

SECTION 1

SETTING THE SCENE

MISE EN SCÈNE

CHAPTER 1: CAMEROON IN A NUTSHELL – HUMAN AND NATURAL ENVIRONMENT, HISTORICAL OVERVIEW AND LEGAL SETUP

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1 Introduction

The following passages are meant to serve as an introduction for the reader who may not be familiar with Cameroon, its human and natural environment, as well as the history and the legal setup of the country. As is already indicated by the title “Cameroon in a nutshell”, this chapter most obviously does not claim to be conclusive in any sense.

2 The human environment

According to the world population review, Cameroon is a culturally diverse coastal country in Africa, which lies on the western side of Africa on the Eastern Atlantic Ocean. Cameroon is bordered by Chad, Nigeria, the Central African Republic, Gabon, Equatorial Guinea, and the Republic of the Congo. The 2018 population is estimated at 24.68 million.¹ This makes Cameroon the 54th most populous country in the world. The country is sparsely populated, however, with just 40 people per square kilometre, which ranks 167th in the world. The urbanisation rate is currently 3.3%; 58% of the country is urbanised and that percentage continues to grow annually. Yaoundé is Cameroon’s capital. It was founded in the latter part of the 19th century by German traders during the ivory industry’s peak. Yaoundé’s population is approximately 2.5 million, which makes it the second-largest city in the country after Douala, which has more than 3 million residents. Douala is said to be the 27th most expensive city on earth, and the most expensive African city.²

1 Cf. <http://worldpopulationreview.com/countries/cameroon-population/>, accessed 16 April 2018.

2 (ibid.).

2.1 Ethnic groups

Cameroon is an ethnically diverse country with about 250 groups. Some of the groups are interrelated while others have been assimilated into other groups through years of interaction. These ethnic groups mainly fall under the Bantu, Semitic, and Nilotic language groups. Cameroon's ethnic community are known to coexist in peace, and no particular group holds any political influence over the affairs of the country. The groups contribute to the country's cultural diversity.³

The Bamileke is a semi-Bantu community in Cameroon with origins from Egypt. The Bamileke occupy the northwest and western highlands of Cameroon. The ethnic group is composed of other related tribes with whom they share a common ancestry forming the largest group at 38% of the total population. The tribes include Bamum, Tikar and other people of the Western highlands. Languages spoken by the Bamileke include variants of Ghomala, Fe'fe, Yemba, Medumba, and Kwa. Traditionally, their system of government was patriarchal and hereditary. Being a dynamic and entrepreneurial community, the Bamileke can be found in almost all parts of Cameroon and some parts of the world. Since they are a Bantu community, their primary activities revolve around agriculture, an activity which is mainly handled by women.

The Beti-Pahuin are a Bantu ethnic community occupying the southern rainforest regions of Cameroon. The Beti-Pahuin share a common origin with the Fang, Njem, Bulu and Baka among others. Though their origins are unclear, it is believed that the Beti-Pahuin people migrated from Sudan. In Cameroon, the group was displaced severally from their locations by the Jihad and Fula who were forcing communities to convert to Islam. During these movements, some of the groups that interacted with the Beti-Pahuin were assimilated. Others, such as the Maka, resisted assimilation and fled south and east. The Beti-Pahuin served as middlemen during the European trade. The Germans exploited them for slave labour, road construction and as sexual prisoners leading to a series of conflict. Due to their involvement in cocoa farming, the Beti-Pahuin have a strong economic influence.

As the first inhabitants of the Cameroonian forest, the so-called Pygmies or authentic indigenous inhabitants today constitute a relatively marginalised minority – both socially, economically and politically. The different groups are constituted of the Baka in the East and South regions, the Bakola in the Ocean region, the Bagyeli in the Southwest of Cameroon and the Bedzam in the Central areas of the country. Some of these ethnic minorities are underrepresented in political, administrative and decision-making structures. Pygmy communities have traditionally lived in the forests, conducting hunter-gatherer lifestyles in harmony with their forest environment.

3 Sawe (2017).

Many have historically had little interaction with wider society and had a self-sufficient, subsistence livelihood. These communities have, however, been deeply affected by the logging industry and other natural resource and economic development projects in the areas that they traditionally inhabit.⁴

The Duala (or Douala) are a Bantu coastal Cameroonian ethnic group who are highly educated due to long-term contact with the Europeans. The Duala share a common origin with people such as the Ewodi, Isubu, Batanga, Bakoko, and the Bassa forming 12% of the total population. The primary language spoken is Duala. The Duala trace their origin to Gabon or Congo after which they moved to their present locations. The Duala were mainly traders and cultivators, which have remained part of their economic activities to the present day. Their success in trade declined significantly during the German rule after which they prospered again during the French rule. Most of the Duala are Christians. Kirdi is a group of people occupying north-western Cameroon. The name Kirdi means pagan and was used to refer to a group of people who refused to join the Islamic faith. The group makes up 18% of the total population. Among the members of Kirdi are Bata, Fata, Mada, Mara, and Toupori. The Kirdi speak Chadic and Adamawa languages. The Fulani are a nomadic tribe in Cameroon which forms about 14% of the total population. The Fulani are Muslims who speak Pulaar language. The Fulani had a religious and cultural dominance over the local people forcing most of them to convert to Islam while others fled from their homes. Their culture is highly influenced by Islamic practices.⁵

2.2 Religious groups

Cameroon is home to many different religious groups. A large part of the population in the country is affiliated with a certain religious community. The Constitution allows the freedom of conscience and religious worship making Cameroon a religion-tolerant country. However, for a religious group (apart from African traditional religions) to be legally functional, it has to be registered by the state after meeting the basic requirements such as having a considerable congregation. In Cameroon, Christianity is the most practiced religion followed by Islam.⁶

About 69.5% of the population of Cameroon are Christians (Protestants, Roman Catholics or other groups). Like in many African countries, the establishment and development of Christianity were introduced to the country by the Christian missionaries. The missionaries arrived in Cameroon during the early nineteenth century dur-

4 UN (2014).

5 (ibid.).

