FOLLOW UP TO THE NATIONAL DIALOGUE ON THE ANGLOPHONE CRISIS

BRIEFING PAPER:

IS CAMEROON'S FRAMEWORK FOR ESTABLISHING ITS REGIONAL TIER OF GOVERNMENT, CONDUCIVE TO ACCOMMODATING A SPECIAL STATUS FOR ITS ANGLOPHONE REGIONS?

20 QUESTIONS AND ANSWERS

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Overall structure of relations between the State's centre and the Regions

1. **Under Cameroon's current laws, what are the specific powers that officials appointed by central authorities (Minister in charge of Regional and Local Authorities, Governors, Senior Divisional Officers) have over Regions and Local Councils? What is the level of internal, autoregulation that is afforded to Regions and Councils, as opposed to the level of control by central supervising authorities?**

The *supervisory* powers of the State over Regional and Local Authorities (RLAs) is exercised through the central Minister in charge of RLAs, and the State's Representative to RLAs, who are the Governor (for Regions) and the Senior Divisional Officer (for Local Councils), under section 67 of the 2004 Framework Law on Decentralisation – a function they exercise under the authority of the President of the Republic. These supervisory powers include both a *general power to guide* the functioning of RLAs, and more *specific monitoring powers* over RLAs' specific actions.

The *general power to guide the functioning of RLAs* grants to the central State supervisory authorities, a right to be kept informed of, and a right to intervene in, the activities of the RLAs. The *right to be kept informed* is manifested through the duty of RLAs to inform the Representative of the State on all activities they undertake, either systematically (under section 68(1) of the Framework law on Decentralisation) or upon request (under section 77 of the above-mentioned Framework law). Under the right to intervene, the supervisory authorities are directly involved in the day-to-day functioning of RLAs: such involvement being a condition for their functioning.

An instance of this is the supervisory authorities' **right to intervene** during the sessions of Regional and Municipal Councils, where the latter: (i) conduct deliberations outside their statutorily convened sessions, (ii) discuss a matter outside the functions transferred to them, or (iii) if there arises any instrument, action, or utterances that threaten the territorial integrity of the State, or national unity. Where this occurs, the State's Representative **may take any appropriate precautionary measures** (section 14 of the Framework law on Decentralisation). With respect to Regional Councils, the State's Representative is in effect required to **take appropriate measures to stop the meeting forthwith, and to institute legal proceedings against the erring Regional Councillors** (sections 8(1), 8(2), and 8(3) of the 2004 Law on Regions).

Specific monitoring powers entitle the supervisory authorities to scrutinize instruments and decisions adopted by RLAs for various purposes : based on their content (budgets, loans, international cooperation agreements, securities and shares, some types of public procurement); to ensure coherence between RLA's development and land use plans with the equivalent national plans; to halt RLA's patently unlawful decisions; or to carry out a required action in the stead of a defaulting RLA. These monitoring powers can be delineated into: (i) prior authorisation powers (such as section 70(2) of the Framework law on Decentralisation, and section 36(4) of the law on Local Councils), (ii) prior approval powers (such as section 70(1) of the Framework law on Decentralisation, and section 11 and 12 of the law on Local Councils), (iii) annulment powers (such as section 71(4) of the Framework law) and (iv) substitution powers (such as sections 31, and in particular section 91 of the Law on Local Councils).

2. **Under Cameroon's current laws, will Regions and Local Councils have exclusive areas of competence, meaning functions for which they will be solely responsible, to the exclusion of central State authorities? Can the competencies thus transferred be revoked (modified)? Do the Regions have a right of *primacy* on certain functional competencies, when such competencies are held *concurrently* with central State authorities?**

Read together, Section 55(2) of the Constitution and Section 15(1) of the Framework law on Decentralisation specify that the six (6) broad areas of competence transferred by the central State to Regional and Local Authorities (RLAs) are the following: *economic, social, health, educational, cultural and sports* development. The 2004 Laws governing Regions and Local Councils further delineate these areas of functional competence transferred to RLAs, by specifying within each of the six (6) areas mentioned in the Constitution, what specific tasks and functions therein have been transferred. (This is done in Sections 18 to 24 of the Law governing Regions, and in Sections 15 to 22 of the Law governing Local Councils).

Does the above-mentioned transfer of responsibilities give rise to areas in which the Regional/Local Authorities have exclusive competence, or does the Central State retain its competence, concurrently, in all these domains? Section 15 (1) of the Framework law on Decentralisation states as follows: "The powers devolved upon regional and local authorities **shall not be exclusive**. They shall be **exercised concurrently** by the State and the authorities, under terms and

conditions provided for by law." In all the domains concerned therefore, what exists is a regime of *shared competence*, which can result in a conflict between the RLAs and the State, in which case the State will resort to its sovereign prerogatives to establish a right of pre-eminence of jurisdiction, vis-à-vis the RLA. In other words, RLAs possess shared or concurrent jurisdiction with the central State, *with the State having overall pre-eminence.*

It is important to note that when a given jurisdiction or competence to act in a given domain is held *concurrently* by the central State and the regions**, the former enjoys primacy or a right of pre-emptive action, in the said domain.** The central State therefore has the *"final say"* over all functional domains, even those which have been transferred to the regions. This primacy is enshrined in Section 3(2) of the Framework law on Decentralisation of 2004 which 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*".

Furthermore, in the overall ordering of institutions, the central State is the guarantor of *"national interests"*, which override, and are distinguishable from "regional interests" and "local interests", which are the purview of regions and local councils, as recognised in sections 55(2) and 47(2) of the Constitution. The State may therefore, for reasons related to its sovereign prerogatives (such as public order or national security), or in pursuance of its right to "ensure the harmonious development of all the regional and local authorities on the basis of national solidarity, regional potentials and inter-regional balance" (section 55(4) of the Constitution) take back control of, or exercise its primacy to act, in any domain of powers transferred to RLAs.

The specific areas of jurisdiction transferred to RLAs **are not irrevocable**. They can be withdrawn or changed by subsequently laws adopted by the central State, modifying the specific provisions of the Laws pertaining to Regions and Councils that spell out the areas of functional competence transferred to them. On the time frame for the transfer of responsibilities to RLAs, this is subject to the **principle of progressive implementation**, specified in section 9(2) of the Framework law on Decentralisation. In providing no set timeframes or deadlines for achieving the transfer of responsibilities, the legislator has left the scheduling of devolution entirely to the discretion of the executive branch. In practice, the implementation rate of the effective transfer of the said functional competencies to Regions and Local Councils, has been low.

