

## Legal Protection of Linguistic Minority under Discrimination: The Case of Anglophone Cameroon

By Kome Donard\*

*The minority English-speaking population in Cameroon, where French is the majority language, has a number of political, economic, and social complaints that collectively make up the "Anglophone problem." These grievances are described using the terms discrimination, marginalization, and second-class citizenship. The right to speak English in Cameroon must always be upheld as a fundamental right. To protect the rights of minorities, Cameroon has established a number of laws. Since Cameroon and many other countries have ratified a number of human rights instruments, it is the state's duty to safeguard all the rights guaranteed by these instruments, including those of minorities. As demonstrated by the current crisis, another escalation in that cycle, there are several political systemic deficiencies that need to be closed if Cameroon is to grow as a single nation. Greater localized control over political and financial resources might be necessary to achieve this. In order to better serve the needs of citizens, existing institutions and leadership structures must become more accommodating.*

### Introduction

#### Background

The birth of the Federal Republic of Cameroon on October 1, 1961, marked the reunification of the two territories that had undergone different colonial experiences since World War I. The German *Kamerun* was partitioned between the French who tried to culturally assimilate the country, and the British who ruled indirectly.<sup>1</sup> Cameroon is often described as 'Africa in miniature' because of the wide range of different landscapes, languages and ethnicities. Such differences can and do pose challenges to national unity but also create a rich tapestry of varied cultures that have the potential to become a strength in the longer term if properly utilised.<sup>2</sup> According to Joseph, Cameroon is a country in central Africa often described as "Africa in miniature" but has come to the spotlight lately due to crisis of identity and cultural assimilation of the minority English speaking people. Southern Cameroon's problem popularly known as the "Anglophone Crisis" is as old as the country. It is the expression of a poorly managed

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1. N. M. Joseph, "Is the Conflict in Anglophone Cameroon an Ethnonational Conflict?" *E-International Relations* (2019): 1.

2. New African, *Cameroon: All Africa in one country*.

decolonization process, that saw two distinct (British Southern Cameroons and French Cameroon) people come together to form a country void of any real foundations that could guarantee coexistence.<sup>3</sup>

Over the last twenty months, Cameroon has been the focus of a nation sliding into civil war in Africa, from what started in November 2016 as legitimate grievances by English speaking lawyers, teachers, students and civil society over the prolonged marginalization of Southern Cameroons, but peaceful protests turned deadly when the government military shot at peaceful protesters, wounding many and killing several.<sup>4</sup> Leaders of lawyers, teachers and civil society organizations made themselves available to dialogue for a quick solution.<sup>5</sup> Unfortunately, during the dialogue process, the government rejected talks over a return to federalism which existed from 1961-1972, which guaranteed bilingualism, biculturalism, bi-juralism, equal opportunity for all and provided constitutional provisions for power sharing, economic independence and freedoms.<sup>6</sup>

Cameroon like most other African countries has its internal problems although there has been no major armed conflict since independence in 1961. However, a problem that exists is that the minority English speaking group is being dominated by the French speaking majority and which also controls the government. Thus, Anglophone Cameroon has been at the forefront of ethno-regional protests and which demands rearrangement of state power. There is a widespread feeling in the Anglophone regions that reunification with Francophone Cameroon in 1961 has led to a growing marginalization of the Anglophone minority in the state project controlled by the Francophone elites, endangering its political heritage and identity. It was not until the political liberalization process in the early 1990s that the Anglophone elites began to mobilize the regional population against the allegedly subordinated position of Anglophones and to demand for self-determination and autonomy, reintroducing federalism and secession to the political agenda.<sup>7</sup>

In Cameroon several laws have been put in place to protect the rights of minorities. Cameroon, like many other countries, has ratified a number of human rights instruments, which engage the responsibility of the State to protect and promote the human rights guaranteed in them including those of minorities.<sup>8</sup> Some of these treaties include: the Charter of the United Nations , the African

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3. Joseph, "Is the Conflict in Anglophone Cameroon an Ethnonational Conflict?" (2019): 1.

4. Ibidem.

5. Ibidem.

6. Ibidem.

7. Ibidem.

8. A. Y. U. K. N. K. W. A. Pascal, "The Legal Framework for the Protection of Liberty in Cameroon," *Academia Letters* (2022): 1.

Charter on Human and People's Rights, International Covenant on Civil and Political Rights (ICCPR), Inter-national Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment(CAT),Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), International Convention on the Elimination of All Forms of Racial Discrimination.<sup>9</sup>

In terms of legislation, the Constitution of Cameroon recognizes and guarantees the rights of minorities. This right is provided in its Preamble. The Constitution of Cameroon is complemented by other legislations, including the Criminal Procedure Code, the Penal Code.<sup>10</sup>

### Conceptual Framework

In those States where minorities exist, the right to enjoy one's own culture, to profess and practice one's own religion, or to speak one's own language in community with other members of one's group, shall not be denied to those individuals. Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which served as the foundation for the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities (UNDM). Its article 27 states:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.<sup>11</sup>

Despite the contribution of international legal frameworks, there are no globally recognized guidelines for what qualifies as a minority. The following description was put forth by the UN Special Rapporteur Capotorti in 1966 in accordance with Article 27 of the ICCPR:

A group numerically inferior to the rest of the population of a State, and in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population

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9. Ibidem.