6 Sawe (2017).

ing which they established missions, schools, health and other facilities to benefit local communities. The first Catholic priests, from the German Pallotine mission, were sent into Cameroon in 1890.⁷ They returned independent Cameroon in 1964. Today, members of the Roman Catholic Church make up about 39.2% of the total population making it the largest Christian group in Cameroon. Protestants make up the second largest Christian group in Cameroon with about 28.1% of the population. Protestant churches were the first to be established in Cameroon with the first missionaries arriving in the early nineteenth century.

After Christianity, Islam is the second most practiced religion in Cameroon with about 19.5% of the population being Muslims. The religion was introduced by the Fulani as they migrated from Nigeria and Mali. The Fulani used force to convert the local people to Islam leading to conflicts with the local people. The Muslims organised themselves into groups called *Lamidats* which were headed by a very powerful leader called *Lamido*.

While some of the people converted to Islam and Christianity, a section of the Cameroonian people, mainly in rural areas, still retained their indigenous religious practices. These people make up about 4.3% of the population. Some of the traditional religions have adopted some practices of Muslims and Christians merging them with their own. Some of their practices include rituals, animal sacrifices, and ancestor and spirit worship. Other religious groups in the country include atheists or agnostics at 4.6%, and other religions such as Hinduism at 2.1%. All these religious groups impact on the cultural and national practices of the country. For instance, most religious holidays are made into national holidays while the practices of the religions dictate and influence cultural practices such as food, dress, and moral conduct.⁸

2.3 Regions and official languages

The Constitution divides Cameroon into 10 regions, each headed by a presidentially appointed governor. The three northernmost regions are the Far North (Extrême Nord), North (Nord), and Adamawa (Adamaoua). Directly south of them are the Centre (Centre) and East (Est). The South Province (Sud) lies on the Gulf of Guinea and the southern border. Cameroon's western region is split into four smaller regions: The Littoral (Littoral) and Southwest (Sud-Ouest) regions are on the coast, and the Northwest (Nord-Ouest) and West (Ouest) regions are in the western grassfields. The Northwest and Southwest were once part of British Cameroons; the other

7 Skolaster (1924).

8 For the religious beliefs in Cameroon, see Sawe (2017).

regions were in French Cameroun. The Anglophone Cameroonians are the people of various cultural backgrounds who hail from the English-speaking regions of Cameroon (Northwest and Southwest regions). These regions were formerly known as British Southern Cameroons, being part of the League of Nations mandate and United Nations Trust Territories.

Almost 250 languages are spoken in Cameroon.⁹ However, French and English are the both official languages in Cameroon, which are spoken by 70% and 30% of the population respectively. According to Article 1 (3) of the Cameroonian Constitution, the official languages of the Republic of Cameroon shall be English and French, both languages having the same status. The State shall guarantee the promotion of bilingualism throughout the country. It shall endeavour to protect and promote national languages.¹⁰

3 The natural environment

The natural environment of Cameroon can be described as ‘Africa on a small scale’ as it accommodates all the major climatic conditions and vegetation features of the continent. Located between West and East Africa and stretching from the Gulf of Guinea to Lake Chad, Cameroon presents specificities in terms of its relief, climate, wildlife and vegetation. Cameroon’s 400 km coastline is propitious and holds key attractions of which are picturesque bays, natural and sandy beaches, islands, mangroves and waterfalls dropping directly into the ocean. Cameroon has seven national parks including the Waza Park in the Far North Region which is home to animals that are a reflection of African wildlife (elephants, lions, giraffes, black rhinoceros, panthers, buffalos, antelopes, hippopotamus, hyenas, gorillas, hartebeest, cheetahs, etc.).¹¹

Cameroon’s physical geography is varied, with forests, mountains, large waterfalls, savannahs and deserts, falling into four regions. At the border of the northern Sahel region lies Lake Chad and the Chad basin; further south the land forms a sloping plain, rising to the Mandara Mountains. The central region extends from the Benue (Bénoué) river to the Sanaga river, with a plateau in the north. This region includes the Adamaoua plateau which separates the agricultural south from the pastoral north. In the west, the land is mountainous, with a double chain of volcanic peaks, rising to a height of 4,095 metres at Mount Cameroon. This is the highest and wettest peak in western Africa. The fourth region, to the south, extends from the Sanaga river to the

9 Kouega (2007).

10 Cf. Law No. 96/06 of 18 January 1996 to amend the Constitution of 2 June 1972.

11 See also <https://www.prc.cm/en/cameroon/useful-information>, accessed 16 April 2018.

southern border, comprising a coastal plain and forested plateau. There is a complicated system of drainage. Several rivers flow westwards: The Benue river which rises in the Mandara Mountains and later joins the River Niger, and the Sanaga and Nyong rivers, which flow into the Gulf of Guinea. The Dja and Sangha drain into the Congo Basin. The Logone and Chari rivers flow north into Lake Chad.¹²

Cameroon's climatic conditions and agro-ecological zones are conducive to animal health and suitable for raising livestock. Cameroon's sea coast extends for almost 360 km. The mouths of large rivers constitute privileged zones for fishing, particularly for shrimp, small coastal pelagic fish and demersal species (bass and pike, etc.). Cameroon's forests cover around 20 million hectares, making them the second largest in Africa, with an identified potential of 300 marketable timber species, of which around 60 are currently exploited, with three forming around 60% of the total timber exportation from the country. The area designed for commercial logging covers a little more than seven million hectares, while community forests represent about two million whereas so-called council forests cover 1.8 million hectares.¹³ 10% of the Congo Basin forest is found in Cameroon, covering 41.3% of the national territory.¹⁴