The Framework law on Decentralisation and the Laws on Regions and Councils (adopted in 2004, 8 years after decentralisation was instituted in the Constitution) outlined the specific functional competencies to the transferred and the mode of functioning of RLAs. In practice the transfer is occurring on a piecemeal basis, through the adoption of several sectoral regulatory instruments, each prepared by the central Cabinet Ministry currently in charge of the function to be transferred. These instruments provide specifications (to RLAs) of their terms of reference and methods of work, to execute the transferred function. The overall quantum of budgetary resources transferred to RLAs (and therefore the level of implementation of programs by RLAs) remains low.

Furthermore, while the central State and Local Councils have always been in existence, the additional layer for multi-level governance of the territory introduced in the 1996 Constitution (namely, the Regions) does not yet exist, since Regional Councils and the Regional Executive are not yet in place: the first regional elections to elect them are scheduled for 2020. Therefore, during the 15 years that the transfer of authority to RLAs has been legally regulated and possible, it has been limited to transfers *only* to the 360 Local Councils in the country, in the absence of the more substantial inter-governmental layer (Regions), thereby creating a power imbalance between the centre and the periphery. (The 360 Local Councils in the country run by elected Mayors are often of small size. The larger ones among them whose constituencies include major urban areas, have been placed under a special regime wherein they are run not by elected Mayors, but by a Government Delegate appointed by the central State).

3. **Based on the laws in force, will Cameroon's Regions be fully functional entities, endowed with their own administrative services and full-time staff, tasked with implementing and executing the programs that come under the Regions' areas of responsibility?**

Given that significant areas of functional competence have been devolved to regions in the economic, social, health, education, culture, and sports domains, the execution of these devolved tasks by Regional and Local Authorities (RLAs) will depend to some extent on their having an effective public administration at their disposal, to implement the different programs and mandates assigned to them. *A close examination of the applicable laws reveals a disparity*. On the one hand, the Framework Law on Decentralisation (2004) grants to RLAs the power to be freely administered and to freely recruit and manage staff required to accomplish their tasks. On the other hand, the Law on Regions (2004) is less clear on the extent to which regions shall have their own administration.

The Framework Law on Decentralisation specifies that RLAs 'shall be endowed with administrative and financial autonomy for the management of regional and local interests' and 'shall be administered freely' (sections 4(1) and (2)). It specifies in particular that 'regional and local authorities shall freely recruit and manage staff needed for the accomplishment of their missions, in accordance with the laws and regulations in force' (section 19(1)), while leaving open the possibility that civil servants and other government employees may be transferred or seconded to RLAs upon the latter's request. Sections 30 and 31 provide that RLAs 'shall have their own budgets, resources, patrimony, public and private property, as well as staff', and 'shall have their own services, and, as and when necessary, receive assistance [from central State services in the region]'. Section 80(1) further provides that pending the RLAs having their own resources, deconcentrated central State services or parts thereof whose functions have been transferred to RLAs shall themselves progressively be transferred to RLAs, on the recommendation of the National Decentralisation Board.

The Law on Regions, with respect to structuring them for their functioning, provides that the Regional Council shall meet in ordinary session 4 times per year (in sessions of 8 days each, except for the budgetary session which may last up to 15 days – section 31(1)); that the Council shall have 4 Committees whose remit broadly corresponds to the functional responsibilities devolved to regions (section 33(1)); and that the Region shall have a Chief Executive (the President of the Regional Council), assisted by a Bureau (section 60).

For the preparation and enforcement of decisions of the Regional Council, this law provides that its President may have recourse to the personnel of central State services in the region pursuant to an agreement signed with the State Representative in the region (the Governor) *spelling out the conditions under which the Region shall defray the costs of such services rendered* (section 66(1)). Section 66(2) further provides that the President of the Regional Council may grant a delegation of signature *to the officers in charge of central State services* in the region, in order to discharge duties assigned to them pursuant to the above-mentioned agreements with the State Representative. On the issue of the regions' own staff, this law only provides that in the absence of a separate instrument, the recruitment process, compensation, and career profile of regionally recruited staff shall be equivalent to the same for central State recruited staff (section 92).

Finally, it provides that 'the secretary-general of the region shall run the services of the regional administration, under the authority of the Regional Council's

President' or as per the above-mentioned delegations of signature (section 68(2)). However, despite being placed under regional authority, section 68(1) provides that 'The President of the Republic shall appoint the secretary-general of the region *upon the recommendation of the minister in charge of regional and local authorities*. He shall terminate such appointment'.

Instead of progressively granting to the Regions their own administrative services, the law on regions appears instead to increase their dependence (for purposes of executing their programs) upon central State services located in the region. In legal terms, the *framework law* on decentralisation (which enshrines the principles of free administration of regions, and their recruitment of staff to accomplish their functions) is only a law of general content which defines the broad principles and policy directions in a given area. The details of these policies are specified in subsequent texts, including of a regulatory nature, as defined by the Executive branch. On this issue, it is more than likely that on the issue of regions' staff and administrative capacity, the approach of the specific text (the law on Regions) will prevail over the general text (the Framework law).

4. **Do the Constitution and Laws of Cameroon allow the taking into consideration of the specificities of certain Regions, with respect to how those Regions are organized and function? Have any Laws or Regulations been adopted which accommodate or take these specificities into account, in the functioning of Regions?**

At issue here is whether Cameroon's legal framework pertaining to its regions applies as a uniform whole to all of its regions, or whether the regime can be adjusted to take into account the specificities of some regions. Section 62 of the Constitution provides the answer in enunciating a principle, and an exception, as follows:

> '1. The aforementioned rules [Sections 55 to 61, Part X of the Constitution] shall apply to all regions.
>
> 2. Without prejudice to the provisions of [Part X of the Constitution, which lays down rules applicable to Regional and Local Authorities], the law may take into consideration the specificities of certain Regions with regard to their organisation and functioning.'

In other words, while establishing a general legal framework that constitutes the irreducible core of rules governing Regions, the Constitution *does not forbid the*

legislator from taking into consideration the particularities of certain regions in adopting subsequent legislation under the Constitution.

These provisions therefore do not exclude some degree of **asymmetry** with regard to the functioning of Cameroon's regions. However, to date, *no legislation has been adopted that takes advantage of, and implements this possibility offered by the Constitution, to take into account the specificities of particular regions*. It is to be hoped that this constitutional provision will be heeded to in the process of actual establishment of the regional layer. The Senate, which under the Constitution 'represent(s) the regional and local authorities' (section 20(1)) would have a particular role in this regard, including through the use of its powers to propose or to amend legislation.

The Use of Cameroon's Official Languages between its Regions

5. How many Cameroonians are actually bilingual in Cameroon's official languages (English and French)?

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

Data Source: Cameroon's Central Bureau of the Census and Population Studies, 3rd General Population and Housing Census, 2005.

