

CORRUPTION AND ITS IMPACT ON THE RIGHT TO DEVELOPMENT IN CAMEROON



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Corruption results to underdevelopment and poverty

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BY AWA RUMARICK MOKOM¹

INTRODUCTION

As averred by President Paul Biya²

It is corruption that for the greater part of it, compromises the success of our efforts... The embezzlement of public funds, whatever the form, is a crime against the people who are deprived of the resources that belong to them³

The increasing levels of underdevelopment in Cameroon is a direct consequence of the high rate of corruption that prevails in the territory. Corruption creates and increases poverty and exclusion. While corrupt individuals with political power enjoy a lavish life, millions of Africans are deprived of their basic needs like food, health, education, housing, access to clean water and sanitation. The Cameroonian society is drowning in a “have all, possess all” mentality that has become an endless orgy of spend and gain. Positions and power have been used as keys to access resources meant for the good of all and sundry. It will therefore not be untrue to state that the scramble we see for positions and power is no longer propelled by the quest to serve but by waiting turns to loot.⁴ As a result, a desperate situation is observed where the abuse of office by public officials is preponderant. Bribery and fraud have become a way of life, a cankerworm that has spared no sector.

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² President of the Republic of Cameroon

³ Special communication of H.E. Paul Biya (2017) President of the republic of Cameroon.

⁴ Vickson Ncube, When Corruption Becomes a way of Life, and What to Do about It, (2017), Available at www.ifac.org/knowledge-gateway/building-trust-ethics/discussion/when-corruption-becomes-a-way-life-and-what-do-about-it&ved (Accessed on the 21st/12/2022)

Even though sanctioned under Cameroonian law, corruption persist in Cameroon and has been described as an “endemic” which is rife in almost all sectors of the Cameroonian government and the economy. The menace of corruption on the right to development cannot be over-emphasized. It has been described as the largest single inhibitor of equitable economic development in many countries and manifests itself in various forms including; bribery, embezzlement, fraud, favoritism, extortion, conflict of interest, political bargains, pensions, salaries and wages, in legislative process as well as other areas of government business, abuse of discretion and abuse of power.⁵

Corruption exists in almost every society but in varying degrees. In 1998-1999, the level of corruption in Cameroon became the center of attention when the country was classified as the most corrupt nation in the world successively, as overseen by corruption watchdog, Transparency International.⁶ This made the government more willing than ever to fight the ill. The slogan “Corruption kills the nation” was adopted by the government to demonstrate her disdain to the cankerworm. This was accompanied by the proliferation of legal and institutional mechanisms for the fight against corruption. Among all outfits in governments’ arsenal, CONAC takes the frontline as flagship institutional mechanism for the fight against corruption.

Despite the measures adopted hitherto, it still has not yielded desired objectives as the ill continually triumphs in the country. The gangrene of a hyper corrupt system has taken the country down the drains, thereby necessitating urgent solutions.

⁵ Cameroon Corruption Report – GAN Integrity., Available at <https://www.gainintegrity.com/porta/country-profiles/cameroon/&ved> (Accessed on the 14th/05/2022)

⁶ Kwei Haliday N. “Institutional Approach to Fight Corruption: The Case of the National Anti-corruption Commission of Cameroon” *Journal of Hubungan Internasional* Vol. 8, No. 2/October 2019 - March 2020, Pp. 142 153:142

CORRUPTION: AN OVERVIEW OF THE CONCEPT

‘Corruption’ originates from the Latin word—*corrumpere*, which means ‘bribe, mar or destroy’. Much evidence suggests that it has been practiced around the world from time immemorial, and, in recent times, it has occupied a front seat in global discussions.⁷ In spite of its presence everywhere, there exists no universally accepted definition of corruption. However, for purposes of this research, the definition provided by Transparency International will be used. According to Transparency International, corruption constitutes any behavior on the part of officials in the public sector, whether by politicians or public servants, in which they improperly and unlawfully enrich themselves, or those close to them, by misuse of public power entrusted to them.⁸

It implies the use of public office for private gains.⁹ Corruption is the violation of the obligations of probity, fidelity and impartiality in the exercise of a public service, to the detriment of the user. Corruption is said to have taken place when an individual is paid to perform or refrain from performing his duty either with gifts, promises or presents; corruption is also deemed to have occurred when an individual pays a compliant professional to do his work or to refrain from doing so.¹⁰

However, what is perceived as corruption in our society today goes far beyond the limits of the phenomenon as defined *supra*. Corruption no longer involves just the request, a mere solicitation, the offer and reception of gifts and promises in order to perform or to refrain from performing or to postpone any act, nor is it just reward for an act performed or refrained from. In daily practice, the civil servant or government employee no longer waits passively to receive gifts for services

⁷ Tanzi V. *Corruption around the world: Causes, consequences, scope, and cures*, (MF Staff Papers, 1998), 45: 559-594.