10. Ibidem.

11. International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, 999 U.N.T.S 171 (entered into force Mar. 23, 1976), at art. 27, available at <http://www.hrweb.org/legal/cpr.html>.

and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religions and language.<sup>12</sup>

According to recommendations from the UN Sub-Commission, Jules Deschênes amended this definition in 1985, and it now reads as follows:

A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.<sup>13</sup>

Both definitions have distinct challenges, even though they both help us comprehend the concept of minorities. For instance, where there may be no obvious numerical majority or minority, the numerical minority criterion is not totally sufficient. And it is true that a particular ethnic group can have a majority in terms of numbers while also holding a non-dominant position. As such, they are similarly entitled to the application of many minority standards in order to protect their rights to identity protection and non-discrimination, which are the cornerstones of minority rights. Additionally, citizenship is a criterion that can be used to deny some people their rights as minorities and hasn't actually been recognised as a defining attribute of minorities. Slimane argues that:

While both definitions contribute to an understanding of the concept of minorities they are not without their difficulties. For example, the criterion of numerical minority is not entirely satisfactory where there may be no clear numerical minority or majority. And, indeed, a distinct ethnic group can constitute a numerical majority and be in a non-dominant position and thus be similarly entitled to the application of many minority standards in order to ensure their rights to non-discrimination and to protection of their identity – which form the foundations of minority rights. Also, the limiting criterion of citizenship can be used to exclude certain groups from their rights as minorities and has in fact not been accepted as a defining minority characteristic.<sup>14</sup>

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12. F. Capotorti, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*. UN Doc. E/CN.4/Sub.2/384 (Rev1. 1979) at 96 in UN Human Rights Study Series 5 (1991).

13. J. Deschenes, *Proposal concerning a definition of the term minority*. UN Doc. E/CN.4/Sub.2/1985/31/Corr.1 (14 May 1985), para. 181. Deschenes, J UN Doc E/CN.4/subs2/1985/31 of 14.5.85 at para. 181.

14. S. Slimane, *Recognizing Minorities in Africa* (Minority Rights Group International, 2003).

The complexity of multi-ethnic states in Africa (or necessarily on other continents) that are highly diverse in terms of ethnicity, religion, and language, and sometimes made up of more than 250 different ethnic groups, as is the case in, for example, Nigeria or Cameroon, may not be fully reflected by the criteria developed at the international level. Similar to this, it is not always easy to distinguish between minority groups and indigenous peoples, and this is also true in the context of Africa. But in Africa, the concept of a "minority" still holds true, and the international human rights law system stipulates minimal requirements for domestic applicability. Slimane explains:

The criteria elaborated at the international level may not fully reflect the complexity of multi-ethnic states in Africa (or necessarily on other continents), that are highly diversified in terms of ethnicity, religion and language, and made up sometimes of more than 250 different ethnic groups, as is the case in, for example, Nigeria or Cameroon. Similarly, the distinction between minority groups and indigenous peoples is not always clear-cut<sup>3</sup> and this is equally the case in the African context. However, the term 'minority' is still relevant in Africa and the international human rights legal framework provides minimum standards for domestic application. The criteria recognized in international law should guide our reflection and help to identify possible applications that may best fit in Africa. The examples of the colonial and minority white-ruled states of Angola, Mozambique, South-West Africa (now Namibia), Rhodesia (now Zimbabwe) and apartheid South Africa give a negative connotation to the term 'minority' in the eyes of some African states.<sup>15</sup>

## **Anglophone Marginalisation Syndrome**

### **Political Discrimination**

#### *Centralization and Assimilation of Anglophones*

The current crisis has increased support to federalism among the Anglophones population – which most probably was already high – and reinforced support for secessionism. This new configuration shows the depth of the Anglophone problem.

Ghost Town operations and school closures could not have continued for nine months without the adherence of a large proportion of the population. As the population becomes more frustrated and disappointed, its desire for fair

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15. Ibid.

integration and willingness to coexist with Francophones is eclipsed by aspirations for autonomy.<sup>16</sup>

Although most Anglophones want federalism, there is no consensus about the number of states in a future federation. A two-state federation, as before unification, or a four or six-state federation to better reflect the sociological composition of the country and make the idea of federalism acceptable to Francophones, or ten states to copy the current pattern of Cameroon's ten regions? Some people insist that however many federated states are created, the federal capital Yaoundé should not be included in any of them. For some Anglophone activists, federalism seems to be a maximalist negotiating strategy. They raise the bar high in order to obtain at least an effective decentralisation, with genuine autonomy for the country's ten regions, starting with improvements to and the full application of current laws on decentralization.<sup>17</sup>

### *Limited Political Representation*

The Anglophone problem is a combination of political, economic and social grievances expressed by the English-speaking minorities in the predominated French speaking republic of Cameroon. These grievances are expressed in terms of discrimination, marginalization and second-class citizenship. Because the fundamental causes of the conflict have not yet been addressed or resolved, it has led to the escalation of the conflict which has resulted to the destabilisation of social and economic activities in the economy.<sup>18</sup>

One of the factors that fuelled frustration with the francophone-dominated state in the late 1980s, notably the increasing monopolisation of key posts by members of the President's ethnic group who appeared to be much bolder in staking out claims on the state's resources than had Ahidjo's *barons*. As of August 1991, according to Joseph Takougang, 37 of the 47 senior divisional offers were Beti, as were three-quarters of the directors and general managers of the parastatals, and 22 of the 38 high-ranking bureaucrats who had been appointed in the newly created office of the Prime Minister.<sup>19</sup>

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16. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 18.

17. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 18.

18. Joseph, "Is the Conflict in Anglophone Cameroon an Ethnonational Conflict?" (2019): 3.

19. P. Konings, and F. Nyamnjoh, "The Anglophone Problem in Cameroon," *The Journal of Modern African Studies* 35, no. 2 (1997): 207-229.

## Economic Discrimination

Economic marginalisation has played a major role in provoking discontent among Anglophones. Even though the two Anglophone regions are suffering no more than some Francophone regions from the prolonged economic crisis, Anglophones feel their potential is not being realised (or is being deliberately wasted) and feel abandoned.<sup>20</sup>

No serious economic study has been published on the economic impact of the crisis, but there is no doubt that the isolation for several months of these two regions, which contribute around 20 per cent of Cameroon's GDP, has had an impact on them as well as on the national economy. In 2016, the Anglophone regions were among the most digitally connected in Cameroon, just behind Douala and Yaoundé. Shutting down the internet paralysed several sectors of the local economy, notably banking and microfinance. The local economy is based on the oil sector (9 per cent of GDP), timber (4.5 per cent), intensive agriculture, including large plantations owned by the Cameroon Development Corporation and other smaller plantations that supply Douala and the countries of the Central African Economic and Monetary Community, as well as cocoa, rubber, etc.<sup>21</sup>

Anglophones and Southerners in particular often complain about the low proportion of Anglophones in the workforce and in decision-making posts in state oil companies, such as the National Refining Company (*Société nationale de raffinage*, Sonara), based in the Southwest, and the National Hydrocarbons Corporation (*Société nationale des hydrocarbures*, SNH). The crisis has hit all sectors of the local economy, except for hydrocarbons and forestry, which has had an impact on some commercial sectors and industries in the Francophone regions. Several estimates put the direct cost of cutting access to internet alone at CFA2 billion (€3 million).<sup>22</sup>

In addition, there was the deteriorating economic crisis which Anglophones were inclined to attribute first and foremost to the corruption and mismanagement of Biya's regime. They claimed that their region had failed to benefit from its rich oil resources and criticised the absence of increased investments in its ailing economy and neglected infrastructure. Oil revenues were alleged to be used by those in power to feed 'the bellies' of their allies, and to stimulate the economy in other regions. The *Société nationale de raffinage* (Sonara), the oil refinery near Limbe (or Victoria as some prefer to call it again), continued to be headed and

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20. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 21.

21. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 21.

22. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, pp. 21-22.

predominantly staffed by francophones. There was also great anxiety in anglophone Cameroon that its major agro-industrial enterprises, especially the Cameroon Development Corporation (CDC) and *Plantations Pamol du Cameroun Ltd* (Pamol), would be either liquidated or sold to francophone or French interests during the ongoing structural adjustment programme.<sup>23</sup>

### **Discrimination in Recruitment, Training and Education**

The Anglophone lawyers claimed they were appalled by the gradual phasing out of common law principles in Cameroon's legislation, especially through the recent harmonisation of the Criminal Procedure Code, the Organisation for the Harmonisation of Business Law in Africa (OHADA) Uniform Acts and the Inter-African Conference on Insurance Markets (CIMA) Code. They feared that the same phenomenon would be observed in the Civil Code and the Commercial and Civil Procedure Code, which are being drafted.<sup>24</sup> They blamed the government for their inability to organise under a separate Common Law Bar, because the law actually proscribed the existence of any Bar separate from the Cameroon Bar Association, which could permit them to cohere and defend their interests as common law lawyers. They also asked for the creation of a Common Law Bench at the Supreme Court.<sup>25</sup>

The Anglophone lawyers raised issues of representation and the recruitment of legal personnel. In his statement, Esso mentioned that there were 1 542 active magistrates, including 91 in service at the Ministry of Justice, 1 412 in service in the courts and 39 on secondment. This group included 1 265 French-speaking magistrates and 227 English-speaking magistrates. As for judicial officers, there were 514 in total – 499 Francophones and 15 Anglophones.<sup>26</sup> Of the 128 magistrates practicing in the Northwest region, 67 (52.3%) are French speaking with a civil law background. Of the 97 magistrates in the legal services, 64 (65.9%) are Francophones. Of the 27 magistrates in the legal services in Bamenda, there are 21 Francophones (77.8%). A similar trend is observed in the Southwest region.<sup>27</sup>

The current Anglophone crisis is an extension of the historical resistance to the alleged assimilation of the indigenous English-speaking population. It began with the provoked harassment of Anglophone lawyers engaged in peaceful protest marches in September 2016 to vent their grievances over the perceived

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23. Konings, and Nyamnjoh, "The Anglophone Problem in Cameroon," (1997).

24. A. S. Caxton, "The Anglophone Dilemma in Cameroon: The Need for Comprehensive Dialogue and Reform," *Conflict Trends* 2 (2017).