Cameroon is a regional center for trade in goods and services. Cameroon's economy has many assets: favorable conditions for farming, plentiful water resources and rainfall, forests, oil, etc. Agriculture, (including subsistence farming, breeding livestock, hunting, fishing and logging) play a key role. Large quantities of raw materials are exported mainly cocoa, cotton, crude oil, timber and coffee. Other products traded include bananas, natural rubber, palm oil, pineapples etc.¹⁵

Like energy as a whole, access to electricity in Cameroon is at the lowest compared with other countries of the world.¹⁶ Cameroon has a wealth of minerals e.g. nickel-cobalt, gold, diamonds, limestone and marble. Cameroon's subsoil has abundant reserves of bauxite and iron-ore. It has vast and rich farm land, abundant raw materials and plentiful water resources.¹⁷

All of these resources constitute the backbone of the Cameroonian economy as well as the life support system for most Cameroonian people, especially in the marginalised rural communities. Many of these resources are traded commercially while others are still used traditionally.¹⁸

12 See <http://thecommonwealth.org/our-member-countries/cameroon>, accessed 2 April 2018.

13 Cf. MINFOF & WRI (2017).

14 African Development Bank Group (2015).

15 See also <https://www.prc.cm/en/cameroon/useful-information>, accessed 24 March 2018.

16 With further references see Ndongsok & Ruppel (2017).

17 See for more details https://www.wto.org/english/tratop_e/tpr_e/s285-00_e.pdf, accessed 7 April 2018.

18 Ageh (2017:507).

The wealth in natural resources already had implications during Cameroon's colonial history. The exploitation of natural resources began during this time, which is why it should also be briefly discussed. Certainly, environmental protection did not play a primary role during the colonial era. Interestingly, however, a German imperial decree of 4 April 1900 exists, in which the German governor in Cameroon was authorised – for the purpose of protecting the forest – that persons involved in illegal logging (which was in violation of existing regulations) could be ordered to reforest the deforested areas.¹⁹

The *United Nations Statistics Division* in its *Environment Statistics Country Snapshot Cameroon* provides a good overview of relevant data about the environment for comparative purposes. The country snapshot of Cameroon, *inter alia*, reflects the following data:

Table 1: Environment statistics snapshot Cameroon²⁰

Land and Agriculture		Year
Total area (km ²)	475,650	2015
Agricultural land (km ²)	97,500	2015
Arable land (% of agric. land)	64	2015
Permanent crops (% of agric. land)	16	2015
Permanent pasture and meadows (% of agric. land)	21	2015
Change in agricultural land area since 1990 (%)	6	2015
Forest area (km ²)	188,169	2015
Change in forest since 1990 (%)	-23	2015
Population		
Population (1000)	23,344	2015
Population growth rate from previous year (%)	3	2015
Air and climate		
Emissions of:		
CO ₂ (million tonnes)	6	2014
CO ₂ per capita (tonnes)	0	2014
GHG (million tonnes CO ₂ eq.)	166	1994
GHG per capita (tonnes CO ₂ eq.)	12	1994
Ozone depleting CFCs (ODP tonnes)	0	2013
Biodiversity		
Proportion of terrestrial marine areas protected (%)	11	2014

19 Reichsanzt. Nr. 108 vom 5. Mai 1900, Kol. Bl. S. 365; Ruppel (1912).

20 Available at <https://unstats.un.org/unsd/envstats/snapshots/>, accessed 18 May 2018.

Number of threatened species	774	2016
Fish catch (tonnes)	239,000	2015
Change in fish catchfrom previous year (%)	8	2015
Energy		
Total energy supply (PJ)	326	2015
Energy supply per capita (GJ)	14	2015
Energy use intensity (MJ per USD constant 2011 PPP GDP))	5	2014
Renewable electricity production (%)	75	2015

4 Historical overview

Portuguese sailors were the first Europeans to reach what is Cameroon today. Because there were so many shrimps (Portuguese: camarões) found there, today’s river Wouri was called Rio de Camarões. This is where the name Cameroon comes from. Around 1520, there was a proliferation of goods trade between the Europeans and the local tribes, especially the Douala. Preferred commodities were ivory, palm oil and slaves. Initially, the Portuguese were the main supplier of slaves to the new world. Towards the seventeenth century, Portuguese monopoly over the trade was broken by the Dutch.²¹ Slave traders from France, Britain and Brandenburg then joined the Dutch and Portuguese in the trade along the Cameroon coast where they were exchanged for European goods.²² The slave trade officially ended in 1840, when the Douala signed a treaty with the British government. Around this time began the mission of Cameroon. In the mid-19th century, the first researchers arrived in Central Africa.

4.1 German colonial presence

The German explorer to Africa, Heinrich Barth traveled the Sahara and the north of Cameroon in 1851, while the military doctor Gustav Nachtigal was one of the first to explore the region around Lake Chad. Since 1862, German traders were active in neighboring Gabon, including the Hamburg based trading house Woermann. In 1868, Woermann established the first German trading post in Douala. The southern coastal

21 Ngoh (1996:40).
22 (ibid.).

tribes developed a fear that the interior ethnic groups would start trading directly with the Europeans, thus undercutting their powerful intermediary status. To avoid this, the Douala-centered chiefs sought a British protectorate that would cement their power; yet, British delays in sending an envoy to meet with the chiefs ‘forced’ the African leaders to turn to Germany instead.²³

On 12 July 1884, Johannes Voss and Edward Schmidt, the latter two representing respectively the German firms Jantzen and Thormählen and Woermann met with King Akwa and King Bell and their subordinates in Douala and signed the German-Douala treaty.²⁴ According to the terms of the treaty, the Douala kings and their subordinates ceded their rights of sovereignty, legislation, and administration over their people and land. Although the treaty was not signed directly by German officials but merely by private German business representatives the German government recognised it as binding on the state and used it to proclaim sovereignty over the territory soon expanding into the hinterland.²⁵

