions may act as Shareholders in publicly-owned, partially publicly-owned, or private companies (Sections 62 to 65, Framework Law). Regions are also allowed to undertake *loan and loan collateral transactions* (which could include the issuance of sub-national public bonds), which, along with taking of shares and securities, are identified in Section 70 of the Framework Law, as requiring special (central) State approval.

76. It must however be noted that these economic transactional powers must be read in the light of, and be pursued for purposes intrinsically connected to, the specific functional areas which are transferred to regional competence per Section 55 (2) of the Constitution, and further spelt out in Sections 18 to 24 of the 2004 Law on Regions.

77. In the present Legislative Whitepaper Contribution, **Functional Domains 1 through 7 above** deal with matters that are largely at the heart of centrifugal claims for self-management in the said regions (*language, education, justice*) and the specific administrative and institutional arrangements to manage those Regions

[2] The Annex of the National Archives in Buea could serve this function.

(*policing and public order, territorial administration, local government, traditional authorities*). By contrast, **Functional Domains 9 to 14 hereunder take on a different dimension, as they would broadly be considered as falling under the rubric of management of the economy and development**. Some reticence or questioning can thus be expected as to why these domains should even arise, within a Special Status framework for the Northwest and Southwest Regions.

78. In order to respond to these apprehensions, the following explanations need to be provided:

(a) As already expounded hereabove, the **conferment, however limited, of responsibilities in the economic development domain to all of Cameroon's regions was already envisaged** in legislation adopted 15 years ago (2004); it is not a novelty being introduced only for Special Status regions. So, the approach suggested hereunder is an *expansion or enhancement* of the scope of the economic affairs remit, specific to the said Regions.

(b) While fully-fledged studies thereupon are rare, literature on the challenges Anglophones have faced in Cameroon (access to University education, structural barriers to using both languages on an equal basis) suggest that **socio-professional advancement, and economic opportunity for Cameroonians from the said Regions, could have been structurally adversely affected over past decades**. While true that prior to the crisis, the *Southwest* region ranked in the higher percentiles of national performers on development indicators, the *Northwest* region tended to lag behind, on the lower rungs of the national development ladder. A differentiated role for the said Regions in their economic development may constitute a measure to correct or remedy such historical imbalances.

(c) Recovery, reconstruction and development of the two regions will no doubt constitute one of the key priorities and dividends of a return to peace and normalcy in both regions. To achieve it will require significant levels of effort by State authorities, Regional authorities, foreign development partners, and civic and economic forces of the two regions, both in Cameroon *and in the Diaspora*. The **conferment of special prerogatives in the area of reconstruction, economy, and development will constitute a clear signal to the said Regions that – with support of the aforementioned actors – they are in the driver's seat of this reconstruction and development process**.

(d) Lastly, it should be noted that **comparative Special Status legislation** from other countries tends to converge towards endowing such Regions with special prerogatives in the management of their economy and development.

79. Within the **broad rubric of the economy, development, and reconstruction, the following specific, practical attributes could be envisaged** for the Special Status regions:

(i) Formulate and implement *development plans* for the Region

(ii) Create, ensure oversight, and make appointments to *Regional Development Agencies and authorities* (e.g. SOWEDA, MIDENO, UNVDA, WADA)

(iii) Assume *public shareholding or equity in the principal State-owned agro-industrial corporations* in the Region (e.g. CDC, PAMOL)

(iv) Design and implement strategy for *access by the Region to financial markets to raise funds for its developmental needs* (such as issuance of bonds), in line with existing State and sub-regional prudential and debt-sustainability convergence criteria

(v) Regulate, adopt, or adapt *(additional) incentives schemes to attract national or foreign investment in the Region* for a defined period, in consultation and coordination with national policies (to prevent excessive *intra-Regional* competition over attracting investments, as happened in countries such as Brazil)

(vi) Consultation and/or consent rights on the *granting of investment incentives for the establishment of large-scale enterprises* or industries in the Region

(vii) Regional involvement and consent *on the State's foreign borrowing to address reconstruction and development needs* in the region (to ensure alignment and voice for regionally defined priorities)

(viii) Regional capacity to determine its needs, and consent rights on the *contracting of foreign technical and financial assistance* to support its development

(ix) Capacity to source for partnerships to strengthen its capacities in *economic management, regional development planning, and public finance management capacity* (budgeting, revenue mobilisation, auditing accounts, etc)

Domain 10: Land and Public Property (excepting strategic State reserves and sites, borders)

80. Land and other forms of public property are critical assets that go hand-in-hand with regional reconstruction and economic development. Cameroon's current legal framework (2004 Law on Regions) regulates how all of Cameroon's regions, once they go operational, will interface with, and the conditions under which they may secure access to some forms of publicly held immoveable or moveable property. In the context of Special Status regions which may acquire enhanced responsibilities including in the area of economic development, it is useful to examine how the existing framework may be adapted to their specific regime. **Cameroon regulates State-owned land and public property into three classifications, which are described below, in the context of devolution to Regions**.