25. Ibid.

26. Ibid.

27. Ibid.



marginalisation of the Anglophone Common Law practice in the country. In October 2016, they went on strike, and in November, the Anglophone Teachers Trade Union also staged a solidarity strike to protest against the distortions confronting the educational system in the Anglophone regions.<sup>28</sup> Need for unity and solidarity in the Anglophone Community in order to choose a concrete plan of action and reallocate its resources to guarantee its achievement.<sup>29</sup>

## **Legal and Case Laws Framework for the Protection of Linguistic Minority in Cameroon**

### **International Instruments for the Protection of Linguistic Minority**

It was, however, not until the adoption of the ICCPR in 1966 (which came into force in 1976) that the question of minority rights re-entered the international agenda that safeguard linguistic minorities.<sup>30</sup> Its article 27 states:

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

### ***UN Human Rights Committee Case Laws***

In 1990, the Human Rights Committee heard the case of *Lubicon Lake Band v. Canada*, in which the Lubicon Lake Cree Nation alleged that by allowing oil and gas development on or near the ancestral land of the Lubicon Lake Cree Nation, Canada had denied the development of the culture, way of life, and health of the community. Finding Canada had violated ICCPR Article 27, the Committee "reaffirmed that the Covenant recognizes and protects in most resolute terms a people's right of self-determination and its right to dispose of its natural resources, as an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights."<sup>31</sup>

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28. Joseph, "Is the Conflict in Anglophone Cameroon an Ethnonational Conflict?" (2019).

29. Ibid.

30. Abdulrahim Vijapur, "International Protection of Minority Rights," *International Studies* 43 (2006): 374.

31. Okporie, Samuel Agwu: protections of the rights of minorities and indigenous people have been of serious concern to international human rights system. Discuss with the aid of relevant judicial and statutory authorities, a seminar paper presented

In 1998, the Human Rights Committee decided the case of *Ivan Kitok v. Sweden*, in which Mr. Kitok alleged denial of his rights under ICCPR Articles 1 and 27. He claimed he was denied the right to breed animals and follow the customs of his indigenous Swedish tribe. In this decision, the Committee stated, “[t]he regulation of an economic activity is normally a matter for the State alone. However, where that activity is an essential element in the culture of an ethnic community, its application to an individual may fall under Article 27 of the Covenant.”<sup>32</sup>

The case of *Antonina Ignatane v. Latvia* decided on 25 July 2005 by the Human Rights Committee of the United Nations, charged with overseeing the application and implementation of the International Covenant on Civil and Political Rights.<sup>33</sup>

### **Regional Instrument: African Charter on Human and Peoples’ Rights**

The African Charter provides for a series of collective rights for which ‘peoples’ can rely. Although the African Commission has not yet defined the concept of ‘people’ contained in the African charter, a brief reading of the Commission’s case-law clearly shows that the notion of “people” has not been interpreted as encompassing only the idea of State. The approach to the rights of minorities is also reflected in the General Directives on National Periodic Reporting, which require the application of Article 19 of the Charter.<sup>34</sup>

Article 19 of the Charter states:

All peoples shall be equal. They shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

The principle of non-discrimination is a way to guarantee linguistic rights.

Article 2 stipulates:

Every individual shall be entitled to the enjoyment of the rights and freedom recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

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to the department of law, faculty of law, ebonyi state university, abakaliki in partial fulfillment of the requirements for the award of masters of laws (llm) degree in law, July 2013.

32. Ibid.

33. Ibid.

34. Slimane, *Recognizing Minorities in Africa*, 2003, 3.

Furthermore, article 24 states: *All peoples shall have the right to a general satisfactory environment favourable to their development.* This was applied by the African commission in the case of Ogoni community in Nigeria.

### ***African Commission on Human and Peoples' Rights: Case Laws***

The African Commission has not dealt with many cases regarding indigenous peoples. In *Katangese People's Congress v. Zaire* (Communication 75/92), the African Commission, whilst recognizing the right of the Katangese to self-determination, found no violation of that right as it can only be exercised in harmony with the principles of sovereignty and territorial integrity<sup>35</sup>.

In the case of the Ogoni people in Nigeria, the African Commission on Human and Peoples Rights noted that there had been a violation of the collective right of people to freely dispose of their wealth and natural resources – as contained in Article 21 of the Charter of the African Commission on Human and Peoples Rights – when the government had “facilitated the destruction of the Ogoniland” by giving “the green light to private actors, and the oil Companies in particular to devastatingly affect the well-being of the Ogonis”.<sup>36</sup>

### **National Framework for the Protection of Linguistic Minority in Cameroon**

#### ***Constitutional Protection***

The 1996 Constitution remains the principal tool for human rights protection in Cameroon. Although these rights are contained in the preamble of the constitution, they are all binding. Preamble one indicates that “the human person, without distinction as to race, religion, sex or belief, possesses inalienable and sacred rights”. The preamble also provides for the right to life, education, equal protection of the law, healthy environment and freedom of expression. It also provides for freedom from torture, cruel, inhumane or degrading treatment and guarantees the right to liberty and security of the person as well as minority rights protection.<sup>37</sup>

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35. Okporie, Samuel Agwu: protections of the rights of minorities and indigenous people have been of serious concern to international human rights system. Discuss with the aid of relevant judicial and statutory authorities, a seminar paper presented to the department of law, faculty of law, ebonyi state university, abakaliki in partial fulfillment of the requirements for the award of masters of laws (llm) degree in law, July 2013.

