

Review Article

Culture and Constitutional Designs: Reflections on the Cameroonian Civilization and Constitutional Evolution since 1961

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Abstract: The objective of this paper is to show that Cameroon has evolved peacefully from a federation to a unitary state and to a decentralized unitary state. The work demonstrates that Cameroonians and their leaders have systematically been searching for a constitutional format that will enable the country and its people to blossom politically, economically, socially and culturally. This article also corroborates the view that each national constitutional arrangement is partly determined by the history and culture of that nation. This work, though partly the result of the author's reflections, is buttressed by and based on facts gathered through several sources.

Keywords: Cameroon, Federalism, Constitution, Unitary State, Decentralisation.

INTRODUCTION

Cameroon is a young nation in Central Africa. Often referred to as "Africa in miniature", Cameroon has a population of about 23 million. The French-speaking part of Cameroon got its independence in 1960 becoming the Republic of Cameroon. The English-speaking part of Cameroon got its independence by joining the independent Republic of Cameroon (Francophone Cameroon) in 1961. Cameroon became a federal republic on 1 October 1961 and the federal republic contained three components. There was the Federated State of East Cameroon (Francophone), the Federated State of West Cameroon (Anglophone) and the Federal State of Cameroon. This political trio operated until 1972 when a referendum determined that the former federation should become a Unitary State. The Unitary State was in place until 1996 when a modified constitution turned it into a Decentralized Unitary State.

Cameroon is a stable, peaceful and democratic country. The 1996 constitution is Cameroon fundamental law. The constitution has consistently adapted itself to all the social, cultural and political dynamics in Cameroon since 1961. Of recent, there have been robust discussions concerning the federal state (federalism), the unitary state and the present decentralized unitary state in Cameroon. As concerns the structures of modern states, there is a lot of variety. No democracy is a true copy of another democracy. Ideally, each political system seeks to satisfy the needs of its people. An appropriate national constitutional system grows out of a specific, identifiable political context. However, the structures of modern democratic states are built according to the norms of democracy; no longer within the confines of national or linguistic boundaries. Political structures of modern states are no longer built along the lines of transatlantic political thinking that falsely claimed to be universal. Each nation must tailor its democratic political structure to fit its socio-political context and facilitate its global and international recognition.

The history of civilisations has revealed that each civilisation is dynamic, constantly changing with time and carrying along the most important elements of its culture. Every nation has citizens who seek happiness and excellence. Every country seeks to help its citizens blossom and find great fulfilment in their daily lives.¹ Every nation has its exceptional qualities or characteristics. The most significant forces of change vary all the time from one nation to the other with the hope that prosperity will lead to freedom and democracy. At the same time, the standards of living and/ or

¹ Ruchir Sharma, *The Rise and Fall of Nations: Forces of Change in the Post Crisis World* (W.W. Norton & Company, New York, 2016), ix.

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the goods consumed by the citizens of a nation are influenced by the policies of their government.² Policy changes are sometimes made through the process of trial and error or simple rationality and creativity to fit their particular environment.³

No two dictatorships, monarchies, autocracies or democracies are the same in all aspects. Each political system embraces the realities of its political context. Every political context is influenced by factors such as history, economics, sociology and culture. Ideally, a political system ought to be the product of its unique political and cultural soil. A healthy political system can only grow out of the political dynamics of a given society.

Many modern states are structured, so as to deal with the ambitions, fears, hopes, aspirations and dreams of the citizens. Constitutions are usually structured to help the people realise their aspirations, hopes, and dreams. The essentials of a constitution are a formal structure of government and a system of rights.⁴ All persons and authorities within a state are bound by the laws and also entitled to the benefits of the law. Hence the citizens claim the rights bestowed on them by the civil law and perform the obligations the law imposes on them. This culminates in the political, economic and social security and development of the state.⁵ Common state forms include unitary states, federations and confederations.

The unitary state is often small in size and not very complex in its organization. The unitary state has only one government whose lower authorities are subdivisions of the national government. For example, Swaziland, Lesotho, Luxemburg, Barbados, Antigua and Saint Lucia. The federation may cover a vast territory, which requires federated states, so as to bring the government close to the governed. Examples include the USA, Germany, Brazil, Russia, South Africa and Nigeria. The confederation is similar to a federation. However, in a confederation, federated states enjoy enormous power, more elaborate or more pronounced forms of autonomy. Examples include Switzerland, Canada and Australia.⁶

In practice, the efficiency of state forms or constitutional architecture depends on many factors such as history, level of education of the population, the nature of popular or democratic participation in the nation, political freedoms and the experience and honesty of political leaders.⁷ Cameroon had federalism (1961), a unitary state (1972) and now has a decentralized unitary state since 1996.