81. **The first category,** "***Private*** **Property of the State**", refers to moveable or immoveable property acquired by the State. It includes buildings as well as lands on which are situated such public buildings, edifices, and structures. Such private State property includes immoveable property which has been expropriated for public interest purposes, and rural lands which for an extended period (10 years) have not been planted or regenerated. Private State property may be designated for use to provide public services, granted to State institutions or used to constitute share-capital for the State's securities holdings. Use or ownership rights thereon may be granted to physical or moral persons, and to international organisations and diplomatic missions in Cameroon. (*Sections 10 to 12, Ordinance No. 74-2 of 6 July 1974 to establish rules governing State lands*). To undertake works of public, economic, or social interest, the State may re-classify "National Lands" (that is from the residual reserve of all un-titled lands in Cameroon – see 3rd category below) into the category of "private State property".

82. Regarding how Regions (once operational) may access this category of State property, the 2004 Law on Regions provides thus:

> *Private Property of the State*: Section 10: (1). The State may transfer to regions all or part of its movable or immovable private property or enter into agreement with the said regions on the use of such property.
>
> (2) The transfer by the State of movable and immovable property referred to in the preceding subsection, may be effected, either at the request of regions or on the initiative of the State to enable them to carry out their missions, house (their) services or provide public facilities.
>
> Section 11: In accordance with the provisions of Section 10 above, the State may either facilitate the freehold by regions to all or part of the State's movable and

immovable private property, or simply grant these regions user rights over some of its moveable and immoveable property.

83. **The second category, "*Public* Property of the State"** refers to subsoil resources, airspace, public coastlands and waterways, as well as road reserves and other key infrastructure which is managed by the State. It encompasses both moveable and immoveable property, which is destined for beneficial public use, or for public services. *Natural* Public State property includes public coastlands (sea shores up to the area of high tides, shorelines at the mouths of rivers, the sea-bed and sub-surface of the territorial sea), public waterways (navigable and non-navigable rivers, wetlands, and lakes, natural ponds, and lagoons), as well as national airspace and sub-soil. *Non-natural* Public State property includes a multitude of allowances and reserve areas around publicly built infrastructure such as stipulated distances around roads and highways. It also includes the sites and associated reserves around facilities such as ports, railways, public telephony transmission lines, and public monuments. Public State Property does not lapse, cannot be sold or transferred, cannot be seized, and cannot be issued to private persons unless their initial public purpose becomes invalid. (*Sections 2 to 5, Ordinance No. 74-2 of 6 July 1974 to establish rules governing State lands*).

84. For this category of property, the 2004 Law on Regions provides that projects or operations of local interested initiated on public coastlands and waterways whether by the Region or private entities shall "require the authorisation of the Regional Council … upon the recommendation of the council where the project is located". (Section 12). And that for projects or operations initiated by the State on public coastlands and waterways, ether in its sovereign domains or for economic/social development purposes shall be done "after consultation with the Regional Council concerned", except where national defence or public order reasons dictate otherwise. (Section 13) Regarding *non-natural Public State property*, it is managed exclusively by the State and not by the Regions, although the State may transfer to Regions the management of ancient monuments (Section 15).

85. **The third and probably most important category of State property, is "National Lands".** National lands, which constitute by any measure the largest portion of lands in the country, are basically all lands in Cameroon which: **(a)** are *not subject to private ownership* (generally marked by an individual land title), and **(b)** do not otherwise fall into the above categories of *public* or *private* State property. However **(c)** an exception is created for tribal communities, their members, and any other person of Cameroonian nationality, who at the time Cameroon's land laws were adopted (July 1974) was in peaceful enjoyment of *effectively occupied land* (dwellings, farms, plantations, or grazing) – as those communities and persons may continue accessing such land, and eventually secure ownership titles thereto. (*Sections, 14, 15, and 17, Ordinance No. 74-1 of 6 July 1974 to establish rules governing*

land tenure). Apart from these exceptions "National Lands" therefore constitute a reserve, into which all residual lands fall. The above-mentioned Ordinance specifies that National Lands shall be managed by the State with a view to ensuring its rational use and development (Section 16).