Before 1884, Germany was not so much interested in the acquisition of overseas territories. This changed in the wake of the Berlin Conference, which took place from 1884 to 1885. Now Germany became more actively involved in the scrambling and partition of Africa. The territories which were finally annexed by Germany included Cameroon, Tanganyika, Togoland and German South West Africa (Namibia).²⁶

Cameroon belonged to the first German colonies, over which the German Reich took over the ‘protection rule’ in 1884. The German-Douala treaty was one of the 95 treaties that the Germans signed with various ethnic groups in *Kamerun* between 1884 and 1916 with indigenous kings or traditional chiefs.²⁷

The Berlin Conference (also called the Berlin West Africa Conference) aimed to shape a basis for a legally regulated occupation of Africa.²⁸ European powers negotiated and formalised claims to territory in Africa. It marked the climax of the European competition for the scramble for Africa. During the 1870s and early 1880s, European nations such as Great Britain, France, and Germany began looking to Africa for natural resources for their growing industrial sectors as well as a potential market for the goods these factories produced. As a result, these governments sought to safeguard their commercial interests in Africa and began sending scouts to the continent to secure treaties from indigenous peoples or their supposed representatives. The Berlin Conference did not initiate European colonisation of Africa, but it did legiti-

23 (ibid.).

24 (ibid.:62).

25 Ames et al. (2005:100).

26 Ngoh (1996:58).

27 (ibid.:67).

28 Ames et al. (2005:97).

mate and formalise the process. In addition, it sparked new interest in Africa. Following the close of the conference, European powers expanded their claims in Africa such that by 1900, European states had claimed nearly 90% of African territories.²⁹

This European scramble for Africa radically also changed the power structures in Cameroon. In 1884, the German Chancellor Otto von Bismarck appointed the researcher and consul general in Tunis, Dr. Gustav Nachtigal to Imperial Commissioner for the West Coast of Africa. Nachtigal was commissioned to place the areas of interest for German trade under German protectorate. In 1884, Germany assumed sovereignty of the territory and, in exchange, conferred special trade privileges upon the chiefs of Douala and Bamiléké.³⁰ Nachtigal proclaimed German patronage over Cameroon on 14 July 1884 and hoisted the German flag. In 1889, the officers Hans Tappenbeck and Richard Kund founded the research station Yaoundé, from which emerged the now state capital of Cameroon.

Matters related to these territories were initially administrated in the Political Department of the German Foreign Office until in April 1890, a Colonial Department was established. In contrast to the other departments, it was directly responsible to the Chancellor. This special regulation followed from the constitutional status of the colonial protected areas. A compromise ended the initial discussion as to whether those areas should be treated national or foreign under state law. Although the colonies were not considered foreign territory they were not included in Article 1 of the Reich Constitution, which defined the territory of the Reich. Consequently, the colonial subjects did not receive the German nationality and the laws applicable to the German Reich did not automatically come into force for the colonies. In 1907, the Colonial Department of the Foreign Office became the *Reichskolonialamt*.

4.2 German rule

The German administration in Cameroon was established by the German colonial constitution of 1886-1888. At the head of the colonial administration in Cameroon was the Governor. Formally subject to the authority in Berlin, he had extensive executive, judicial and legislative powers. The Governor received instructions from the *Kaiser* and the German Chancellor. The courts were under the Governor who was also the highest paid judge in the territory although the Imperial Chancellor also examined appeals by criminals against sentences of the Governor. Although the Governor was authorised to issue decrees for general administration, taxes and tariffs, these decrees were approved by the Imperial Chancellor. It was difficult to carry out effective

29 Gates & Kwame (2010).

30 See <http://www.cameroonconstitution.com/about/history/>, accessed 10 April 2018.

administration because of the vastness of the territory and because of the lack of a good means of communication. The Governor therefore delegated some of his powers to local administrators for effective administration. The governorship was in the early years of German domination was situated in Douala, but was relocated to Buea in 1901, due to the prevailing strenuous climatic and health conditions in Douala.³¹

On 3 July 1885, Julius Baron Soden arrived in Cameroon. He was the first German Governor and ruled from 1885 to 1891. Soden advocated a gradual rather than a rapid military expansion inland. During Soden's tenure of office, the German flag was hoisted at Buea. Other stations were opened in Barombi, Bali and Yaoundé. It was also during this period that the Germans acquired Victoria (today Limbe) from the British. The Germans consolidated their position on the coast of Cameroon during his reign. Von Soden created the *Schiedsgericht* (forerunner of the mixed court) to replace the outworn Court of Equity which was created by the British. In 1891, Eugen von Zimmerer succeeded von Soden who resigned because of poor health.³² The administration of von Zimmerer lasted from 1891 to 1895.³³ It was under the Governorship of von Zimmerer that the exploration of the *hinterland* of Cameroon and the establishment of stations was carried on in earnest. A large part of the *hinterland* was opened to German trade and administration. Von Zimmerer did much to protect the interest of German traders in Cameroon. The Bakweri, Bassa and Bulu uprisings were subdued during his reign.³⁴

Jesko von Puttkamer was the longest serving German Colonial Governor in Cameroon, he ruled from 1895 to 1907. Puttkamer encouraged penetration into northern Cameroon and sanctioned brutal military campaigns to conquer inland 'countries'.³⁵ He contributed greatly to the opening of plantations on a large scale and created the *Gesellschaft Süd Kamerun*, which established a German monopoly in rubber and ivory trade in southeastern Cameroon. The *Gesellschaft Nordwest Kamerun*, which was established in 1899 succeeded in monopolising commerce in the northwestern grasslands.³⁶ The *Gesellschaft Süd Kamerun* was able to obtain, sovereign rights over a concession of about 7,200,000 ha, lying between 120 degrees east longitude, latitude 40 north, and the south and south-east boundaries of the territory. Within this vast area, the *Gesellschaft Süd Kamerun* had an exclusive right of occupation on the vacant lands in accordance with the relevant imperial decree of 15 June 1896, as well as an equally exclusive right to purchase lands from with the natives.³⁷

31 Ngoh (1996:72).

32 (ibid.).