A. THE 1961 FEDERAL SYSTEM IN CAMEROON

The Cameroonian forefathers in 1472 received Fernando Po, they signed annexation agreements and treaties with the Germans in Douala in 1884 thus allowing the Germans to colonise Cameroon. Cameroon existed as a colonial entity until 1916 when the German colonial masters left following their defeat during the World War I. After the First World War, the former German *Kamerun* was divided into two and became the League of Nations Mandates with Britain to administer the West and France to administer the East. The French and British mandated territories were Mandate B territories of the League of Nations. After the Second World War, Cameroon became a United Nations Trust Territory under the tutelage of the British and the French called British Cameroons and French Cameroon respectively. French Cameroon gained its independence on 1 January 1960.⁸ On 11 February 1961, a plebiscite was organized in British Cameroons. During this plebiscite, British Southern Cameroonians chose to (and voted to) gain independence by joining the French speaking Republic of Cameroon.⁹ It is important to remember that Northern Cameroons, through the same referendum of 11 February 1961 chose to gain independence by joining the Federal Republic of Nigeria. The referendum was a United Nations process and the results of the referendum were approved by the United Nations General Assembly. The two Cameroons effectively reunited on 1 October 1961, the Reunification day.¹⁰

²Eric D. Beinhocker, *The origin of Wealth : Evolution, Complexity, and the Radical Remaking of Economics* (Harvard Business School Press, Boston, 2006), xii.

³ Ibid., 14.

⁴ Scott Newton, *The Constitutional Systems of the Independent Central Asian States: A Contextual Analysis* (Oxford; Portland, Oregon: Hart Publishing, 2017), 33.

⁵ Tom Bingham, *The Rule of Law* (London: Penguin Books Ltd, 2011), 37-38; Francis M. Deng, *Identity, Diversity and Constitutionalism in Africa* (Washington D. C.: United Institute of Peace Press, 2008), 144.

⁶ Robert L. Maddex, *The Illustrated Dictionary of Constitutional Concepts* (Washington D. C.: Archetype Press, Inc., 1996), 113.

⁷ Adam Swift, *Political Philosophy : A Beginners' Guide for Students and Politicians, 2nd Edition* (Cambridge: Policy Press, 2012), 168-169.

⁸ Oswald Baboke, *A Letter About Reunification to the Cameroonian People : From North to South ; From East to West*, (Yaounde: D. BYJCAM, 2011), 15-17.

⁹ Daniel Abwa, *Ni Anglophones Ni Francophones au Cameroun: Tous des Camerounais !!* (Yaounde: Les Editions Le Kilimandjaro, 2015), 64; Ministry of Information and Culture, *The National Year Book of the United republic of Cameroon* (Yaounde: SOPECAM, 1982), 20-21.

¹⁰ Solomon Tandeng Muna, *Un Voyage Vers L'Inconnu, Tome I*, (Yaounde: Fondation S.T. Muna, 2012), 562-565.

The two political sectors formed a two-states Federation with a Federal constitution and a Federal National Assembly. Cameroon had a federal system of government from 1961 until 1972, when a unitary state was created following the referendum on 20 May 1972. It has been argued with historical evidence that the 1961 federal system in Cameroon was terribly expensive, as its institutions included three governments, three parliaments, three budgets, three states, three public services, various public systems of government, different police forces, different custom departments, judicial organizations and numerous approaches to serving the Cameroonian public.¹¹ That federal system came along with tensions, conflicts, controversies, unnecessary competition and futile duplications. Cameroonians from all walks of life easily realised that the federal system was theoretically beautiful but for practical reasons the system faced insurmountable challenges. The federation and federal constitution became too complex, and too expensive to be used, as a tool to enable all the people of Cameroon to accomplish their dreams.¹² Some characteristics of federations are of interest to us in this article.