86. Regarding the interface of Regions with the category of National Lands, the 2004 Law on Regions provides for a limited role. It states that where the State is initiating projects on national lands, it shall take its decisions "after consultation with the region concerned" (meaning whose territorial limits coincide with the land in question), in particular where the project is to be implemented in urban areas. (Sections 16 and 17, 2004 Law on Regions). *With* ***respect to projects that the Region itself may seek to initiate on the category of National Lands****, the 2004 Law simply states that "projects or operations to be initiated by a Region shall be established* ***in accordance with the land laws and regulations in force***". (Section 16(1)).

87. It is here that the 1974 Ordinance on land tenure assumes critical importance because it provides that with a view to ensuring the rational use and development of national lands "**Land Consultative Boards chaired by the administrative authorities and mandatorily including representatives of traditional authorities**" shall be established. In practice, these Land Consultative Boards are coordinated by the *Prefectorale* (appointed by the Senior Divisional Officer and chaired by the Sub-Divisional Officer). Their membership includes representatives of State technical departments and traditional authorities, to the exclusion of elected Regional and Local authorities. Therefore, **in the current state of the law, institutions of the Region are not involved in the rational use and development planning of the large National Lands reserve within Regions**. Given the changed role of these centrally appointed State services functionaries in the context of Special Status regions, it remains to be seen whether this arrangement would be tenable in such regions.

Domain 11: Labour Market, Employment, and Job-creation

88. The Labour Market and Employment constitutes a domain in which Special Status regions comparatively (around the world) have competence. This often permits such Regions to ensure fair employment policies which strengthen the access of their residents to employment in the private and public sector in the said Regions. Such regulations would, however, *need to take into account the need for reciprocity, and to encourage labour mobility and skills transfer* between the Special Status region, and the wider national and sub-regional economy into which it is integrated.

Domain 12: Agriculture, Agro-Industry, Forestry

89. Agriculture, agroindustry, and forestry constitute critical mainstays of the economic fabric of the Northwest and Southwest regions, which employ a high proportion of their population. The Regions have also been marked historically by significant agricultural and agro-industrial activities in commodity sectors (oil palm, rubber, tea, banana, cocoa, coffee), as well as forest logging activities. The granting of additional regional prerogatives in these areas would align with their economic attributes.

Domain 13: Consultation and/or Consent on Energy, Mining, and Hydrocarbons development within the Region

90. The **sectors of hydrocarbons (oil and gas) and potentially of energy and mining development in the Special Status Regions are potentially very contentious ones for multiple reasons**. There has often been very charged messaging in previous and current iterations of Cameroon's Anglophone crisis, on the issue of hydrocarbons revenue. This includes affirmations that despite being next to significant off-shore hydrocarbons formations (notably in the Rio Del Rey petroleum basin off Cameroon's southern Atlantic Ocean coast, which is next to the oil rich Niger Delta hydrocarbons formations in Nigeria), the said regions have not benefited from significant "derivation revenue", which is the term used to describe special allocations made to hydrocarbons production/extraction communities in States with significant revenues from this sector. (According to data published under the Extractive Industries Transparency Initiative, 90% of Cameroon's current production is in the said Rio del Rey basin).

91. While this is a politically controversial issue, **it is not one to be occulted, on pain of appearing not to address what is a stated or expressed grievance, which serves to further fuel a sense of animosity or injustice** in the affected Regions. It should be noted firstly, that compared to several countries in its immediate vicinity such as Nigeria, Equatorial Guinea, Gabon, Chad, and the Republic of Congo, **Cameroon is not economically as highly dependent on oil and gas (hydrocarbons) revenue**, since it has a relatively diversified economy (agriculture, services, light industry). In 2015, the entire extractives sector (hydrocarbons plus minerals) accounted for 5.43% of GDP, and 33.2 % of total exports. (Data available from the Extractive Industries Transparency Initiative: https://eiti.org/cameroon). Based on then prevailing high global crude oil prices, the **sector accounted for 20.7 % of all State revenue** (the annual State budget) in the financial year 2015. However, with dwindling or lower oil prices, the **sector accounted for 9.8% of all State revenue** in its 2019 annual budget.