Census data on bilingualism: 45 years after reunification (in 2005, when the 3rd and most recent General Population and Housing Census was conducted), of the total population aged 15 years and above, only 12 % were bilingual in English and French. The overall level of illiteracy with respect to *both official languages*, meaning persons who can read or write in neither English nor French, stood at 30 % of the population. Therefore the 'effective' population with the *prospect* of being

bilingual, i.e. acquiring the second language was 70 % of Cameroonians. However, persons who can read or write *in only French or English* make up 58% of the total population. Thus, monolinguals (persons who can use only one, but not the other official language) make up 83% of the *officially literate* population of Cameroon. As at 2005 (the last census), 45 years after reunification, only 1 in 5 literate Cameroonians had learnt the other official language. (NB: In the 14 years since the last census in 2005, due to globalization, there has been an increase in English language learning, including cross-enrolment by French-speaking parents of their children into the English educational system. New census data may reveal improvements in bilingualism levels).

6. **Is it known how many Cameroonians speak or use which of the official languages of the country in its different regions? Does Cameroon regulate the use of its official languages in the provision of public or State services based on the number of users of either official language in the concerned area?**

Cameroon's most recent census data (presented in the table below) reveals that each official language remains predominant in the regions where historically (prior to reunification) it was most spoken. As such (and given that some persons are bilingual, i.e. use both languages), in the historically English-speaking Southwest regions the **ratio of English to French use is 76 : 18 per cent**, and in the historically English-speaking Northwest region, the **ratio of English to French use is 69 : 13 per cent** *shaded in olive green.* In all the eight other regions of the country, the ratios of *French to English* use show similar preponderance – **88 : 23 in the cosmopolitan Centre region**, and **87 : 24 percent the cosmopolitan Littoral region**, and as low as **34 : 5 percent in the North region**, and **65 : 7 percent in the East** region.

This data shows that cross-penetration of the second (that is, lesser-used) official language has occurred in all the regions. Yet, despite policy-makers' objective of a *personality*-based bilingualism of citizens throughout the country, the preponderance of official language use still largely follows geographic or *territorial* lines: *there remain significant concentrations of users of one official language in given parts of the country.*

Cameroon: Distribution of the Population aged 15 years and older, by region, and literacy level in the Official Languages (OL)											
Source: General Population and Housing Census, 2005.											
REGION	French & English	English only	French only	Illiterate in OL	Not declared	TOTAL	Literate in OL	% bilingual in OL	% illiterate in OL	% using French (+ bilingual)	% using English (+ bilingual)
ADAMAWA	30,864	7,809	151,924	260,934	10,181	461,712	190,597	7%	57%	40%	8%
CENTRE	378,114	57,611	1,281,149	162,188	7,142	1,886,204	1,716,874	20%	9%	88%	23%
EAST	27,437	2,930	240,942	139,885	2,843	414,037	271,309	7%	34%	65%	7%
FAR NORTH	63,595	8,399	393,032	1,048,153	19,227	1,532,406	465,026	4%	68%	30%	5%
LITTORAL	300,494	88,973	1,129,205	111,644	5,274	1,635,590	1,518,672	18%	7%	87%	24%
NORTH	39,973	4,463	249,831	542,173	22,026	858,466	294,267	5%	63%	34%	5%
NORTHWEST	81,210	576,487	39,896	254,534	4,327	956,454	697,593	8%	27%	13%	69%
WEST	99,040	23,571	584,384	213,074	7,139	927,208	706,995	11%	23%	74%	13%
SOUTH	47,340	11,034	286,902	42,809	542	388,627	345,276	12%	11%	86%	15%
SOUTHWEST	96,939	502,631	44,068	134,270	6,867	784,775	643,638	12%	17%	18%	76%
TOTAL	**1,165,006**	**1,283,908**	**4,401,333**	**2,909,664**	**85,568**	**9,845,479**	6,850,247	12%	30%	57%	25%

Cameroonian bilingualism: Urban/Metropolitan vs. Rural (GPH Census, 2005)								
	French & English	English only	French only	Illiterate in OL	Not declared	TOTAL	Literate in OL	% bilingual
Urban Cameroon	925,318	663,684	2,877,125	685,655	23,912	**5,175,694**	4,466,127	18%
Rural Cameroon	239,688	620,224	1,524,208	2,224,009	61,656	**4,669,785**	2,384,120	5%
Mfoundi (Yaounde)	298,837	46,171	784,371	53,563	4,827	**1,187,769**	1,129,379	25%
Wouri (Douala)	253,909	64,818	901,944	53,558	1,757	**1,275,986**	1,220,671	20%

Data Source: Cameroon's Central Bureau of the Census and Population Studies (*Bureau Central des Recensements et des Etudes de Population*), 3rd General Population and Housing Census, 2005.

On regulation of the use of its official languages: Cameroon *does not regulate through any legislation or regulatory instrument where each of its official languages should be used as the predominant language*. Whereas other bilingual or multi-lingual countries have legal or regulatory frameworks that govern which of their official languages should be used as the primary language for the provision of public/State services in specific regions or territorial units (called the territorial approach to bilingualism), Cameroon has instead adopted an approach which *considers that both official languages can be used anywhere across the national territory* (a personality approach to bilingualism). This is reflected in Article 1.3 of the Constitution, which provides, inter alia that: 'the State shall guarantee the promotion of bilingualism *throughout the country*'. However, given the above data which show low levels of bilingualism in both the *citizenry (12%) and the public administration*; twice as many users nationally of French (58%) as English (25%); and patterns of variation of official language use between its regions, opportunities abound for a language mismatch between citizens and State institutions.

7. **In Cameroon, is there a formal framework for taking into account linguistic ability (capacity to speak, read, write, and understand either or both official languages) in the deployment of State personnel across the country?**

Cameroon's central administration has issued several circulars applicable to civil service departments (Ministries) as well as State-owned public and commercial institutions, which govern the practice of bilingualism within these institutions, and in their interaction with the public. In principle, these texts provide that Cameroon's public administration, notably when it interacts with the public, **must** be bilingual in the official languages. Illustratively, the Prime Ministerial Circular No. 001/CAB/PM of 16/08/1991, on Bilingualism in State Services and State-owned Institutions, stipulates in its operative paragraphs 1 and 2, that:

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

However, Cameroon does not have a clear legal or regulatory framework governing the *language requirements for civil servants and public sector employees posted to various regions of the country* (despite the demographic data indicating significant variations in official language use between parts of the country). As a result, the above rule regulating language use between citizens and the public administration is very rarely respected across the Northwest and Southwest regions. Key public service departments such as the *Traffic and Highway Police and Gendarmerie* routinely stop road users and address/conduct their verifications in French, while *judicial police complaints, depositions, and interrogatories* are conducted in French – in regions with a 5: 1 English: French use ratio, meaning 80% of the population use English.