36. Ibid.

37. B. Tonga, *The state of Human Rights Protection in Cameroon; Prospects and Challenges* (2021), 3.

The constitution of Cameroon remains a set of fundamental legal-political rules that are binding on everyone in the state, including ordinary law-making institutions and regulates the structure and functioning of the governmental institutions, political principles and the rights of citizens. It can therefore be understood that the Constitution covers the exact content of the political set up of a state (that is, it sets out the basic structure of the government and also declares and defines the rights and duties of citizens.<sup>38</sup>

The Constitution expresses the commitment to holding free, fair and genuine elections by universal, free, secret and direct suffrage. In other words, it protects electoral rights which includes: the right to vote and to run for elective office in free, fair, genuine and periodic elections conducted by universal, free, secret and direct vote; the right to gain access, in equal conditions, to elective public office; the right to political association for electoral purposes (for example, the right to establish or join or not join a political party or any other grouping with electoral aims); and other rights intimately related to these, such as the right to freedom of expression, freedom of assembly and petition, and access to information on political-electoral matters.<sup>39</sup>

The preamble of the Cameroon Constitution expressly protects minority rights. It states: "all persons shall have equal rights and obligations. The State shall provide all its citizens with the conditions necessary for their development; the State shall ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law".<sup>40</sup>

The Constitution has made it possible for certain regions to have special status. Article 62 of the Constitution of Cameroon states: "...Without prejudice to the provisions of this Part, the law may take into consideration the specificities of certain Regions with regard to their organization and functioning". Going by this provision, it goes without saying the regions containing the Anglophone minorities should have a special status with regard to their organization and functioning.<sup>41</sup>

Cameroon will soon elect its next President. Whilst preparation of this important event is underway, the country is facing one of its greatest social crisis known as the Anglophone crisis. This reflection aims to point out the fact that the Constitution adopted on 18 January 1996 and revised by law 2008/001 of 14 April 2008 cemented a constitutional system that has failed to achieve one of the principles that the same Constitution guarantees: the principle of equality

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38. E. K. Ghamu, "The Legal Framework for The Protection of English- Speaking Minority in Cameroon," *Texas Journal of Philology, Culture and History* (2021): 28.

39. Ibidem.

40. Ibidem.

41. Ghamu, "The Legal Framework for The Protection of English- Speaking Minority in Cameroon," (2021): 28-29.

between Francophone and Anglophone.<sup>42</sup> Article 1(3) of the Constitution states that ‘the official languages of the Republic of Cameroon shall be English and French, both languages having the same status’. The Constitution sets out the principle of linguistic equality in Cameroon, without further explanation on how this principle would be guaranteed. The same article further states that ‘the State shall guarantee bilingualism throughout the country. It shall endeavor to promote and protect national languages’. In the meantime, the preamble of the Constitution states that: ‘the State shall ensure the rights of minorities [...] in accordance with the law’. But the Constitution does not provide a definition for the term ‘minorities’.<sup>43</sup>

### *Specific Laws*

There are various other specific legal instruments that help in the promotion and protection of minority rights in Cameroon especially anglophones. For instance, the Penal Code of 2016<sup>44</sup> protects several categories of rights. Sections 275 and 276 punishes a violation to the right to life through murder and capital murder respectively. Other provisions that have a human rights undertone includes section 277 which punishes torture. Section 296 punishes rape, section 305 punishes defamation, section 293 punishes slavery and section 302 punishes sexual harassment.<sup>45</sup>

The criminal procedure code<sup>46</sup> also helps in the protection of human rights in Cameroon. It lays down the procedural rules in criminal proceedings, starting from criminal investigation (searches and seizures, interrogations and questioning), to pretrial rights (right to a speedy and public trial, by an impartial jury of the State, and to be informed of the nature and cause of the accusation), trial rights (right to be heard, presumption of innocence, right to counsel) and post-trial rights (right to appeal).<sup>47</sup>

The Cameroon labour code<sup>48</sup> equally protect the human rights of minorities pertaining to labour issues. Section 2(1) of the 1992 Labour code notes that “the

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42. F. M. Y. Lemdjo, “The constitutional problems to protect the principle of linguistic equality in Cameroon,” in *Advancing the Rule and Role of Law in Africa*, 2018.

43. Ibid.

44. Law No 2016/007 of 12 July 2016 relating to the Penal Code.

45. Tonga, *The state of Human Rights Protection in Cameroon; Prospects and Challenges*, 2021, 3.

46. Law No 2005 of 27 July 2005 on the Criminal Procedure Code.

47. Tonga, *The state of Human Rights Protection in Cameroon; Prospects and Challenges*, 2021, 3-4.

48. Law No. 92/007 of 14 August 1992 relating to the Labour code of Cameroon.

right to work shall be recognised as a basic right of each citizen". The state is mandated to take all necessary steps to assist its citizens to secure employment.<sup>49</sup>