⁸ Transparency International – TI, “The TI Source Book”, Berlin, 1996, P. 1

⁹ Alvaro C, “Who cares about Corruption”, 37th *Journal of International Business Studies*, Pp. 807-822.

¹⁰ Pierre Titi Noel, *Corruption in Cameroon*, (Published by Friedrich-Ebert – Stiftung, 1999), P. 13

rendered; he demands that these gifts be offered before he acts or refrains from acting. This “gesture” in general is well known in advance that this or that amount of money has to be paid by any candidate wishing to enter a professional school, or by a driver without insurance document or a driving licence at a police check point; it is common knowledge that a certain percentage has to be paid to the treasurer before payment of any bills are made etc.¹¹

THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE FIGHT AGAINST CORRUPTION IN CAMEROON

In the past decades, some efforts have been marshaled by the government to change this disdainful image by combating and ending all forms of corruption. To this end, there exists a plethora of laws for the fight against corruption in Cameroon. These laws encompasses international ratified conventions and national laws. An examination of these laws will help provide a better grasp of the legal framework both at international and national levels.

At the international level, there exists the much heralded UN Convention against Corruption (Here after referred to as UNCAC). The UNCAC came to force in 2005 and has been ratified by more than 155 states with Cameroon inclusive.¹² The Convention enjoins states to prevent and criminalize corruption; promote international cooperation and asset recovery. The convention obliges countries to prevent corruption by adopting model preventive policies such as establishment of anti-corruption bodies, recruitment based on merit, transparency and accountability in matters of public finance *inter alia*. It further encourages countries to establish criminal and other related offences on corruption under domestic laws. States are further

¹¹ *Ibid*

¹² This makes the Convention applicable in Cameroon by virtue of Article 45 of its Constitution which incorporates all internationally ratified Conventions to our domestic law.

encouraged to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation and prosecution of offenders. Finally, asset recovery is also another fundamental principle enshrined in the Convention. In case of embezzlement of public funds, the confiscated property will be returned to the state requesting it.¹³ More so, Cameroon is also a signatory to the African Union Anti-Corruption Convention.

Corruption (commission or omission) is punishable under section 134 of the Penal Code of Cameroon: It indicts “Any national, foreign or international civil servant or public employee, who for himself or for a third party solicits, accepts or receives any offer, promise, gift or present in order to perform, refrain from performing or postpone any act of his office. Also indicted under this section is anyone who receives a reward as remuneration for having already performed or refrained from performance of an act. The popular notion of a corrupt person suggests that only the ‘receiver’ is corrupt. However, this is far from the truth as the ‘giver’ commits no lesser evil. The Cameroonian Penal Code goes as far as punishing the corruptor. It provides that, “Whoever makes promises, offers, gifts and presents or yields to requests liable to result in corruption in order to obtain the performance, postponement or abstention from an act or one of the favours or benefit ... shall be punished in a like manner as under section 134(1) above whether corruption produced its effects or not”. Other sections of the Penal Code punishing corruption in the public service include; s.137 (Indulgence), s.142 (Undue demand), s.160 (Compulsion of public servant), s.161 (Procuring Influence), s.312 (Corruption of employee), and s.184 (Misappropriation of public funds).

¹³ Impact of Corruption on Development and How States can Better Tackle Corruption Under the Spotlight At UN-Anti Corruption Conference in Morocco, Available at www.unodc.org/islamicrepublicofiran/en/impact-of-corruption.html&ved (Accessed on the 16th/05/2022)

However, as Gabriel opined,

The legal situation in any given country cannot be solely determined by legislation (law books). Instead, it is a joint product of the initiatives of the legislator, the interpretation and application by courts, and the practice of administrative authorities or relevant actors (the law in action).