The posting to the two regions of *school teachers* and *judicial personnel* (Judges, Prosecutors) who could only work predominantly in French, which started a few years prior to 2015, was therefore the proverbial last straw that broke the camel's back, unleashing a wave of protest by English-speaking teacher and lawyer unions, and sparking of a series of events that has resulted in the current deadly crisis.

8. **In defining the functions of the regions (under Part X of the Constitution, and the 2004 Law on Regions), is a region in Cameroon entitled to regulate which official language shall be *principally* used to deliver public services within the said region? What do the laws provide as the Regions' functions in the area of languages?**

It should be recalled that the legal framework applicable to regional and local authorities enshrines the principle of *strict confinement* of RLAs to the specific functions and competencies devolved to them. This includes section 57(1) of the Constitution which provides that a regions' organs '*shall function within the framework of powers transferred to the Region by the State'*; Section 14 of the Framework Law on Decentralisation which provides that *no RLA shall deliberate on matters outside its jurisdiction* on pain of nullity of its decisions, and Section 8 of the Law on Regions, which provides that *where a Regional Council deliberates on a matter outside its jurisdiction*, the State's Representative (Governor) shall immediately put an end to the Council session.

The laws governing the devolution of powers and functions to Cameroon's regions make no reference among such powers, to the regulation of use of the country's official languages. This area *is therefore excluded from the powers of regions*. The regions therefore have no legal basis under which to regulate the use of official languages, in proportion to the number of *effective users* of the said languages

within their geographical area of responsibility. This approach is in pursuance of the approach to bilingualism applied in Cameroon, which is based on the **personality or individual** principle, as opposed to the **territorial** principle. Under the said approach, the official languages of Cameroon are destined to be used equally and indistinctly everywhere in the country, irrespective of the specific region or location. This ambitious approach, however, faces the hurdle of not taking into consideration the official language that is preponderant in a given region, nor the languages used by users of public services.

In respect of languages, the power devolved to regions, under section 24(b) of the Law on Regions, is limited to '*the promotion of national languages*.' In this respect, the regions have powers to encourage functional fluency in national languages, map national languages in the region, support publishing, and develop print and broadcast media in national languages, and build facilities and infrastructure for the sustenance of the said languages.

Dual education sub-systems and Regions' powers in domain of Education

9. Under Cameroon's laws, is there recognition of the existence of dual education sub-systems? Does this recognition extend to all educational levels including tertiary, higher education (Universities)?

The Framework Law on Education in Cameroon (Law No. 98/004 of 14 April 1998) which covers nursery and primary, secondary grammar, secondary technical, and nursery / primary-level teacher-training schools, provides as follows:

> **Section 15:**
>
> (1) The educational system is structured into two sub-systems: one Anglophone, and the other Francophone, through which the national policy of bi-culturalism is affirmed'.
>
> (2) The above-mentioned sub-systems shall co-exist, with each maintaining its specificity as to its methods of assessment and certification'

Organisationally, these two education sub-systems are centrally managed under the auspices of the Ministries in charge of Basic (nursery, primary) and Secondary Education respectively. The central services of these Ministries are responsible – with respect to both of these sub-systems – for the development of the school

curriculum, and the management and posting of teachers in public (State-owned) schools.

An exception has been carved out for the management of some secondary school examinations in the two educational sub-systems, which are managed respectively by the *General Certificate of Education (GCE) Board* for the English sub-system, and the *Office du Baccalauréat* for the French sub-system. However, this differentiated management is not universal: the scope of examinations within the purview of the GCE Board and the Office du Baccalauréat is limited to secondary education (to the exclusion of primary education). And even for the French educational sub-system, some examinations like the BEPC remain managed by the central Ministry's Department of Examinations and Certification.

The scope of the above-mentioned 1998 Framework law on Education *does not extend to all tiers of education*: it only covers nursery, primary, secondary, and primary-level teacher-training schools, and does not cover higher (tertiary) or university education. The Framework law on Higher Education (Law No. 2001/005 of 16 April 2001) does not institute a binary distinction between educational sub-systems in English and French.

In the past, there have been attempts on an experimental basis for students (notably at secondary level) to undergo an overlapping and combined school curriculum, under which they would pursue studies and sit for examinations in both educational sub-systems in English and French. However, these attempts have not been extended to the educational system in general, often due to the lack of buy-in and support among stakeholders (parents and teachers).

10. **Do we have data in Cameroon, on the *preponderance* of use of the French and English sub-systems of education (in primary and secondary education) across the country's Regions? What does this data indicate about the *preponderance of enrolment* in these two sub-systems, *between* the country's regions?**

Yes. Cameroon's Ministries in-charge of primary and secondary education keep data on both the **demand** for schooling in the French and English educational sub-systems respectively (through the number of students enrolled), and the **supply** of school facilities which offer programs in the two education sub-systems. The charts below show data for enrolment in both sub-systems at the *secondary education* level for the academic year 2013-2014, which was *before* the onset of the current crisis, and its resulting dislocation of the education system in both regions.

An evident first observation is that the data shows a **substantial, and often overwhelming preponderance** of each education sub-system in the regions where it was first implanted in Cameroon – and underscores how deeply the formal education system (which is only conducted in these 2 languages) is tied to the composition of its regions, along the English/French marker.

Data source: Statistical Yearbook, Cameroon Ministry of Secondary Education (MINESEC) 2013-2014.

Table 20:
Secondary Grammar Education - Overall National Enrolment
Distribution of students by region and sex

Region	Girls	Boys	Total	%
Adamaoua/ Adamawa	18790	31625	50415	3.24%
Centre/Centre	168353	164476	332829	21.39%
Est/ East	22195	28328	50523	3.25%
Extrême Nord/ Far North	46043	110881	156924	10.09%
Littoral/Littoral	139252	127832	267084	17.17%
Nord/ North	26917	59466	86383	5.55%
Nord Ouest/Northwest	98468	76029	174497	11.21%
Ouest/ West	125603	111660	237263	15.25%
Sud/ South	30521	32079	62600	4.02%
Sud Ouest/Southwest	73237	64188	137425	8.83%
Total			1555943	100.00%

Table 390:
Distribution of Public and Private General Secondary Schools by region and Sub System - Country Overview

Region	French Secondary	English Secondary	'Bilingual' Secondary	Total
Adamaoua/ Adamawa	73	3	20	96
Centre/Centre	448	22	89	559
Est/ East	97	0	13	110
Extrême Nord/ Far North	231	0	18	249
Littoral/Littoral	164	6	96	266
Nord/ North	109	2	14	125
Nord Ouest/Northwest	1	248	54	303
Ouest/ West	192	2	82	276
Sud/ South	126	0	15	141
Sud Ouest/Southwest	4	201	34	239
Total	1445	484	435	2364