Both the constitution and specific laws of Cameroon should be in conformity to international laws as this can be considered the guarantee for protection of linguistic minorities as was observed in the case of *Skender v. the Former Yugoslav Republic of Macedonia*. In the case of *Skender v. the Former Yugoslav Republic of Macedonia* decided on the 22nd of November, 2001, the applicant was a national of the Former Yugoslav Republic of Macedonia of Turkish origin. He had two daughters whom he wished to send to Turkish-speaking school situated in another district than the one where he lived, as the school of their own district did not provide teaching in Turkish. According to the Primary Education Act, pupils should attend the State primary school of their place of residence. In 1997, the applicant asked the Turkish-speaking school to admit his elder daughter. He received no answer and complained, allegedly on two successive occasions to the competent authority. He started proceedings before the Supreme Court. The school, at this stage refused to enroll his elder daughter, as they did not live in the district of the school. The Supreme Court refused, on procedural grounds, to examine the applicant's complaint in respect of the school's refusal.<sup>50</sup>

The Constitutional Court did not quash the Supreme Court's decision. The Supreme Court refused to examine the applicant's request for having the proceedings reopened as the applicant had not provided fresh evidence as required by law.<sup>51</sup>

The Chamber of the European Court of Human Rights which is charged with overseeing the European Convention on Human Rights unanimously declared the applicant's application inadmissible after holding that Article 14 complements the other substantive provisions of the Convention and the Protocols. It has no independent existence since it has effect solely in relation to the enjoyment of the rights and freedoms safeguarded by those provisions. Although the application of Article 14 did not necessarily presuppose a breach of the provisions- and to this extent it was autonomous- there can be no room

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49. Tonga, *The state of Human Rights Protection in Cameroon; Prospects and Challenges*, 2021, 4.

50. Okporie, Samuel Agwu: protections of the rights of minorities and indigenous people have been of serious concern to international human rights system. Discuss with the aid of relevant judicial and statutory authorities, a seminar paper presented to the department of law, faculty of law, Ebonyi State University, Abakaliki in partial fulfillment of the requirements for the award of masters of laws (llm) degree in law, July 2013.

51. Ibid.

for its application unless the facts in issue fall within the ambit of the one or more of the latter.<sup>52</sup>

## Recommendations

### Return to Decentralization or Federation

The Anglophone crisis has showed the limits presidential centralism and a governance system that depends on co-optation. Implementation of effective decentralization could mitigate this problem at the national level.<sup>53</sup>

The executive and the senior levels of the administration are the only real opponents of decentralization. That is understandable: it would take away the presidency's complete control over the regions and could – by opening the way for local democratic experiences with possible national impact – threaten the regime's absolute power. But there is a serious risk that the crisis could deteriorate and, in time, destabilise the country. A government-backed decentralisation could provide a more consensual and peaceable future.<sup>54</sup>

Decentralization could take place on the basis of the ten current regions. It would require full application and the improvement of existing laws. At the moment, decentralization is deficient: government-appointed representatives run the big cities, play the role of super mayor and only report to the President of the Republic, rendering town councils inoperative. The latter have to wait for their budgets to be allocated by the government representatives, which provokes discontent among both opposition mayors and those belonging to the ruling party. The transfer of financial resources (the percentage of which is not detailed in legal texts) has only increased from 4 to 7 per cent in 13 years, while it is 20 per cent in other decentralised unitary states like Kenya and Ghana. Other powers are not always transferred and remain in the hands of authorities appointed by Yaoundé.<sup>55</sup>

If a new attempt at decentralisation is going to be acceptable and effective, it must reduce the powers of administrators appointed by Yaoundé by creating regional councils, introducing elected regional presidents, transferring significant financial resources and powers, and implementing measures that are already provided for in law. It should also take legal measures specific to Anglophone

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52. Ibid.

53. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, pp. 25-26.

54. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 26.

55. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 26.

regions in the areas of education, justice and culture (not currently covered by legislation).<sup>56</sup>

Anglophone lawyers and teachers called for a return to the two-state federation to permit for some level of local autonomy and control. While tenable, at the moment this demand seems to be a no-go option for many in the current government.<sup>57</sup>

According to MANIKKALINGAM, federalism mean the broad class of political arrangements within a single political unit between a unitary system, where all powers are concentrated at the centre, and secession, where there are a minimum of two independent political units. Federal arrangements can range from quasi-federal ones, like India, to federal arrangements, like the United States. A federal arrangement involves autonomous spheres of political action for the primary political unit and the subunits.<sup>58</sup> While federalism may be politically desirable in a culturally plural society, to require federalism we need to identify the specific conditions under which it is the primary means to ensure political equality. Linguistic pluralism, alone, is not such a condition. Political inequality due to linguistic pluralism can be addressed by a combination of local and provincial autonomy, special representation and bilingualism. It does not require federalism. What leads to federalism in a context of linguistic pluralism is the group bias of the unitary state against the minority language group. Linguistic diversity, alone, can make federalism desirable, politically, but fails to make it required, morally.<sup>59</sup> Manikkalingam argues of four considerations of federalism:

- Local Autonomy: Local autonomy provides a way of choosing one by tapping into local knowledge. Local government services include the maintenance of streets and parks, the functioning of community centres for the youth, elderly and disabled, the disposal of waste and the provision of utilities. Some local governments have power over education and law enforcement. Local governments can tax residents for the purposes of providing these services and the functioning of the government. A creative and effective organisation of local government services and support for the participation of different social groups can help turn cities and other local areas, such as villages and towns, into centres of cultural diversity and toleration. The impact of local government decisions is

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56. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads Africa*. Report N°250 | 2 August 2017, p. 26.