In this light after discussing the legal framework for the fight against corruption, it becomes necessary to ascertain the role played by institutional mechanisms for the fight against corruption in Cameroon. Some courts have today been created for the sole purpose of combating public corruption. By the constitutional amendment of 1996 an Audit Bench was created within the Supreme Court. The constitution provides that the Bench “shall be competent to control and rule on public accounts, as well as those of public and semi-public enterprise”¹⁴

The advent of the 21st century brought about changes in the fight against corruption which was until then, predominantly handled by local courts. Several institutions were created to combat this crime in Cameroon. The very first of these was the National Anti-Corruption Observatory created in 2000 following pressure mounted on the Cameroonian government by the US State Department, the Bretton Woods Institutions and Transparency International.¹⁵ Lack of financial and structural autonomy marred the functioning of this institution, thereby leading to its replacement with the National Anti-Corruption Commission (NACC, known by its French acronym CONAC) in 2006. Since its creation, CONAC has led the fight against corruption mainly via investigation of corrupt officials and transmission of the reports to the Presidency to visa the prosecution of the criminals.

¹⁴ See Article 41 of the 1996 Cameroonian Constitution.

¹⁵ Ndikum G (2001) Cameroon’s anti-corruption campaign: a paper tiger? Global corruption report 2001, Transparency International.

Aside CONAC, the office of Supreme State Audit is also a leading body in the fight against corruption in Cameroon today. The Audit Bench of the Supreme Court, the Special Criminal Court,¹⁶ the Courts, the Police, anti-corruption units in ministries and public enterprises and establishments, and the National Agency for Financial Investigation are also institutional mechanisms put in place to curtail the gangrene.

These are clear indicators that the advent of the 21st century brought about a drastic change in the government's fight against corruption in Cameroon. Nonetheless, corruption has remained rife in the country, thereby demonstrating the inefficiency of CONAC and other institutions, which is, for the most part attributed to the lack of independence.

THE IMPACT OF CORRUPTION ON THE RIGHT TO DEVELOPMENT

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.¹⁷

The human person is the central subject of development and should be the active participant and beneficiary of the right to development.¹⁸ The right to development encompasses all other human rights whether civil, political, economic, social or cultural. It is the only human right that embodies principles of equality, non-discrimination, participation, transparency, accountability as well as international cooperation in an integrated manner.

¹⁶ The Special Criminal Court once sentenced Polycarpe Abah Abah to 25 years in prison for embezzling 6 billion CFA Francs. The court seized 30 properties, eight vehicles and three tractors as well as bank accounts worth 26 million CFA francs. See Reuters Staff, Cameroon court Jails ex-finance minister for 25 years for corruption, Available at www.reuters.com/article/us-cameroon-corruption&ved (Accessed on the 12/12/2022). On the 20th of December 2022, the former Director General of the Cameroon Radio Television Amadou Vamoulke was sentenced to 12 years in prison for embezzlement of public funds by the Special Criminal Court.

¹⁷ Article 1 of the December 1986 United Nations Declaration on the Right to Development

¹⁸ Ibid, Article 2.

Corruption as a global quagmire impedes the enjoyment of the right to development as it not only harms poor citizens, but also stifles economic growth and diverts desperately needed funds from education, healthcare and other public services. It is estimated that the total sum of one trillion US dollars get siphoned through bribes every year according to the World Bank. As Yury Fedotov¹⁹ averred, “corruption is a global threat. It is a serious roadblock to economic development.... It aggravates inequality and injustice and undermines stability especially in the world’s most vulnerable regions”. Corruption therefore stands as a barrier to development as it diverts resources from poverty eradicated efforts and sustainable development.

Moreover, corruption has also deterred investors from investing in the Cameroon. Notwithstanding the lofty pieces of investment legislations in Cameroon, investors have hitherto been deterred by corrupt practices which has marred Cameroons the image at the international arena. In fact, corruption acts as an additional tax, and equally increases investment uncertainty. This explains the low growth rate of Foreign Direct Investment (FDI) in Cameroon.²⁰ Like Karl Kraus once remarked, “corruption is worse than prostitution. The latter might endanger the morals of an individual, the former invariable endangers the morals of the entire country”

Corruption has also led to an increase in transaction costs. Faced with corrupt civil servants that hold powerful positions, users of public services spend more time and waste more resources than they would in a less corrupt system. This time and money costs paid by the user for a given service is what constitutes transaction costs which tend to be higher in corrupt systems.²¹

REASONS WHY CORRUPTION THRIVES IN CAMEROON

¹⁹ The former Executive Director of the United Nations Office on Drugs and Crimes (UNODC)

²⁰ The classification of Cameroon as the most corrupt nation in the world in the 1990s justifies these measures.