92. Therefore, while certainly *significant*, hydrocarbons are not the only mainstay of Cameroon's economy; such single-resource dependence has also been analysed in development contexts to be not without its own drawbacks such as "Dutch disease" (crowding out of non-extractives sectors) and vulnerability to global price fluctuations. Furthermore (as the above data's availability indicates), Cameroon *already exercises transparency on its potentials and revenue from the extractives sector*, including hydrocarbons revenue. A studied effort should be undertaken on ensuring *intra-regional allocative equity in resource-distribution and expenditure*, which is itself a constitutional obligation of the State in the regionalisation process. Section 55(4) of the Constitution to ensure "harmonious development of [Regions and Local Councils] on the basis of national solidarity, regional potentials, and inter-regional balance".

93. Similarly, **energy (such as hydropower) potential** is clearly shared across several Regions of Cameroon. While the Northwest/Southwest regions have such hydropower potentials (Menchum/Katsina Ala), the entire Sanaga River basin across the East, Littoral, and Centre regions of the country have significant hydropower potential, *suggesting a mutual, national interest in developing capacity to plan and implement beneficial hydropower projects*, commensurate to Cameroon's standing as Africa's 3rd largest hydropower reserve, after the Democratic Republic of Congo and Ethiopia. It is therefore recommended that in this functional domain, the approach to adopt should be one of *cooperation, consultation, and consent*, on projects implemented in the Special Status region.

Domain 14: Regional road network and infrastructure, except roads designated as part of continental, sub-regional, national trunk highways

94. The construction and maintenance of the regional road network and transport infrastructure (except where they are part of national, sub-regional, or continental highway trunks) would appear to be a reasonable domain of regional competence, given its centrality and importance to the economic development of the Regions.

Domain 15: Residual areas, and joint process for additional transfers and review of domains of competence

95. It is commonplace in comparative practice on Special Status regions that a number of reserve areas are kept in which the transfer of competencies to the Special Status region may occur at a future date either upon its request, at the behest of State authorities, or by joint concertation thereon. These may include areas not deemed immediately transferable but which over time, may be suitable for assumption of competence by the said Regions.

[NOTE TO READER: HERE ENDS THE SECTION ON POTENTIAL DOMAINS OF SPECIAL STATUS REGIONS' COMPETENCE]

Principle 5: Revenue Allocation and Sharing Formula for the Special Status Regions

96. It is standard practice in processes for devolution of powers and domains of competence to sub-national tiers of government, that the transfer of responsibilities is accompanied by a transfer of resources. Comparatively, all Special Status arrangements around the world include *provision for a process to determine the financial needs, and to allocate revenue to the Special Status regions,* commensurate to the tasks and responsibilities they assume. These explicit revenue allocation arrangements agreed between the State and Special Status regions, provide for a *predictable entitlement, established in advance*, to funds required to discharge the Special Status region's obligations. They often include an equalization fund (pegged to a fixed percentage of annual State revenues) remitted to the Region, provisions on tax revenues accruing to the Region, and State taxation within the Region.

97. Cameroon's 2004 Framework Law on Decentralization provides on financing *for all of its regions*, that "any devolution of power to a regional or local authority shall be accompanied by the transfer by the State to the former, of all the necessary resources and means for the normal exercise of the power so devolved" (Section 7), and that the "resources required [by regions] to exercise their powers shall be devolved upon them either through a system of tax transfers, or ceded revenue" or both (Section 22). It should be borne in mind that Special Status regions will be impacted by both: (a) *'transfers' of responsibilities and related resources* to discharge them (where a given function is currently centrally handled, such as recruitment, payroll, career management of regional public sector teachers), and (b) *the assumption of 'new' or currently unmet tasks* for which there is no existing resource allocation.

98. Given the requirements of collaboration in order to budget, mobilise tax revenues, and allocate them, it is frequent comparative practice for a **joint mechanism to exist between the State and the Special Status region, to implement on an annual recurring basis, the formulas established for revenue-sharing and allocation** to the Special Status region. This joint body therefore reviews its budget projections and ensures the revenue allocation principles in the Special Status legislation or budgetary schedule/annex, are implemented and adhered to. Transparency in the budget process is critical.