Table 673:
2014: Number of Students Registered for the GCE Advanced Level (of the English sub-system)

Region	Candidates Registered	%
Adamaoua/ Adamawa	233	0.50%
Centre/Centre	5162	10.97%
Est/ East	156	0.33%
Extrême Nord/ Far North	104	0.22%
Littoral/Littoral	3738	7.95%
Nord/ North	189	0.40%
Nord Ouest/Northwest	19969	42.45%
Ouest/ West	1687	3.59%
Sud/ South	114	0.24%
Sud Ouest/Southwest	15689	33.35%
Total	47041	100.00%

Table 23:
English Grammar Secondary Education
Distribution of students by sex and region

Region	Girls	Boys	Total	%
Adamaoua/ Adamawa	2049	2331	4380	1.11%
Centre/Centre	16506	15043	31549	8.03%
Est/ East	1691	1647	3338	0.85%
Extrême Nord/ Far North	1105	1211	2316	0.59%
Littoral/Littoral	16532	13890	30422	7.74%
Nord/ North	1062	976	2038	0.52%
Nord Ouest/Northwest	95075	73099	168174	42.81%
Ouest/ West	9561	9148	18709	4.76%
Sud/ South	1434	1292	2726	0.69%
Sud Ouest/Southwest	68967	60209	129176	32.88%
Total	213982	178846	392828	100.00%

Table 57:
French Grammar Secondary Education: Public and Private
Distribution of students by sex and region

Region	Girls	Boys	Total	%
Adamaoua/ Adamawa	16741	29294	46035	3.96%
Centre/Centre	151847	149433	301280	25.90%
Est/ East	20504	26681	47185	4.06%
Extrême Nord/ Far North	44938	109670	154608	13.29%
Littoral/Littoral	122720	113942	236662	20.35%
Nord/ North	25855	58490	84345	7.25%
Nord Ouest/Northwest	3393	2930	6323	0.54%
Ouest/ West	116042	102512	218554	18.79%
Sud/ South	29087	30787	59874	5.15%
Sud Ouest/Southwest	4270	3979	8249	0.71%
Total	535397	627718	1163115	100.00%

Table 214
English Technical & Vocational Secondary Education

Region	Commercial	Industrial	Total	%
Adamaoua/ Adamawa	0	0	0	0.00%
Centre/Centre	191	1750	1941	2.08%
Est/ East	0	0	0	0.00%
Extrême Nord/ Far North	0	0	0	0.00%
Littoral/Littoral	6690	4639	11329	12.11%
Nord/ North	0	0	0	0.00%
Nord Ouest/Northwest	18827	30989	49816	53.26%
Ouest/ West	0	0	0	0.00%
Sud/ South	0	0	0	0.00%
Sud Ouest/Southwest	10577	19878	30455	32.56%
Total	36285	57256	93541	100.00%

Table 244
French Technical & Vocational Secondary Education

Region	Commercial	Industrial	Total	%
Adamaoua/ Adamawa	6327	7406	13733	3.92%
Centre/Centre	24822	55741	80563	22.98%
Est/ East	7635	12332	19967	5.70%
Extrême Nord/ Far North	6527	13854	20381	5.81%
Littoral/Littoral	30107	53161	83268	23.75%
Nord/ North	11280	14131	25411	7.25%
Nord Ouest/Northwest	0	0	0	0.00%
Ouest/ West	19410	52824	72234	20.60%
Sud/ South	11260	23775	35035	9.99%
Sud Ouest/Southwest	0	0	0	0.00%
Total	117368	233224	350592	100.00%

Succinctly, the charts above indicate the following:

- The *supply* of secondary educational facilities across the regions overwhelmingly follows the French/English marker. While all regions have a supply of schools which offer both French and English sub-systems within the same establishment (termed 'bilingual' schools), **schools that offer only 1 sub-system (French or English) are located almost exclusively in the regions where the said language predominates**.

- **75% of all learners** in the country's English secondary education sub-system (in the general/classic education track) were in schools in the Northwest (NW) and Southwest (SW) regions; an additional 15% of these learners were in the cosmopolitan Centre and Littoral regions. Logically, schools in the NW and SW provided **75% of the candidates who registered** for the General Certificate of Education (GCE) Advanced Level examinations which mark 7 years of secondary education. (NB: Some of these candidates were boarders, whose primary/family residence was outside the NW/SW).

- Conversely, **98.8 % of all students** enrolled in the French secondary education sub-system (in the general/classic education track) were in schools located in Cameroon's 8 regions where French is the predominant official language. Schools in the Northwest and Southwest regions accounted for **only 1.2 % of the national total** of students enrolled in the French secondary education sub-system.

- The outlook is even starker for secondary education in the vocational and technical track. In the English-based technical and vocational education system, **85% of the national total of learners** were in schools in the NW and SW, with an additional 12% in the cosmopolitan Littoral region. Six regions of the country (Adamawa, East, Far North, North, West, and South) **did not have a single student** enrolled in the English technical and vocation system. In French technical and vocational education, **100% of the learners** were enrolled in schools outside the NW and SW, which had no student enrolled.

- In conclusion, there is a **strong regional predominance of the respective education systems in their areas of historical use**, despite some cross-regional penetration in particular in the larger, cosmopolitan, urban areas. It is not surprising therefore, (for instance, with respect to the English

educational sub-system), that there are **strong centrifugal pressures from educational stakeholders** in the NW and SW regions to have greater control over, and to manage the English educational sub-system's curricular orientation, its systemic development, and its workforce (teachers). The reason advanced is often to secure that sub-system's *integrity from unplanned influences* from the (demographically larger) French educational sub-system, when both are centrally managed at the national level.

11. **Under Cameroon's 2004 Law on Regions, are Regions entitled to be involved in the *substantive management of educational systems* (educational content or curriculums) offered by schools in their remit – in coordination or cohesion with national education policies?**

Education is one of the areas in which powers are devolved by the State to Regional and Local Authorities, including the regions. *Within the rubric of education, the specific competencies which are devolved* to them, are specified in the 2004 law on Regions. Section 22 of the said law, which lists out the specific competencies devolved to regions in this sector, *does not envisage their involvement in the management of educational curricula or content*. Section 11 (1) of the 1998 Framework law on Education assigns to the (central) State authorities, the responsibility to establish the goals, and overall guidance on national curricula for education and training.