Firstly, a federation would have been absolutely necessary if the territory of Cameroon were vast or very extensive. It did not suit the aspirations of Cameroonians in search for unity. According to President Ahmadou Ahidjo, federalism was a stepping stone to national unity.¹³ Ahidjo, during the Fouban conference of 17 to 25 July 1961, explained why Cameroon had only the option of federalism. In his opening Speech Ahmadou Ahidjo made the following declaration:

You are all aware that during our discussions with Mr. Foncha even before the referendum and thereafter, we had chosen for our future state the federal framework. Why this option? It is because linguistic, administrative and economic differences do not allow us to reasonably and seriously consider a unitary and centralised state, because, a loose confederal system does not foster the closeness and unity we desire.¹⁴

Secondly, the federal system constantly had the high risk of creating administrative duplications and dysfunctions. It was, therefore, obvious that a federal system by its very nature unavoidably prepared the ground for disruptive tensions and political conflicts. Whatever the precautions taken in a federation, federated-state officials and federal-state officials were naturally victims of conflict. There was the federated state, the Federal Republic of Cameroon. West Cameroon was a federated state which was Anglophone and East Cameroon was federated state which was Francophone. This means that there was a federal state including the whole country and the two federated states. The different federal public services ended up with different systems of organisation. Each system paid salaries which had nothing in common with the other. The educational systems were also independent of each other. The police forces and the armies were constantly sources of controversy.¹⁵ The three governments competed vehemently and very often did not cooperate with each other. There was a general lack of harmony in the manner in which the three governments functioned.¹⁶ Conflict is likely to be an inherent characteristic of any federation, whatever the constitutional or sociological qualities of the federation.

Thirdly, competition in a federal system often led to unequal development and serious disparities causing conflict, unrest and apparent frustrations. The sources of revenue and financial management in federal Cameroon depended on the political and philosophical views of each of the three governments. It was simply logical that with so many discrepancies, conflict became a cankerworm in the lives of the three governments in Cameroon from 1961 till 1972.

Fourthly, the federal system in Cameroon embraced many irrelevant institutions, which cost enormous sums of money. Great sums of money were required to manage institutions such as: federal and federated-state parliaments; federal and federated- state governments; federal and federated-state police forces; federal and federated-state justice systems.¹⁷

By 1970, therefore, there was a search for a pragmatic solution to the constitutional and political crises created by the very nature of the Federal Constitution. There was even fear that just anything could happen if a solution were not found to the crises. It is important to point out that in the 1960s and early 1970s there were military coups d' état all over Africa. Governments in most parts of the African continent were unstable and insecure. Hence, it was absolutely important to find a peaceful and pragmatic solution to the crises in Cameroon in order to avoid political changes that

¹¹ Ibid., 478-483.

¹² Ibid., 484.

¹³ David Abouem à Tchoyi and Stephane Claude M'Bafou, *50 Ans de Réforme de l' Etat au Cameroun : Stratégies, Bilans et Perspectives* (Harmattan Cameroun: Maison Don Bosco, 2013), 166.

¹⁴ Baboke, *A Letter of Reunification*, 104.

¹⁵ Tchoyi and M'Bafou, *50 Ans de Réforme*, 148.

¹⁶ Ibid., 268.

¹⁷ Francis I. W. Nkwain, *Cameroon : High Grounds for National Unity and Peace* (Bamenda: Maryland printers, 2008), 46.

could be unconstitutional, undemocratic and dictatorial. In 1972, it was obvious to all political and constitutional analysts that the federation and the federal constitution were in serious trouble.¹⁸ Across the board, many fair and right thinking Cameroonians, were convinced that the nation of Cameroon had an obligation to make choices that would help the country evolve peacefully.

B. THE 1972 UNITARY STATE SYSTEM IN CAMEROON

In 1972 the process of nation building moved forward in the peaceful revolution that put in place the unitary system. On 20 May 1972, a referendum was organised which resulted in a majority vote in favour of the creation of a Unitary State. This referendum gave Cameroonians the opportunity to vote for the Unitary State, putting an end to the Federal system of government in Cameroon. This was a peaceful revolution that gave birth to the United Republic of Cameroon.¹⁹ The constitution of 1972 created the unitary state, which became the successor of the federation created by the federal constitution of 1961. Hence the 1972 Constitution adopted the following preamble:

Proud of its cultural and linguistic diversity, a feature of its national personality which it is helping to enrich but profoundly aware of the imperative need to achieve complete unity, solemnly declares that it constitutes one and the same nation, committed to the same destiny, and affirms its unshakable determination to construct the Cameroonian fatherland on the basis of the ideal of fraternity, justice and progress.²⁰

The unitary state foresaw a national government and eventually put in place the municipal level of government, as per the December 1974 law on municipal councils. The 1972 constitution did not create a third level of government at the regional level. It seems that the 1972 unitary state system was too centralized to be appropriate for Cameroon. The absence of a middle or regional governmental form was not appropriate. The 1996 constitution filled that loophole by creating ten regional councils. The 1996 constitution embraced a new political philosophy and an evolution moving Cameroon into the 21st Century. It is important to note that the Cameroon of the 21st century was inspired by the context of events of 1472, 1884, 1961, 1972, and 1996.