Principle 6: Laws and Administrative decisions, Treaties and International Agreements contracted by the central Government on matters of interest to, and affecting the Special Status regions: State's Obligation of Consultation with and/or Consent of, the Regions

99. It is fairly common practice in States with regions in Special Status around the world, that when the central Government (Executive/Legislature) is considering **legislation, regulations, or administrative decisions** on a matter of particular interest to the Special Status region, or for application specifically in the said region, the latter's authorities have a right to be heard or consulted thereon.

100. It is an almost universal feature of Special Status arrangements around the world that **special consideration is given to those regions when the overall State is negotiating or contracting international agreements in particular of a nature that affect the vital interests of the said Region.** This is increasingly important in a context where Regional integration (into bodies such as the EU and CEMAC) constitute important sources of obligations for States and may have peculiar consequences on some of their regions. While the rationale for these arrangements varies between countries, *they are often intended to accommodate a specific interest or feature of the said region which may be compromised, if the State does not take into account that region's peculiarities, when it signs or commits under the international or supra-national treaty*.

101. This area is of particular relevance to Cameroon's Northwest and Southwest regions, which due to their linguistic peculiarity harbour a predominance of English speakers (English outnumbers French by a 5 : 1 ratio in both regions), whereas English is the lesser-used language countrywide (by a ratio of 1 : 2). When Cameroon enters sub-regional and international agreements that set supra-national legal standards directly applicable in Cameroon in areas such as **banking, financial markets, insurance, business law, bankruptcies, commercial arbitration, commercial freight, aviation law, and maritime law**, it is often doing so among sub-regional groupings of States in Central and West Africa (such as CEMAC and OHADA) which have a *predominance of French-speaking States*. Consequently, a significant number of regulations, directives, codes, supra-national court decisions, and procedures (applicable in Cameroon) from these bodies are not accessible on an equitable basis to Cameroon's English users.

102. For Cameroon, a useful approach would be to trigger the requirements of consultation/consent for the application of such treaties/agreements/standards in the Special Status region, when: (i) they constitute or have force of law, introducing new legal standards for direct application in the said regions, (ii) concern a matter

of special interest to the Special Status region, i.e. one included within its domains of competence, and (iii) when adopted by an international or sub-regional institution without English as a full working language.

103. Under regional Special Status arrangements, **a right of consultation/consent would condition, or delay the direct application of these instruments, upon the taking of measures to ensure that the regions in question can access these instruments on an equitable basis** with other citizens of Cameroon and of the wider sub-regional grouping. It is recommended that a two-step approach be implemented:

(i) At the onset of Special Status arrangements**, a comprehensive, benchmarking audit of Cameroon's participation in sub-regional, continental, international bodies or groupings** which produce binding, normative instruments or standards applicable in Cameroon should be conducted. The audit should **determine the accessibility of their standards, norms, directives, protocols, and internal processes and procedures in both of Cameroon's official languages** (except the rare cases where such an instrument is 'inherently' dedicated to promoting either official language, in itself).

(ii) This should be followed by the development of an **access mitigation plan for the official language that is under-served** (which is often but need not exclusively be English). The said plan should be costed, and resources for its execution earmarked and funded as a budgeted activity at public expense by the Special Status region. When such mitigation measures have been put into place, a Joint Process between the Special Status Region and the concerned sub-regional or international body *would certify to its Legislature, that the said international treaty standard is certifiably accessible* to be applied in the Region.

Principle 7: Ordering of Relations between the Special Status region and the State under national and international law

104. On supremacy and ordering of relations*,* **Special Status regions across the world remain a part of, and subject to the overall legal order of the Unitary State in which they are found**. The granting of Special Status to regions does not create a right of *external* self-determination (secession) for such regions: rather, it provides a considered mechanism for *internal* self-determination of the constituent Region or populations within the State. **Neither does the endowment of Special Status establish such regions as new 'subjects' of, or entities under international law. The sovereign central Government conducts the country's**

international and diplomatic affairs. The Special Status arrangements are embedded in national, constitutional law.

Principle 8: Representation of the State, and pursuit of State services in the region

105. As discussed above, comparatively Special Status arrangements involve a reciprocal representation of the State and the Special Status region in each other's frameworks. For the State, its Representative to the Region is typically a senior civil servant, appointed with the mandate to **coordinate the provision of domains that rest with the central State, within the region's territorial remit**. It is the practice in some States that the appointment of such a Representative is done in agreement with the authorities of the Special Status region, underscoring the relational dynamic of trust that the arrangement builds between the State and the Region.