The above-mentioned section 11(1) provides that the development of curricula, and the adoption of overall guidelines on education should be done 'in conjunction with all relevant sectors of society', which could have constituted an opening for the eventual involvement of regions in this domain (at least those that express a particular desire to be proximately involved in the management of educational systems, prevalent in their sphere). However, in their current form, *the laws do not provide for RLAs to be represented in the consultative bodies established to support the central education authorities in discharging their mandates*. These include the National Council on Education, the National Learning Materials and Textbook Approval Board, and the National Commission on Curricula and Certifications. Currently therefore, regions are excluded from responsibilities in the management, of substantive follow-up of educational curricula and content destined to be taught within their geographical remit.

12. **Under the 2004 Laws on Regions/Councils, do they have responsibility for the *recruitment, posting, and career management of teaching personnel* (teachers) in public-owned schools within their remit? What is the scope of the powers in the education sector assigned to Regions (for secondary schools) and Local Councils (for nursery/ primary schools)?**

The 2004 laws on Regions and Local Councils assign to these authorities as powers devolved to them: 'creating, equipping, managing, and maintaining' government high schools and colleges in the region' (section 22 (a), Law on regions), and 'setting up, managing, equipping, and maintaining' the council's nursery, primary, and pre-school establishments (section 20(a), Law on local councils). However, the concept of 'management' of schools by Regional and Local Authorities is nuanced. For instance, RLAs only *'participate'* (with central State services) in the procurement of school supplies and equipment, and in the administration of schools in the region, through forums for dialogue and consultation.

Career management for teachers (teaching personnel) in schools in excluded from the functional areas of competence devolved to the regions. According to the relevant provisions, Regions are only responsible for recruiting and paying the support staff of State high schools and colleges (section 22 (a), 3rd line, Law on Regions), while Local Councils are only responsible for recruiting and managing the back-up (support) staff of council nursery, primary, and pre-schools. RLAs therefore do not partake in the staff deployment chain for teaching personnel in public schools, from nursery to high schools, be it in their recruitment, posting, or evaluation.

13. **Under Cameroon's laws, does a region of Cameroon, if it finds public demand and resources to do so, have the functional competence/ jurisdiction to *create and operate a University* (institution of tertiary or higher education), if the proposed institution otherwise meets the national higher education accreditation standards?**

At issue here, is determining whether there exists a legal basis for the creation and management of Universities by Cameroon's regions. Under current laws, the answer would appear to be in the negative, given the 2004 law on regions does not devolve this power to the regions. In listing the specific areas in which powers are devolved in the education sector (to Regions and Local Councils), the 2004 laws limit such devolution to the pre-school, nursery, primary, and secondary education levels. Since the said enumeration is exhaustive, the non-inclusion of tertiary

(higher) education is tantamount, prima facie, to the exclusion of that educational level from the areas of functional competence of Regional and Local Authorities.

However, it should be noted that the Framework Law on Higher Education (Law No. 2001/005 of 16 April 2001) provides for the involvement of Regional and Local authorities in various ways, in the implementation of national higher education policy. It envisages that RLAs: shall participate in the development and the implementation of the national higher education policy (section 7(2)); shall be among the actors involved in the roll-out and deployment of universities, in line with the National Higher Education Development Plan (section 8(1)); may participate in defining study and training programs, evaluating knowledge levels, and funding specific fields of study (section 16); and that they may participate through financial support (section 19(2)), or through other means (section 28(2)) in the running of State Universities.

Dual legal practice cultures and access to sub-regional legal bodies in English

14. Does Cameroon have sectors in which the laws that apply in certain regions of the country are different from those that apply in other regions? Does Cameroon have a permanent, statutory body comprising representation from its two legal practice cultures (Romano-Germanic law and Common Law), which meets to undertake the preparation of new uniform, nationally applicable laws?

The transition in 1972 from a federal to a unitary State should in principle have established the *unification of laws applicable* in Cameroon, as a tributary of the principle of a unified legal order which is a characteristic of unitary States. However, anticipating that putting in place this new national legal order, the Constitution of 2 June 1972 which established the unitary State, and the constitutional revision of 1996 both provide in their transitional provisions (in sections 38 and 68 respectively), that:

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

Through these provisions, Cameroon's Constitution keeps in force not only laws which were *adopted during* the existence of federated States (East Cameroon and West Cameroon) between 1961 and 1972, but also laws that *were inherited and introduced into legal architecture of these entities before independence*. It is these laws that introduced Romano-Germanic law and Common law into the body of laws applicable respectively in these two parts of the country. In the part under French administration, a decree of 22 May 1924 extended to it the laws applicable in French colonies of French Equatorial Africa (*l'Afrique Equatoriale Française*). In the part under British administration, the Southern Cameroons High Court Law of 1955 introduced the common law, rules of equity, and Statutes (parliamentary-adopted legislation) of general application in force in England, as at 1900.

The provisions constitute the basis for having carried forward the distinction between Romano-Germanic Law and Common law principles in the areas of law which are yet to be harmonised in Cameroon, which are principally: the law of Contracts; the law of Torts (delict); Equity and Trust; the law of Evidence; Civil Procedure, and certain aspects of Family law. In these areas therefore, the body of law applicable in Cameroon is different, depending on whether one is in the 2 predominantly anglophone regions, or in the 8 predominantly francophone regions.

Beyond the presence of the constitution's transitional provision which provides the basis for carrying forth dualism in the national legal order, the real challenge lies in the long period during which it has been maintained. In opting for a unitary State, *the 1972 Constitution was opting for a unified corpus of law applicable all over the national territory*. The said transitional provision was therefore intended to be temporary, pending the effective and complete harmonisation of national laws. The effectiveness of the said process of harmonisation must therefore be examined. In order to be viable, a harmonisation process must take into account the specificities of the two systems and be conducted through a process that involves professionals and representatives from the two legal systems and cultures. Only such an approach can guarantee the emergence of uniform national laws that are applied without hesitation on each side of the legal divide. Yet, it should be noted that Cameroon *does not have a joint and statutory body* which would provide the setting for such crafting of national laws.

15. Is Cameroon the only country that has such dualism of legal cultures within its territory? In other countries that have this legal feature, what are *the legal tools or techniques* that those countries use to ensure that their laws reflect, and once adopted, have the same effect and application under both legal cultures? Does Cameroon have a department or body within its justice sector institutions dedicated to this task?