C. THE 1996 DECENTRALIZED UNITARY STATE IN CAMEROON

Cameroon's constitution of 19 January 1996 stipulates that the Republic of Cameroon is a decentralized unitary state. The constitution proudly announces its option for decentralization. This democratic constitutional development came along with a political organisation that will involve the transfer of administrative functions and power to local government institutions. It will enable Cameroon to detect governmental systematic errors and eliminate such errors.²¹

The architecture of every constitution sets out to deal with the aspirations, hopes, fears and dreams of a nation and its people. Cameroon's constitution boldly embraces the national context, such as the official linguistic duality, cultural diversity, multiculturalism and the characteristics which come along with Cameroon being "Africa in miniature". Cameroon's constitution espouses the country's national realities and characteristic complexities.²² The 1996 constitution also looked into the future, and especially the nation's dream to become an emergent country in future in a dynamic world.

One can also use a Hegelian approach for the purposes of this specific analysis. Take it that the federal constitution of 1961 was a thesis. Then take it that the unitary state constitution of 1972 was the antithesis. It can be suggested that the 1996 constitution is the rich and philosophical synthesis. The solutions produced by the 1961 constitution and the solutions produced by the 1972 constitution are inferior to the solutions produced by the 1996 constitution. The 1996 decentralized unitary state deliberately picked up all the great qualities Cameroon had in the two constitutions of 1961 and 1972. The 1996 constitution also deliberately dropped all the weaknesses of the 1961 and 1972 constitutions. The 1996 constitution was truly a rich synthesis at once richer, higher and more complete qualitatively than either the 1961 or the 1972 constitutions. The present 1996 constitution seriously sought to promote national integration and national unity. The 1961 was a federal constitution, which was a thesis to start the country's marvellous constitutional history, as a young and ambitious nation. The 1972 constitution was an antithesis in Cameroon's constitutional history. The 1972 Constitution put an end to the immature and tumultuous federal constitution of 1961. It can be argued that the decentralized unitary state constitutes the most appropriate constitution in Cameroon's constitutional history. The 1996 constitution enjoys a great place of choice, as it embodies unshakably the fruits of the

¹⁸ Tchoyi et M'Bafou, *50 Ans de Réforme*, 167.

¹⁹ Abwa, *Ni Anglophones, Ni Francophones*, 116; Oswald Baboke, *A Letter about Reunification*, 5-6.

²⁰ Ministry of Information and Culture, *National Year Book*, 30.

²¹ Article 1 (2) of the 1996 Constitutional Law of 18 January, 1996.

²² Francis M. Deng, *Identity, Diversity and Constitutionalism*, 9.

nation's maturity, as a young and dynamic democracy. The 1996 Constitution is, therefore, the true synthesis of both constitutions of 1961 and 1972.²³

Cameroon has the 1996 constitution. It does not have any other constitution. Cameroon is a unitary state which is decentralized. That is the country's specificity. Decentralization is crucial for Cameroon. Decentralization is ongoing for the success of the municipal councils. The main local or municipal leaders are chosen democratically at the level of those municipal councils. Leadership at the regional council will be chosen at regional level. This is democracy and advanced decentralization. The regional council is a government at the regional level. The regional council constitutes a middle level governmental institution. The regional council is in the middle, between the municipal council and the national government in Yaounde.²⁴ As decentralisation continues, Cameroon will evolve to have one national government in Yaounde, ten regional councils and more than three hundred and sixty municipal councils.²⁵

Decentralization at municipal and regional levels will continue to be one clear example of democratic participation at the regional level. The people will choose the people who will work for the people. Participatory government requires that the people choose their leaders to serve the people. Cameroon's government is truly a government of the people by the people and for the people.

President Paul BIYA has emphasized that the process of decentralization is irreversible. That process will continue until it becomes complete and excellent. The constitution of 1996 created a decentralized unitary state. Decentralization is crucial, because that is what makes the unitary state specifically Cameroonian. It is important to understand that the constitution makes it possible for Cameroonians to enjoy the advantages of a unitary state and also the advantages of a federal state. Cameroon continues to draw lessons from the practices of the federal system, the unitary state system, the history of Europe, North America and Asia. These lessons will enable Cameroon to continue to evolve as a liberal democratic society.²⁶ Decentralization can offer all the qualities of federalism. The unitary nature of the state allows Cameroonians to enjoy the qualities of a unitary state, such as national unity and national integration. The 1996 constitution strikes a delicate balance between the federal state system and the unitary state system. The decentralized unitary state allows Cameroon to avoid the complications of federalism and also avoid the extreme centralization usually found in a purely unitary state.