106. Comparatively, the **selection of such Representatives also takes into account their knowledge and mastery of the issues that underly the specificities** of the said Region. The term employed for this State Representative (often designated as a *Commissioner, Representative,* or *Delegate,* as opposed to *Governor*) underlies the nature of their relationship with the Region and its authorities. They 'represent' the State in the entity, they do not exclusively 'govern' it. Conversely, Special Status arrangements comparatively provide for full representation of residents of the Region in the nationwide legislature, and for their participation in national elections, as do the rest of the country's citizens.

Principle 9: Dispute resolution mechanisms between the State and the Special Status Region

107. It is standard practice in regional Special Status arrangements around the world to provide **for a dispute resolution mechanism between the State and the Special Status region**, in particular disputes which may arise from conflicts over competence (jurisdiction) or other matters such as revenues. These mechanisms are often dual in character: (i) at a first *political or policy-maker-level*, a small Joint Body is established with an identical number of Representatives of the State and Special Status Region, which would examine such disputes at the request of either party, and (ii) at a *legal level*, the highest State court (Supreme or Constitutional Court) tasked with resolving disputes over competence between organs of the State, can be mandated with hearing and issuing decisions binding on the parties.

Principle 10: Territorial autonomy or self-management and non-Territorial, national-wide accommodation of specificities; protection of minorities

108. A final facet of to be considered in the crafting of arrangements to accommodate the specificities arising from the dual English/French heritage of Cameroon, is that there exist areas in which the demands for self-management of key sectors can be achieved through **territorial arrangements** (meaning carving out special attributes for specific regions of the country), but also areas in which **non-territorial arrangements** (that is, not specific or restrained in application to the Northwest/Southwest) may be necessary, in order to accommodate phenomena such as in-country migration or dispersal of persons that primarily use English for official purposes.

109. Firstly, the adoption of Special Status arrangements for the Northwest/Southwest regions *should not constitute a reduction of the overall incentive for the Cameroonian State to promote bilingualism*, and the use of the country's two official languages. Efforts to accommodate the variances that derive from the English heritage, applied nationwide (and not just in the Special Status regions) would also contribute to this objective.

110. A mundane, but no less persistent and frustrating area is as simple as **the ordering of names on civil status registration documents across the country**. Almost every Cameroonian with birth documents established in the Northwest/Southwest regions, has the experience of finding the order of their names, registered at birth in the pattern *"First/Christian/Religious Name, Middle Name, Parents Name"* immediately contested when they are establishing National Identity or Passport documents in the other Regions of the country. There, they are expected to present their names in the order "Surname/NOM, Given Names/PRENOM". The effect is that **Ms. ABC** (in birth documentation) becomes **Ms. CBA** in their National Identification documents. The result is frequent administrative rejection of their core personal status documents as revealing a 'conflicting identity' – requiring an additional administrative procedure known as the "*Certificat d'Individualité*" (Attestation of Names), to prove that Ms. CBA and Ms. ABC refers to the same person. A clear directive on mutual understanding about practices in documenting the order of names in both systems, would resolve uncountable hours of lost administrative time and frustration.

111. An additional important area is to **take into consideration minorities, including in the Special Status region**. The creation of such Regions, as an exercise in national inclusiveness to protect the Regions' heritage democratically, should not result in gross injustices to communities which may live within the Special Status

region, yet do not share its core specificities (such as primarily French-using communities in the two Regions). It will be important that the framework provides for measures of accommodation for these groups – while being respectful of the Regions' overall historic specificities.

Annex: List of comparative Constitutions, Legislation and specialist comparative publications consulted, on Special Status regions, and regional autonomy arrangements around the world (Publications available on File).

Constitutions Consulted (of States with Special Status Regions, Special Autonomous Regions, Special Administrative Regions)

- Mauritius (2016)
- China (2004)
- Greece (2008)
- Portugal (2005)
- Ukraine (2016)
- Italy (2012)
- France (2008)
- Finland (2011)

Legislation (Statutes, Acts of Parliament), Peace Agreements, Related Materials Consulted – instituting regional Special Status or autonomy arrangements

- Indonesia: Law No. 11/2006 on the Governing of Aceh, 1 August 2006

- Indonesia: Memorandum of Understanding between the Government of the Republic of Indonesia And the Free Aceh Movement, (Helsinki Agreement) 15 August 2005