33 (ibid.).

34 (ibid.).

35 (ibid.).

36 (ibid.).

37 Etoga Eily (1971:182).

On the initiative of Governor Jesko von Puttkamer, the seat of government of Douala was moved to Buea. The governor's palace (so-called *Puttkamerschlosschen*) is still an impressive monument of German colonial past in Cameroon, located at the scenic foot slopes of Mount Cameroon. In those days, the soil of Mount Cameroon was presented as one of the best and richest tropical soils; this soil offered, among other guarantees, the advantage of not being exposed to drought; the humid and hot climate with almost assured rains provided conditions for a natural greenhouse, while the different altitude belts of this gigantic structure offered a favorable environment for the cultivation of different crops. In a little while, the slopes of Mount Cameroon were to be covered with plantations of a remarkable variety. The European farmers had succeeded in taking advantage of the crops which grew there naturally, and whose immense potential was hardly exploited by the natives.³⁸

Theodor Seitz, who was the fourth German Governor to Cameroon, ruled for three years from 1907 to 1910.³⁹ Otto Gleim ruled Cameroon from 1910 to 1912. One of the greatest problems Gleim faced was the Douala land problem. In 1910, the local administration decided to transfer the local population from Douala town to a different location. This was intended to improve on the health situation of Europeans who were living in the town and also to prevent speculation on land from the natives. Gleim did not support this measure and supported the local inhabitants in objecting it. Karl Ebermaier was the sixth and last German Governor to rule Cameroon from 1912 to 1916.⁴⁰

4.3 After the German domination

The German domination over Cameroon did not endure very long. In 1914, the First World War broke out. The poorly equipped German *Schutztruppe* was able to stay in Cameroon for another two years. In 1916, their last garrison capitulated to the British colonial army. After the First World War and the defeat of Germany, Cameroonian territories fell to the League of Nations in 1919, according to the Treaty of Versailles.

Article 22 of the Treaty of Versailles proclaims as follows:

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust

38 Eily Etoga (1971:163).

39 Ngoh (1996:72).

40 (ibid.:74).

should be embodied in this Covenant. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory. Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic, and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League. There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population. In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge. The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council. A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

According to Article 118 of the Treaty of Versailles Germany had to renounce its rights over the Cameroonian territories:

In territory outside her European frontiers as fixed by the present Treaty, Germany renounces all rights, titles and privileges whatever in or over territory which belonged to her or to her allies, and all rights, titles and privileges whatever their origin which she held as against the Allied and Associated Powers.

Germany hereby undertakes to recognise and to conform to the measures which may be taken now or in the future by the Principal Allied and Associated Powers, in agreement where necessary with third Powers, in order to carry the above stipulation into effect.

In particular, Germany declared in more general terms, regarding its Colonies in Article 119 of the Treaty of Versailles that:

Germany renounces in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions.

The Milner-Simon Declaration of 1919 confirmed the division of former German *Kamerun* between French and British administration. The two zones were established

as “class B” mandates by the League of Nations in 1922. The British part of *Kamerun* became part of Nigeria, administered from Lagos, and the French part became the protectorate of Cameroun. Class B mandates required that the colonial power send an annual report to the League of Nations, but they were not very restrictive. In practice, French and British Cameroon were administered as colonies. The narrow strip of land forming the British Cameroons was divided in two parts: the territories of the north became part of the Nigerian provinces of Bornu and Yola, while the south (present-day English-speaking Cameroon) became the Cameroons province, with its capital at Buea. When the League of Nations was dissolved in 1946, the mandates became trust territories of the United Nations. Nigeria and Cameroon both gained independence in 1960. Since the 1940s, political parties in French Cameroon and in Nigeria had been demanding reunification of the two territories.⁴¹

4.4 The Independence process

In 1961, a referendum was organised in English-speaking Cameroon: the northern population voted to join Nigeria while the southern population voted to join the French-speaking Republic of Cameroon, which became the Federal Republic of Cameroon.⁴² It becomes apparent, that the role of the international community, especially in the genesis of the Republic of Cameroon played a prominent role.⁴³

Following the historic vote by English speaking southern Cameroonians in the UN-sponsored plebiscite of 11 February 1961 to accede to independence by joining the already French-speaking independent Republic of Cameroon arose the need for a constitution governing the organisation and functioning of the union. It was for this purpose that the equally historic constitutional conference was convened in Fommban in July that same year. There, the leaders of the Southern Cameroons and the Republic of Cameroon came up with the Federal Constitution enacted on 1 September 1961.⁴⁴

In 1972 and especially in 1984, the Constitution was further revised, which led to the establishment of the Unitary Republic of Cameroon and twelve years later, to the birth of the Republic of Cameroon.⁴⁵ In that process, the federal system was abolished and the line of succession to the presidency redefined. The contemporary institutional and political organization of the Republic of Cameroon derives its legitimacy

41 With further references see Dupraz (2015).

42 See <https://www.prc.cm/en/the-president/constitutional-function>, accessed 10 April 2018.

43 Nfobin & Nchotu Nchang épse Minang (2014:255).

44 Nfobin Ngwa (2017:538).

45 See Olinga (2006).

and basis from Law No. 96/06 of 18 January 1996 on the revision of the Constitution of June 1972.