No, Cameroon is not the only country. There are many countries around the world that host 2 or more legal systems within the same country. (See: *Map of Legal Systems in the World*). When a country hosts two major legal systems, it is referred to as *bi-jural*. **Mauritius** is an example of a country that hosts both the French (Romano-Germanic) and English Common Law systems *within the same judicial system*. It acquired these legal systems due to being under colonial rule for 100 years by France (1710 to 1810) and for 158 years by Britain (1810 to 1968). Through a deliberate national effort, Mauritius has achieved a *mixed system* of French (Romano-Germanic) and English Common Law: it applies *both* a Napoleonic *Code Civil*, and the English principle of judicial precedent, or Judge-made law.[1]

Canada is another example of a country that hosts both Romano-Germanic French Law (applicable in Quebec) and English Common Law (applicable in Canada's 12 other provinces and territories). The French-inspired civil law tradition is the demographically smaller legal system in Canada, applicable in Quebec which hosts 23% (8.3 million inhabitants) of Canada's total population of 36 million. Since Canada's nationwide (federal level) law which has to apply in Quebec, has historically been dominated by the larger English Common Law influence, a number of measures have been taken to ensure balance and prevent the erosion and assimilation of civil law. *Of the nine (9) Judges who serve on Canada's Supreme Court, three (3) must be appointed from Quebec* – which practices the French civil law tradition.[2] Canada's Ministry (Department) of Justice, which is the Government's principal legal advisor in the drafting of all major legislation in the country, has *adopted a Policy on Legislative Bi-juralism*. This policy ensures that all lawyers and citizens in Canada (both civil law and common law backgrounds) can read nationally-drafted legislation in the official language of their choice and, be able to find in them *terminology and wording that are respectful of the concepts,*

[1] For introductory reading, see: Akchay Ramdin, The Foundation of Mauritian Laws; The Hybrid Legal System of Mauritius. For more comprehensive reading, see Tony Angelo, *Mauritius: Capitulation, Consolidation, Creation*, in: Sue Farran and Esin Örücü (eds.), *A Study of Mixed Legal Systems: Endangered, Entrenched or Blended*, Routledge Publishers, 2014.

[2] See: *Supreme Court of Canada presentation: How are the Judges chosen for the Supreme Court?*

notions and institutions proper to the legal system (civil law or common law) that is used in their province/region.[3]

Cameroon has adopted some uniform national laws that are applicable nationwide across its legal practice cultures. These include laws on substantive criminal law, criminal procedure, labour law, tax law, and some aspects of personal (civil status) law. However, *Cameroon does not have a national Law Reform Commission*, as a permanent, statutory body, composed of a parity of experts (judicial personnel, lawyers, and legal academics) from both of its legal practice cultures, tasked with developing uniform *national* laws. While a Section to hear appeals 'on matters of Common Law' was added in the Supreme Court following recent lawyer protests, Cameroon *does not have a Policy on Bi-juralism*, nor a specific Department tasked with accommodating both legal systems. Its National Justice Sector Strategy (2001-2015) in force when Anglophone lawyer protests started, does not identify bi-juralism as a feature of the legal system.

16. **Cameroon, constitutionally a bilingual country, has signed treaties under which it has joined *regional groupings of States that set legal standards* applicable in all member States, including Cameroon. Are all *texts with a normative, substantive content* adopted by these sub-regional institutions of States (*treaties, regulations, directives, codes, and the decisions of the highest sub-regional Courts*) available in both official languages of Cameroon? Are there mitigation measures in place for Cameroon's English-language users?**

There are two *main* regional groupings of States to which Cameroon is bound by treaty, and which emit legal texts, regulations, and directives that are directly applicable in Cameroon. These are the *Economic and Monetary Community of Central African States (CEMAC)* and the *Organisation for the Harmonisation of Business Law in Africa (OHADA)*. While these bodies are predominantly composed of countries having French as their principal language, both CEMAC and OHADA have English as an official language. In practice however, *both bodies are quite far from being fully functional in English*, which creates difficulties for English-speaking Cameroonian citizens, litigants, or lawyers to use them effectively.

For **CEMAC**, there exists an often significant time delay between the adoption of certain important regional texts adopted and the availability of their translation into English (examples are the CEMAC Commercial Shipping (Maritime) Code and the CEMAC Civil Aviation Code both adopted in 2012). The Official Gazette of

[3] See: *Canada, Department of Justice: Policy on Legislative Bi-juralism*, *Canada: An Introduction to Bi-juralism*.

CEMAC in which regionally adopted instruments are published to take effect in member countries is not a bi or multilingual publication and *appears in French only*.[4] For **OHADA**, while its substantive law (Uniform Acts) that govern most aspects of business and commercial law in Cameroon are available in English, those texts constitute only a *fraction of the entire repository* of OHADA law. The Judgments of the highest supranational appeal court (the OHADA Court of Justice and Arbitration based in Abidjan, Cote d'Ivoire) which hold important interpretations of OHADA law, are not available in English.

Cameroon has advocated within CEMAC and OHADA for greater consideration of English, as its second official language. However, it *has not undertaken a significant investment of national resources, to mitigate the access difficulties faced by its English-language legal practitioners in accessing these regional laws*. Options could include the establishment – with State funds – of an advanced legal institute, located close to a Law Faculty within the predominantly English-speaking regions, tasked with teaching, research, publication, and dissemination of CEMAC and OHADA law, *in English*, to law students, legal practitioners, and judicial personnel who work primarily in English in Cameroon.

Comparative approaches to ordering of States to accommodate peculiarities of their constituent Regions

17. In looking at States around the world, is it possible for the various constituent units or Regions that make up the State to have *different functional competencies or powers* (over which they have responsibility)? Is it possible that Regions in question acquire the functional competencies devolved to them *at a different speed*, or at different times, based on their needs, features, or existing capacities?

There are multiple States around the world, which for purposes of empowering or devolving functions, powers, and competencies to their constituent regions, use the approach of *not* necessarily granting to all Regions and at the same time, the same attributes. *Asymmetrical devolution*, as this is called, is used when the *specific political, cultural, or historic characteristics, traits, and needs* of certain Regions differ intrinsically from the other Regions, or when the *operational capacity* of the respective Regions to assume certain functions, differs. Asymmetric devolution can be *quasi-permanent* in nature, where it responds to inherent,

[4] See: *Bulletin Officiel de la CEMAC 2017*; *Bulletin Officiel de la CEMAC 2018*

recognized characteristics and traits of the regions, or *transitional*, where the intent is for all regions to assume the same functions, but not at the same pace or speed. This technique of constitutional engineering is useful in countries where the *intensity of demands and the substantive domains* for which self-governance is sought is considerably different between the constituent regions.

A classic example of asymmetric devolution is **Spain**, whose 1978 Constitution following a long period of unitarist centralisation under General Franco, provided for a framework of *Comunidades Autonomas* (Autonomous Communities), to which Spain's 17 regions could aspire. The Constitution provides for a flexible approach, under which at any given time: (i) all (ii) some, or (iii) none, of the 17 Regions could accede to an Autonomous Community status, based on a negotiated process between the concerned region and the central State in Madrid. In practice, the first autonomy arrangements were concluded for Spain's 3 historic communities which were forebearers in seeking more autonomy (Basque, Catalonia, and Galicia), while other regions have gradually concluded autonomy arrangements. A snapshot of devolved powers and functions in this arrangement shows that at a given time, management of the education system and language use could be vested in the Regional authorities for some regions, while others have these functions handled by the central State.