57. Caxton, "The Anglophone Dilemma in Cameroon: The Need for Comprehensive Dialogue and Reform," 2017.

58. R. Manikkalingam, *A Unitary State, A Federal State or Two Separate States?* (2003), 6.

59. *Ibid*, 11.



small in scale, minimising the cost of mistakes. While decisions can be made autonomously at the local level of the municipality, the town, or the village, the basic constitutional structure of society provides the political context in which they are made.

- **Provincial Autonomy:** It allows a number of contiguous local governments to internalise their externalities, i.e., it provides a means by which they can co-ordinate the benefits and costs of programs that cannot be restricted to the boundaries of local governments, and benefit from economies of scale. And it forms an intermediate level of co-ordination between local governments with common areas of interest and the central government.
- **Special Representation:** The majoritarian system of territorial representation can place minorities at a disadvantage in electing representatives of their choice. Small swings in votes can bring large changes in electoral results. This leads to a huge discrepancy between the number of votes received by a party and the number of seats that it wins in parliament. This discrepancy can undermine equality of representation. This may be tolerable when there are no linguistic differences because a group can persuade representatives through other means. But in the presence of linguistic differences informational failures due to the cost of dealing with representatives who do not speak their language, compound minorities' lack of representation. Under these circumstances electoral systems weighted in favour of increased minority representation are not only compatible with political morality, but may even be required by it. These schemes can include linguistically defined electoral units, proportional representation, or setting aside "minority" seats in parliament.
- **Bilingualism:** Local autonomy, provincial autonomy and special representation address the cost of interaction between minority citizens and local bodies, enables these citizens to participate in politics at the local level and have adequate representation at the national level. However, they do not address all the disadvantages suffered by minority citizens who speak a different language. Bilingual policies defray the cost faced by minority citizens in interacting with the state and the market. The cost of interacting with the state can range from filling out passport applications to language requirements for government employment. The cost of interacting with the market can range from restricted job opportunities to the challenge of reading labels and signposts<sup>60</sup>.

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60. Ibid, 11-18.

The Anglophone diaspora took over the leadership of the struggle, following the arrest and detention of the CACSC leadership. The Anglophone diaspora substituted the initial quest for the restoration of two-state federalism with the demand for a separate State of Ambazonia.<sup>61</sup> Several groups emerged, mobilising Anglophone nationalism within Cameroon and beyond towards the attainment of Ambazonia. Prominent among these groups include the CACSC, Southern Cameroon Peoples Organization (SCAPO), Southern Cameroons South Africa Forum (SCSAF), Movement for the Restoration of Independence in Southern Cameroon (MoRISC) and Southern Cameroonians in Nigeria (SCINGA). Others are the Southern Cameroon National Council (SCNC), Republic of Ambazonia (RoA), Ambazonia Governing Council (AGC) and the Southern Cameroon Youth League (SCYL).<sup>62</sup>

The experiences of the two federations suggest that a federal arrangement that does not accommodate those who do not belong to the empowered regional majority is likely to be subjected to perennial stress and is less likely to succeed in managing ethnic diversity. This particular experience of African federations also highlights one of the conditions that continue to threaten the federal experiment in Africa, namely the lack of consensus on liberal democratic values. One of the reasons for the success of federations in the west is the widespread consensus on liberal democratic values<sup>63</sup>. As Fessha notes, most western federations are not afraid that national minorities will use their power to “persecute, dispossess, expel or kill anyone who does not belong to the minority group”. In the absence of consensus and respect for liberal democratic values, the precarious federal experiments in Africa will continue to pose a grave threat to the fundamental rights of individuals and to the political stability of the state.<sup>64</sup>

The imperatives of developing consensus and respect for liberal democratic values becomes more evident when one notes that the territorial approach to subnational autonomy may not necessarily respond to the concerns of all ethnic groups. This basically relates to the fact that the territorial concentration of ethnic groups is a precondition for the extension of subnational autonomy towards a particular group.<sup>65</sup> To a group that is not geographically concentrated, the territorial solution that federalism provides is less appealing. The territorial arrangement in South Africa that, albeit indirectly, gives ethnic groups political space at the subnational level, does not cater for Afrikaners who are dispersed

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61. Joseph, “Is the Conflict in Anglophone Cameroon an Ethnonational Conflict?” (2019): 1.

62. Ibid, 2-3.

63. Fessha, “Federalism, Territorial Autonomy and the Management of Ethnic Diversity in Africa: Reading the Balance Sheet,” *L’Europe en Formation* 363 (2012): 281.