In the Preamble of the Constitution, the Cameroonian people, proud of its linguistic and cultural diversity, solemnly proclaimed that it constitutes a single and one Nation, engaged in a common destiny. It affirms “its firm will to build the Cameroon fatherland on the ideological base of brotherhood, justice and progress”. The preamble also proclaims the adhesion of the Republic of Cameroon to fundamental universally recognised democratic principles, the principle African unity and to that formulated by the United Nations Charter. Cameroon’s people affirm their attachment to fundamental liberties inscribed in the Universal Declaration of Human Rights, the UN Charter, the African Charter for Human and Peoples Rights and all international conventions related to it, and dully ratified.⁴⁶

4.5 Cameroon today

Today, Cameroon is a developing country where the economic conditions of the majority of the people are not so different from many other African countries. Such conditions include over 70% of the population are trapped below the poverty line, transmissible diseases are rife, the costs of education are fast rising and becoming unaffordable, health infrastructure is rudimentary and outdated, medical facilities are beleaguered with numerous resource problems which in turn affects access to quality healthcare. There is an increase in the tide of corruption perpetrated by top administrative political actors and the realisation of economic and social rights is selective and influenced by factors such as political attitudes and choices made by the communities in question.⁴⁷

Despite economic and political crises, a steadily growing population, high levels of corruption, crusted governmental structures with a president who has led the country since 1982, Cameroon has been considered in recent decades as a haven of peace in Central Africa. Cameroon has never been a country that lacked opportunities. It has all the right prospects. But the challenge it faces is to create an enabling environment to encourage Cameroonians and foreign investors to invest.⁴⁸ The country is not only divided between domestic politics but also surrounded by violent conflicts

46 Cf. with further references <https://www.prc.cm/en/cameroon/constitution>, accessed 9 April 2018.

47 Agbor (2017:177).

48 See Douglas (2017); Cameroon is ranked 166 out of 190 countries in the World Bank’s *Ease of doing business* index. The economy is one of Africa’s more difficult markets to operate in, ranking particularly poorly in areas such as registering property, paying taxes and trading across borders.

and humanitarian crises (for example in the Lake Chad region). Missed reforms, local, national and cross-border conflicts are putting increasing pressure on Cameroon, which was long regarded as an anchor of stability in the Central African region. Cameroon is experiencing restless times. Three themes are at the center of the current political challenges in the country: Refugees from the Central African Republic crossing the Cameroonian border in the east; the old Anglo-Francophone conflict which has rekindled in the form of protests in the English-speaking regions; and an army which is deployed in the north of the country to counter the threat of Boko Haram's terrorists.⁴⁹

5 The legal setup

In the pre-colonial Cameroonian society, there existed diverse unwritten indigenous laws and usages which applied in varying degrees to the different ethnic groups. The only exception was in the north where the Foulbe tribes, who originally invaded the territory from North Africa in the early nineteenth century, had introduced islamic laws in some areas. Despite the differences in the structures, content and institutions which applied these indigenous and islamic laws or traditional laws as they are referred to today, there were many similarities. A German attempt to ascertain and codify the different traditional laws was frustrated by the outbreak of the First World War, but the results from the six tribes that were studied showed that there were substantial similarities in basic concepts and practices.⁵⁰

In the discussions and resolutions of the Berlin Conference, the forces and institutions that were supposed to realise this transformation were named: religion, science, philanthropic movements, commerce, and administration. These have all been subject of research, yet there was another force that is implicit in the conference's resolutions and aims: the law.⁵¹

The introduction of colonial jurisdiction as a means of control and domination and specifically as a means of education and domestication of the natives, intended to force them into the new dynamics of colonial society and make them useful in the exploitation and transformation of their country. Since the German constitution contained no provision for governing colonies, the Reichstag was tasked in 1885 to adopt a Colonial Constitution (*Kolonialverfassung*). The Reichstag accepted the bill, after a difficult debate, on 10 April 1886. Traders and colonial lobbyists in the German Colonial Society (*Deutsche Kolonialgesellschaft*) had influenced this Colonial

49 Ruppel & Stell (2017).

50 See Fombad (2007).

51 See Ames et al. (2005:97).

Constitution. They hoped to exclude the Reichstag from control over the colonies, and therefore sought to place the greatest power possible in the hands of the *Kaiser*. The first article of the Colonial Constitution did indeed concentrate authority in the *Kaiser*, who had the power to issue decrees on almost all matters concerning the protectorates. The chancellor was given limited powers, most of which were actually delegated to him by the *Kaiser*. The budget for administering the colonies had to be submitted to the Reichstag, however, and this was the only opening for that representative body to discuss the German government's actions in the colonies.⁵²

The colonial law concerning the legal relations of the German protected areas (*Schutzgebiete*), was the *Schutzgebietsgesetz* of 17 April 1886, modified by the *Schutzgebietsgesetz* of 10 September 1900. Paragraph 1 of the *Schutzgebietsgesetz* states that all executive and legislative matters were to be decided by the *Kaiser* in the name of the Reich. The statute delegated all powers to the German Emperor, making him the *Schutzherr*, Lord Protector, of the colonies.⁵³

The legal system in Cameroon subordinated the African and European population to different laws and different courts. The decision of legal cases over the African population was – especially in criminal matters – placed under colonial authority. In addition, African authorities (kings) were authorised by the colonial administration. The colonial law provisions were published in the *Reichsgesetzblatt* in the Central Journal for the German Reich or *Reichsanzeiger* and from 1890 in the German Colonial Journal (*Deutsches Kolonialblatt*). In addition, several collections, some of them continuous, brought together the legal provisions of the various German colonies. For Cameroon, the relevant colonial law provisions were collected in 1912 and published (*Landesgesetzgebung für das Schutzgebiet Kamerun*).⁵⁴

After the end of the First World War and the division of former German *Kamerun* between the French and the British administration German law was no longer applicable as the incoming powers introduced their own set of legal traditions upon their arrival.⁵⁵ The legal system as well as the sources of law applicable in the country have been significantly shaped by the dual English-French colonial legal heritage that has given rise to its dual legal system in the country. It consists of two distinct and often conflicting legal systems, the English common law and the French civil law operating in some sort of tenuous coexistence. Cameroon's legal system consists of a large number of heterogeneous, not always organically interconnected elements. The Cameroonian legal system can therefore – at least to a certain extent – be described as bi-jural in which French law applies in the eight French speaking regions;

52 (ibid.:101).