Other countries that have asymmetric arrangements for their Regions include: **Malaysia** (for the Borneo states), *India* (for several of its States), the **Russian Federation** (which has over 40 agreements between the central State and its constituent republics, oblasts, okrugs) over their different functional areas of competence, **Canada** (asymmetric powers of Quebec compared to the other provinces and territories), the **United Kingdom** (different legislative powers for Scotland, Wales, and Northern Ireland), and **Belgium**.

18. **In a State where only some (not all) of its Regions require the devolution of specific aspects of their affairs for more proximate management, can such *asymmetrical* grants of such powers and functions to certain regions be achieved within a Unitary State?**

A study of comparative political systems around the world shows that arrangements which give to certain regions, *more latitude and control* (than the other regions of the State) over handling certain specified matters, **is not limited** to Federal systems. Where it occurs in federal systems, this is known as *asymmetric federalism*, in that the sharing of powers between the federal government and the federated entities entails a varying level of functions and

responsibilities *for each* federated entity. Thus, one Region may manage its own healthcare or education system, while another continues to entrust the same areas to the central Government.

Comparative political studies show that several **Unitary States have also extended special autonomy status** to specific regions, in response to region-specific demands, or to resolve regionally localised conflicts. Post-World War 2 **Italy**, a unitary State, constitutionally extended additional powers and prerogatives to 5 out of its 20 regions (regions of special statute), where significant German, French, Slovene speaking minorities challenged unitarist State policies, namely Trentino Alto Adige, Valle d'Aosta, Fruili-Venezia Giulia, as well Sicily and Sardinia which harboured separatist tensions. In the 1970s, faced with separatist threats in the Azores and Madeira islands, the unitary State of **Portugal**, constitutionalised 'special political and administrative arrangements for the Azores and Madeira based on their geographic, economic, and social and cultural characteristics', while emphasizing the unitary character of the Portuguese State and its sovereignty (Article 227, Constitution). Constitutionally, Portugal is a 'unitary State organised to respect the principles of autonomy of local authorities' and recognises Azores / Madeira as 'autonomous regions with their own political and administrative status and self-governing organs' (Article 6, Constitution).

In classic unitary **France**, under PM Lionel Jospin, legislation negotiated with Corsican actors, and proposed by the French Government, was passed by the National Assembly in 2001, granting Corsica's Assembly the power to pass secondary legislation that would 'adapt' national laws to Corsica's peculiarities, as well as back education in Corsican language, and its culture. (France's Constitutional Council subsequently overturned the delegation of secondary legislative powers to Corsica). In unitary **Indonesia**, the resolution of conflict in the province of Aceh, was facilitated by recourse to special autonomy arrangements for Aceh, within the Indonesian unitary State. Following decades of insurgent struggle, under foreign mediation, the separatist GAM movement transitioned from its demands for independence from Indonesia, to a form of 'self-government' for Aceh, as a province within Indonesia, signed in an MoU between Indonesia's Government and Aceh nationalists in 2005, and developed in a further Law governing the regions' status. The Unitary states of **Finland** (Aland Islands), and **Denmark** (Faroe Islands, and Greenland) also have the above-mentioned regions under special autonomous status, which confers them inter alia, powers over areas such as education, language use, and the local public service.

For a listing of all countries around the world with special autonomy arrangements for some of their regions, see: *List of Autonomous Areas by Country*.

19. What are the core features of a classic Unitary State? What are the core features of a Unitary State featuring constituent units with Special Status, or Special Competencies, or Semi-Autonomous regions?

A **classic Unitary State** is one governed as a single entity, in which the central government is ultimately supreme. In classic Unitary States, the sub-national units (provinces or regions) do not have an inherent right of existence: these units are administrative divisions that can be created or abolished by the central government's action alone. In classic Unitary States, the sub-national units do not have entrenched powers to act in given areas that cannot be unilaterally changed or revoked by the central government. These units exercise only such powers or functions as may be devolved to them by the central government, and the latter retains the right to abrogate or modify the functions granted to the sub-national administrative units.

A **Unitary State with Special Status, or Semi-Autonomous Regions** is one which has one or more political/territorial sub-units which hold exclusive power over certain functions, including some legislative power, which powers are constitutionally embedded and cannot be changed unilaterally by the central authorities, or by the Special Status sub-unit. The sub-unit's inhabitants enjoy full citizenship rights within the larger Unitary State. These States require: (i) a federal-like division of functions between the central State and the Special Status sub-unit, (ii) a constitutionally-embedded autonomy of the sub-unit, which cannot be modified without substantial majorities in both the central and sub-units' legislative body, (iii) those regions have a say on central legislation as it applies to their unit, (iv) the State representative to the sub-unit coordinates only State functions in the region (does not supervise the Region's own functions), and (v) the Special Status region is not a 'subject' of international law, and arrangements establishing it would be under national constitutional law. The agreement may have international guarantors and entitles the region(s) concerned to a say on State-negotiated treaties with an impact on the region(s).

20. What are the core features of a Federal State? How does a 'Federation' differ from a 'Confederation'?

A **Federal State** is one which is founded upon an agreement between two or more constituent units (the federated States) to form a common structure, under which some powers or functions will be handled exclusively by the centre (the Federal Government for the whole country) such as national defence, foreign affairs, currency / monetary policy, and other functions handled exclusively by the constituent federated States within their territory (e.g. education, healthcare). In this division of powers/functions, each layer (Federal, and federated State) has the *final say* as to the powers it exercises exclusively.

The pact or covenant under which the constituent units *apportion powers* between Federal layer and the constituent federated States is entrenched in the Constitution, and the consent (through voting majorities) in both the Federal layer and the constituent federated States is required in order to amend that arrangement. Federal States require a revenue-sharing arrangement and formula, under which resources are constitutionally and as of right, apportioned to each layer (federal Government, and constituent States) reflecting their exclusive responsibilities, and also in-built mechanisms for resource-equalization between the constituent federated States to adjust for their varying population, geography, and other features.

A **Confederation** is union of *sovereign* States, which come together for common purposes such as their mutual defence, foreign relations, or trade. In a confederation, the member States *retain* their sovereignty which does not (through the treaty establishing it) pass onto the created confederacy's general Government. A Confederacy's general Government is *not the sovereign* in respect of its constituent member States. Confederations create a weaker form of central government than in federations. Centrally made decisions are dependent on implementation by the constituent States and are only arrived at by consensus (not by voting). Many confederations (looser unions) evolve over time into federations, due to the need for more effective government over the areas / functions that brought the entities together.