- Finland: Act on the Autonomy of Åland (1991/1144), 16 August 1991

- Denmark: The Greenland Home Rule Act, Act No. 577 of 29 November 1978

- Denmark: Home Rule Act of the Feroe Islands, No. 137 of 23rd March 1948

- Italy: Special Statute for the Region of Trentino-Alto Adige, Constitutional Law No. 5 of 2 February 1948, and Presidential Decree No. 670 of 31 August 1972

- Italy: Special Statute for the Region of the Aosta Valley (Vallée d'Aoste), Constitutional Law No. 4 of 26 February 1948

- Italy: Special Statute for the Region of Sicily, Constitutional Law No. 2 of 26 February 1948

- Italy: Special Statute for the Region of Sardinia, Constitutional Law No. 3 of 26 February 1948

- Italy: Special Statute for the Region of Friuli-Venezia Giulia, Constitutional Law No. 1 of 31 January 1963

Selected Bibliography in the Fields of Comparative Political Science, Constitutional Law, and Conflict Mediation, on Autonomous or Semi-Autonomous Regions within Unitary States, and Special Status regions as a mechanism to resolve territorially centred conflicts within States

Note to access these materials:

(1) All publications mentioned that are *books or long monographs* are available on www.amazon.com, or www.amazon.co.uk.

(2) On content which was *published in scholarly journals*, a very cost-effective means of getting access to them is by subscribing to the JPASS Service under JSTOR, which is one of the world's leading academic research databases. Access conditions are listed here, https://support.jstor.org/hc/en-us/articles/115004675707-JPASS-Individual-Subscriptions-to-JSTOR. For 179 USD/year (105,000 XAF) a researcher can have access to thousands of journal articles (to read online), and download up to 120 journal articles, per year.

(3) Doctoral *Theses and Dissertations* cited, as well as *Publications by Research or Policy Institutes*, are generally available online.

Comparing Special Status regions or regional territorial autonomy arrangements

- *Sub-State Governance through Territorial Autonomy: A Comparative Study in Constitutional Law of Powers, Procedures and Institutions*, Professor Markku Suksi, Abo Academy University, Finland, (2011), 685 pp.

- *Territorial Pluralism: Managing Difference in Multinational States*, Professors Carlo Basta (Memorial University of Newfoundland, Canada), John McGarry (Queens University, Canada), Richard Simeon (RIP – formerly of University of Toronto, Canada), (2015), 364 pp.

- *Federacy: A Formula for Democratically Managing Multinational Societies in Unitary States* (65 pp), by late Professors Alfred Stepan (Columbia University, New York) and Juan Linz (Yale University) and Yogendra Yadav (Centre for the Study of Developing Societies, India), in "Crafting State Nations: India and other Multinational Democracies, (2011), 308 pp.

- *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights (Procedural Aspects of International Law),* Professor Hurst Hannum, Fletcher School of Law and Diplomacy, Tufts University, Massachusetts, (1990) 534 pp.

- *Asymmetric Autonomy and the Settlement of Ethnic Conflicts*, Professor Marc Weller (University of Cambridge) and Katherine Nobbs, (2010), 311 pp.

- *Minority Accommodation through Territorial and Non-Territorial Autonomy (Minorities & Non-territorial Autonomy)*, Professors Tove H. Malloy (European Centre for Minority Issues, Germany) and Francesco Palermo (University of Verona, Italy), (2015), 3019 pp.

The specific use of Special Status and regional autonomy arrangements to resolve territorially based conflicts

- Alexis Heraclides, *The Ending of Unending Conflicts: Separatist Wars*, Millennium: Journal of International Studies, Vol. 26, No. 3, pp 679 – 707.

- Alexis Heraclides, *Partition, Autonomy, Secession: The Three Roads of Separatism*, Cahiers d'Etudes sur la Méditerranée Orientale et le Monde Turco-Iranien, N° 34, 2002. Russie-Asie Centrale. La partition en question. pp. 149-174.

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- Laura Wise, *Territorial Power-Sharing and Inclusion in Peace Processes*, Political Settlements Research Program, School of Law, University of Edinburgh / PA-X Peace Agreement Database (www.peaceagreements.org), 2018.

- Marc Weller, *Settling Self-Determination Conflicts: Recent Developments*, European Journal of International Law Vol. 20 no. 1, 2009, pp 111 – 165.

- Rod McGibbon, *Indonesia - Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution?* Policy Studies No. 10, East-West Centre, Washington DC, 2004.

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