53 Cf. with further references Hartmann (2007:54).

54 Ruppel (1912).

55 Tchakoua (2014:19).

English law substantially applies in the two English speaking regions, although most of the uniform laws that are now being introduced are essentially based on French legal concepts.⁵⁶ Moreover, and especially after Cameroonian Independence, it becomes apparent that the influence of the French law tradition also had strong impacts in the English speaking regions.

Both the British and the French recognised and enforced customary law. However, not every custom or usage was recognised and enforced as customary law. For example, in Anglophone Cameroon, Section 27 (1) of the Southern Cameroons High Court Law, 1955, provided for the recognition and enforcement of only customary law which is not repugnant to natural justice, equity and good conscience or incompatible either directly or by implication, with any existing law. Generally, today in Cameroon, customary law has limited application. It only applies to certain persons and governs only a few matters. It applies only to persons traditionally subject to it, effectively meaning the rural population and even then, only if they desire that this law should regulate their relationship. The only exception to this is in the northern part of the country, where sharia law and sharia courts still play a large part in regulating the lives of rural people.

Traditional leadership still plays an important role in Cameroon today. According to Presidential Decree No. 77/245 of 15 July 1977 on the Organisation of Traditional Chiefdoms, as stipulated in Article 2 thereof, are organised on a territorial basis and classified into three categories: 1st degree, 2nd degree and 3rd degree chiefdoms. Article 3 states that 1st degree chiefdoms have a territorial influence which doesn't exceed a division and which covers at least two 2nd degree chiefdoms. This article goes on to state that 2nd degree chiefdoms cover at least two 3rd degree chiefdoms with a territorial influence not exceeding a sub-division. 3rd degree chiefdoms are villages or districts. Article 4 states that traditional rulers can be classified as 1st or 2nd degree chiefs, depending on the population and economy under their responsibility. In Article 7, it is stated that 1st degree chiefdoms are created by Prime Ministerial Orders, 2nd degree chiefdoms by the Ministry of Territorial Administration and 3rd degree chiefdoms by the Senior Divisional Officer. However, Articles 31-32 states that certain urban agglomerations can be grouped by the Ministry of Territorial Administration into zones and districts which are headed by sub chiefs. Articles 8-18 state that traditional chiefs are chosen from culturally designated families and in case of the vacancy of this post, the competent administrative authority is responsible for the designation of a replacement in conformity with traditions and in consultation with the traditional elders. Traditional chiefs are forbidden from holding public office except by authorization. Articles 19-21 state that the role of the traditional chief is to

56 Fombad (2007).

assist administrative authorities in doing the following: transmitting and executing orders from administrative authorities; maintaining public order; ensuring economic, social and cultural development; collecting taxes and other fees for the State, as well as any other duties conferred by the administration. In Articles 22-24 of this decree it is stated that 1st and 2nd degree chiefs receive a fixed taxable allowance and other benefits depending on the population under their responsibility. These clauses were modified by Decree No. 2013/332 of 13 September 2013, which states that chiefs will receive a monthly non-taxable allowance categorized as follows: 200,000 FCFA for 1st degree chiefs, 100,000 FCFA for 2nd degree chiefs and 50,000 FCFA for 3rd degree chiefs. These allowances cannot, however, be cumulated with parliamentary, civil service and public administration benefits.

Since Independence and the reunification of the former British Southern Cameroons and the French Cameroun, the country can be said to have had at least three different Constitutions and numerous constitutional amendments. What can be considered to be the first Constitution was in reality the Constitution under which French Cameroun became independent on 1 January 1960. The second Constitution was in reality simply an amendment of the 1960 Constitution of the French Cameroun in 1961, when the British and French administered parts of the country were reunited and was styled as the Constitution of the Federal Republic of Cameroon, which ushered in a highly centralised federal system. On 2 June 1972, after a referendum, a new unitary Constitution was adopted and the name of the country was changed to the United Republic of Cameroon. In 1984, the appellation 'United Republic' was replaced with 'Republic'. What is currently in force is this 1972 Constitution, which was substantially amended in 1996.

Although not explicitly so-stated, the Cameroonian Constitution is treated as the supreme law of the land.⁵⁷ The Constitution takes precedence over all other national legal instruments. Below the Constitution (in descending order of importance) come laws, ordinances, decrees, orders, decisions, instructions, and circulars. International treaties and agreements are ratified by the President. Those whose ratification requires legislation are submitted for (legislative) approval by Parliament. Immediately after they are published, duly signed and ratified, international treaties and agreements override national legal instruments, provided that each agreement or treaty is implemented by all the parties.