²¹ Pierre Titi Noel, (1999), *Ibid.*

- **Lack of Political Will in the Enforcement of Laws and Policies**

A successful anticorruption initiative requires a political will of the head of government to enforce laws and policies. This crucial factor has been absent in Cameroon. Without enforcement, laws become akin to shallow instrument riddled with dubious rationalization. When he came to power in 1982 an important point in President Paul Biya's political platform was "rigor, integrity and moralization"²². He promised that he would not tolerate corruption. However, this original vision of "zero tolerance" of corruption has not been backed by enforcement. The president had since seemed to condone impunity for corrupt officials. For example, in power, he waited 23 years to initiate a plan for confronting systemic corruption in the country.²³ For the first time, in his 2006 new year's message to the nation, the President acknowledged that, "public funds are embezzled, - - at the expense of the nation." The question that begs for answer is why the reluctance to implement Article 66 of the Constitution on mandatory officials' assets disclosure amongst other laws.

- **Ineffective Judiciary**

The role of the judiciary is pivotal to the effectiveness of the anticorruption system. In Cameroon, however, the Judiciary has experienced important dysfunctions. The perception the majority of Cameroonians have of the judicial system is that it is corrupt and ineffective. This position has been justified by a myriad of reports from Transparency International which reveals that the Judiciary and Customs department are amongst the most corrupt sectors in Cameroon. Not only police officers, but judges and other officials of the judicial system are widely viewed as corrupt.

²² Biya, P. (1986). *Pour Le Libéralisme Communautaire*. Paris, France: P.M. Favre., P. 2

²³ United Nations Office of Human Affairs (2008). Cameroon: Country Reports on Human Rights Practices 2007. New York: Author.

This results in people's cynicism towards the judicial system which in turn limits the effectiveness of the anti-corruption system

- **Culture of Corruption**

In Cameroon, corruption is so pervasive that one would think nobody does the right thing.²⁴ The few honest people are lost in an ocean of corruption. There seems to be a socially established tolerance for corruption. The phenomenon is so enrooted in the local people's mentalities. Personal interest triumphs to the detriment of public interest. Indeed, "no institution seems to be immune from this scourge, and corruption is being practiced and condoned by ordinary people including small children , their parents, their grand-parents , ordinary civil servants, [and] virtually everyone".²⁵ Thus because of its "cultural embeddedness" corruption has the tendency to "feed itself". If a generalized practice or a "culture of corruption" is so firmly established and when corruption is so deeply ingrained in the social culture, it might be resilient to any form of anticorruption initiative or structure. Otherwise, in the current context, corruption prospers in spite of the fact that corrupt behaviors are forbidden by Cameroon's constitution, laws and international laws.

Poor work conditions:

Efforts are currently being made by government to improve on the working conditions of most civil servants but it goes without saying that for most workers in Cameroon, the essential has yet to be done. This essential of course has to do with the remuneration. The rising prices of goods and services in Cameroon without a corresponding increase in the salary of most civil servants and

²⁴ Ngomba, T. (2006). "Fighting Corruption in Africa: Notes from Cameroon." [On-line]. Available at www.africafiles.org/articles.asp, P. 1

²⁵ Marquardt, N. (2007). "The Future of U.S. Business and Investment in Cameroon." Yaoundé, Cameroon: U.S. Embassy. [On-line]. Available at yaounde.usembassy.gov., P. 3

workers of the private sector only goes to fuel the ill of corruption. How therefore can one explain the extravagant way of life of most top civil servants in general? Maybe «jobbing» has got something to do with this?. In fact, this goes side by side with the post which some of them occupy and the self-esteem which they are expected to portray. One can be director today and be nothing the next day. Occupying a post is thus an essentially precarious situation, which must therefore be exploited to the maximum.

Conclusion & Recommendations

Suffice to say that the Cameroonian Government has put in place various measures for the fight against corruption in the country. However, despite the measures put in place, the ill still continue to thrive. This is justified by the lack of political will in the enforcement of laws and policies, the culture of corruption, weak judiciary and poor working conditions of most civil servants. Such tendencies compromise the fight for sustainable development which is pivotal for Cameroons emergence in 2035. It is irrefutable that corruption can be curtailed in Cameroon, however, greater proactive measures are needed. In order to promote integrity and defeat corruption all of society needs to work together. The Government must step up the enforcement of already existing laws and policies and increase the salaries of most judicial personnel and civil servants. Institutions charged with the fight against corruption should synergize and be given complete independence by the powers that be. Counter checks should be put in place by the state to monitor those charged with the investigation and prosecution of this crime in Cameroon. In the same vein, as motivations, special bonuses should be given to those who apply the rules and regulations without fear or acceptance of favors from culprits.