Decentralization will allow for full democratic participation at the important levels of municipal councils and regional councils. The members of the municipal councils and regional councils are elected. Decentralization allows the national government to share power with municipal councils and regional councils. The regional and municipal councils are also power centres. Parliamentarians in the National Assembly and the Senate are elected by direct universal suffrage and indirect suffrage. The president of the republic is elected by electors all over the nation. That is direct universal suffrage.²⁷ As a result, the constitution enables Cameroonians to have a democratic government of the people by the people and for the people.

At the municipal level, decentralization already allows the Mayors to take charge of services such as community health, road maintenance, town planning, water and electricity provision, promotion of agriculture and livestock production, sports, culture and social affairs. Mayors can, whenever, it is necessary ask for the technical guidance of government officers.²⁸

The Prime Minister chairs the National Decentralization Board. That board monitors and supervises the process of decentralization. Decentralization is a gradual process. Such a process is not an event which takes place overnight. The process will keep evolving and embracing the national political and economic dynamism. Posterity will continue to perfect the process and use it to make Cameroon a greater "Africa in miniature".

In March 2017 the Head of State, President Paul Biya, created the National Commission for the Promotion of Bilingualism and Multiculturalism. This commission is similar to Canada's Royal Commission for Bilingualism and Multiculturalism. Cameroon's National Commission will work to promote bilingualism and multiculturalism which are

²³ Joseph Owona, *La Décentralisation Camerounaise* (Paris: L'Harmattan, 2011), 25.

²⁴ Alain Didier Olinga, *La Constitution de la République du Cameroun, 2^e édition revue et corrigée* (Yaounde : PUCAC, 2013), 224.

²⁵ Owona, *La décentralisation*, 46.

²⁶ Valentin Nga Ndong, *Information et Démocratie en Afrique : L' Experience Camerounaise*, Yaoundé, Editions SOPECAM, 1987, P. 41 ; Paul Biya, Discours, Déclarations et Interview du Président de la République, Volume 4, 2015.

²⁷ Alain Didier Olinga, *La Constitution de la République du Cameroun*, pp. 60, 90.

²⁸ Owona, *La Décentralisation*, pp. 81-98.

fundamental options for a nation trying to achieve complete unity and progress. This is also in line with the cultural demands of decentralisation.²⁹

CONCLUSION

Recently, some Cameroonians have discussed a return to federalism or even talked of the two English-speaking regions from the rest of the Country. Historically most nations see secession as suicidal, unpatriotic, and fundamentally wrong. Secession is a dangerous option in Cameroon because it can lead to civil war. Secession is, therefore, not a viable option.

In a federal system federated states run their affairs. Unfortunately, federalism in the case of Cameroon would undermine national unity and endanger national integration. Cameroon should avoid any system which endangers national unity and goes against national integration. Federalism in Cameroon would give birth to too many uncertainties. That is dangerous. Federalism is an imprudent option.

The 1996 constitution puts in place a decentralized unitary state. The decentralized unitary state promotes governance at three levels: national, regional and municipal. The three levels of governance are likely to satisfy Cameroonians' political and economic needs and surpass whatever constitutional provisions Cameroon had in the 1961 and 1972 constitutions. The decentralized unitary state would protect national unity, promote national integration and consolidate a sense of belonging.

Cameroon's 1996 constitution is specifically Cameroonian, specifically put in place for the Cameroonian society or civilization. It is a national fundamental law which has grown progressively out of a national constitutional history. The 1996 constitution is a rich product of the political evolution of Cameroon since 1884, when the Germans colonized Cameroon officially. The 1996 constitution is a balanced statement of who Cameroonians are and what they dream to be in the future. The present constitution is likely to take the country to where the nation has never been. This constitution is most adapted to our needs, as a modern, dynamic nation. This is the best adapted constitution Cameroon has ever had. As a constitutional system, the 1996 fundamental law is more complete, more applicable than the constitutions of 1961 and 1972. The present constitution is qualitatively higher than either the 1961 federal constitution or the 1972 unitary state constitution. Through this 1996 constitution, Cameroonians will hopefully realize their national dream: one people, one nation, one prosperous future.

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²⁹ Owona, *La Décentralisation*, 58-59.

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