64. Ibid.

65. Ibid.

throughout the country. This would require the state to look for innovative ways of addressing the anxieties of groups that cannot benefit from a territorial solution. However, at a minimum, it requires strict enforcement of liberal values in the form of fundamental individual rights.<sup>66</sup>

### **Inclusive Dialogue and Rebuild Confidence**

It is difficult to envisage a credible dialogue unless the government takes conciliatory measures and until trust is rebuilt between the parties. A discourse of tolerance, openness to dialogue and recognition of the Anglophone problem by the head of state would constitute a first important gesture. This should be immediately followed by several measures to calm the situation: release members of the Consortium; invite exiles to return to the country; halt legal proceedings against Anglophone clergy; open legal proceedings against security forces responsible for abuses; reshuffle the government and senior officials to increase the political representation of Anglophones and replace the senior officials whose actions have exacerbated tensions; and restructure and reconstitute the Commission for Bilingualism and Multiculturalism. Finally, the President of the Republic should visit the Anglophone regions.<sup>67</sup>

The government could then go on to reconstitute the ad hoc interministerial committee, this time with parity for senior Anglophone officials, and broaden its remit beyond dealing with sectoral demands. This would require decriminalising the political debate, including on federalism, and considering recourse to a third party (Catholic Church or an international partner) to mediate.<sup>68</sup>

To deal with the current impasse, the government needs to reengage in more comprehensive dialogue, and also be more receptive to the problems raised and proposals made. Recently, the government created a National Commission on Bilingualism and Multiculturalism, which is to report directly to the president on matters affecting bilingualism and multiculturalism in the country. This is a positive gesture. The government also announced reforms, creating a Common Law Bench at the Supreme Court and common law departments in state universities in the French-speaking part of the country. These could improve the lot of Anglophone lawyers. However, the government could show further commitment by acknowledging that the Anglophone population as a whole – not just teachers and lawyers – has general challenges which need to be addressed. In

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66. Ibid, 281-282.

67. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads*. Africa Report N°250 | 2 August 2017, p. 25.

68. International Crisis Group. *Cameroon's Anglophone Crisis at the Crossroads*. Africa Report N°250 | 2 August 2017, p. 25.

addition, remedial measures requiring perpetual inviolability could be embedded in the Constitution.<sup>69</sup>

### **Unconditional Release of Prisoners and Amnesty for Anglophone Protesters**

For the government to be more persuasive, it also has to be more receptive. The government should stop the use of force by military officers on the populace. This violence only serves to complicate matters, and time has shown that this method has not been effective in solving the crisis. If the calls of the people are legitimate, then ordinary civilians should not be arrested for exercising their constitutional rights. The UN Secretary-General's Acting Special Representative, François Loucény Fall, who visited the country on 13 April 2017, asked for the unconditional release of those jailed in connection to the crisis. Their continued detention greatly mars renewed calls for dialogue. Protesters should also be granted amnesty by the government, so that they can continue to behave, feel, think and act like Cameroonians.<sup>70</sup>

### **Political and Economic Reforms**

The government should make concessions with a view to improving the political and administrative representation of Anglophones. The government should also increase public and economic investment in the Anglophone zone and ensure that the majority of the security forces and administrative and legal authorities deployed there are Anglophones. Finally, it should apply the measures it has announced or that were decided with the Consortium and take additional measures to strengthen the semi-autonomous character of Anglophone educational and legal systems.<sup>71</sup>

## **Conclusion**

This article sought to determine whether the conflict between Cameroon's two English-speaking areas was an ethnic or identity-based one. The method and repressive tools that the current government has used to crush the opposition have reduced the strength of the Anglophone struggle, and some could even say

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69. Caxton, "The Anglophone Dilemma in Cameroon: The Need for Comprehensive Dialogue and Reform," 2017.

70. Ibid.

71. International Crisis Group, *Cameroon's Anglophone Crisis at the Crossroads*. (Africa Report N°250, 2 August 2017), 25.

that it has hit a brick wall. Even though it is losing ground, the fight nonetheless goes on despite internal conflicts, most notably the one between the southwest and northwest (both regions make up the Anglophone Community).

Although the Anglophone Diaspora has done much to raise international awareness, much still needs to be done even to achieve federalism, much less complete separation and independence. What Southern Cameroon needs are strong international alliances and guarantors to push this struggle into the ultimate defining phase. This is because the government is heavily supported by France. Therefore, the Anglophone Community needs to come together and show solidarity in order to select a specific course of action and reallocate its resources to ensure its success.

English speakers' right in Cameroon must always be safeguarded as a fundamental right. Several laws have been implemented in Cameroon to safeguard minorities' rights. A number of human rights documents have been ratified by Cameroon and many other nations, and as a result, it is the state's responsibility to uphold all of the rights protected by these instruments, including those of minorities. Minority protection is a well-established notion in international law. As a result, international legal instruments, which include both binding and non-binding measures, provide protection for minorities. As a signatory to these documents, Cameroon has acknowledged its threefold obligation to respect, safeguard, and uphold human rights. A positive sign that Cameroon is committed to fulfilling its three obligations to assure the preservation of human rights is that minorities' rights are given adequate protection in the country. On the other side, the government's failure in this endeavor suggests that it is not fulfilling its tripartite obligation. However, due to a lack of enforcement, the state's legislation protecting anglophone Cameroon's rights are still ineffectual.

There are a number of political systemic gaps that need to be filled if Cameroon is to advance as a single country, as evidenced by the current crisis, which is another escalation in that sequence. To overcome this, more localized control of political and economic resources may be required. Existing institutions and leadership structures must be more receptive to the requirements of citizens. Access is restricted and a connection with the populace results from overly centralized power systems. On the other side, the military needs to do better when it comes to protecting human rights, as young people who have recently graduated from school are becoming more radicalized. The closing of these disparities depends greatly on civil society.

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