The 1996 Constitution of the Republic of Cameroon is clear on the reception of international law in Cameroon as well as the status of such laws in relation to other municipal pieces legislation. On the applicability and supremacy of treaties and international agreements in Cameroon's legal system, the Constitution provides as fol-

57 (ibid.).

lows: Duly approved or ratified treaties and international agreements shall, following their publication, override national laws, provided the other party implements the said treaty or agreement (Article 46, Constitution of Cameroon). Article 45 of the Constitution, in effect, makes treaties and international agreements not just applicable but also acquire a supreme status over national laws. The supremacy enjoyed by treaties and international agreements is inferred from the phrase override national laws. Therefore, all ratified treaties and international agreements automatically become law in Cameroon, and do enjoy a supreme status over domestic legislation.⁵⁸

The courts in the country can be divided into two main categories viz, courts with ordinary jurisdiction and courts with special jurisdiction. The former, have powers to hear all matters, such as, civil, criminal and labour disputes. Safe for the Supreme Court which has jurisdiction over the whole national territory,⁵⁹ the ordinary courts are highly decentralised. Within this category, there are two types. The first are courts which have original jurisdiction in the sense that they have the power to hear matters at first instance. These consist of traditional (law) courts, which operate at village or tribal level; magistrates' courts, which operate at sub-divisional level, although they usually cover several subdivisions, and high courts, which operate at divisional level, but they also often cover several divisions.

The second consists of courts with appellate jurisdiction. While the High Court has limited appellate jurisdiction, the main appellate courts are the Court of Appeals which are located in the headquarters of each of the ten regions. The Supreme Court sometimes operates as an 'appellate' court, in the sense that it can quash, on an application to it, a judicial decision which it considers to have mistakenly interpreted the law. It does not decide the matter itself, but usually instructs a lower court of similar standing to the one from which the matter came to do so. Nevertheless, the Supreme Court has exclusive jurisdiction over all administrative, institutional and constitutional disputes in the country. Since it is usually saddled with a heavy backlog of administrative and institutional disputes, and has generally been slow and inefficient, a party who 'appeals' a matter from the Court of Appeal to it usually does so more to delay and frustrate the other party than to achieve anything else. Courts with special jurisdiction deal with either specified matters provided for by law, or a particular class of persons.

In 1996, the twelfth amendment of the Constitution, *inter alia* made provisions for an autonomous constitutional justice organ, the so-called Constitutional Council.⁶⁰ Only recently, that is twenty-two years later, the members and president of the con-

58 Agbor (2017:185).

59 According to Article 38 (1) the Supreme Court shall be the highest court of the State in legal and administrative matters as well as in the appraisal of accounts.

60 See Articles 46 to 52 of the 1996 Constitution of the Republic of Cameroon.

stitutional council were finally announced through Decrees No. 2018/105 and No. 2018/106 on 7 February 2018.⁶¹ Article 46 of the Cameroonian Constitution of 1996 states that, “the Constitutional Council shall have jurisdiction in matters pertaining to the Constitution. It shall rule on the constitutionality of laws. It shall be the organ regulating the functioning of the institutions”.⁶² Further, according to Article 47, the Constitutional Council gives the final ruling on the following:

- the constitutionality of laws, treaties and international agreements;
- the constitutionality of the standing orders of the National Assembly and the Senate prior to their implementation;
- conflict of powers between State institutions; between the State and the Regions, and between the Regions;
- ensures the regularity of presidential elections, parliamentary elections and referendum operations. It shall proclaim the results thereof; and
- provides advice in matters falling under its jurisdiction.

It is this Council that receives the resignation of the President of the Republic, declares the position vacant and opens the interim period before elections. The council is also responsible for judging the eligibility of parliamentarians and senators. Article 48 stipulates that, the Constitutional Council watches over the regularity of presidential and parliamentary elections as well as referendum operations. The Constitutional Council also proclaims the results of these various elections. In this light, the Constitutional Council serves as a constitutional judiciary organ, an institutional regulator, an electoral committee as well as an adviser on constitutional matters.

The duties of the members of the Constitutional Council are incompatible with those of members of Government, of members of Parliament, of the Supreme Court, economic and social council, civil servants, military and private individuals whose integrity and neutrality affects the job. Councilors are supposed to be politically neutral and should not have partisan or syndicate affiliations.⁶³

According to Article 12 of the Law of 21 April 2004, the Constitutional Council sits only if it is seized on matters within its jurisdiction. This is done through a letter which should state the facts and legal backing motivating the request. Each query is overseen by a designated Councilor who after research and investigations should produce a report and propose related decisions to the other Councilors for closed doors deliberation (except in cases concerning elections and referendums) and voting. The quorum for decision taking is nine members and decisions are based on majority votes. In case of parity, the vote of the session chair is preponderant except

61 Enyegue (undated).

62 Gras (2018).

63 Olinga (2006).

when it comes to confirming the vacancy of the Presidency of the Republic, in such a case the majority vote of two-thirds of the Councilors is sufficient.

In cases of election contestation, the Constitutional Council can be seized by any candidate, political party or any government agent directly linked to the election. For referendums, the constitutionality of laws as well as treaties, queries can be made by the Presidents of the Republic, Senate, Assembly and also two-third of the members of the Senate and Assembly. In cases where the vacancy of the position of Head of State needs to be confirmed, the request is made by the President of the National Assembly after consultation with the bureau. The Constitutional Council should arrive at decisions within a limit of 15 days except in cases where the query is made by the President of the Republic. In this case, the deadline is eight days. Decisions should clearly make reference to the legal texts, the facts of the request and the basis on which it was arrived at. It should also contain the names of the Councilors who sieged and be published in the official news outlets.

Besides the Constitutional Council, the amended Constitution also provided for the creation of a set of Administrative and Audit Courts decentralised along the lines of the ordinary courts. The courts within the country operate within a unified but decentralised court structure at the summit of which is a single Supreme Court for the whole country that operates more like the French *Cour de Cassation* rather than an English Court of Appeal. The highest court within each of the regions is the Appeal Court.

Unlike legislation, the role of judicial precedent as a source of law in Cameroon depends on whether one is in the English speaking Anglophone or French speaking Francophone regions of the country. The English legal system on which the law applied in the Anglophone regions is based treats judicial precedent differently from the way the French civil law on which the law applied in the Francophone regions is based. The English law doctrine of binding precedent or *stare decisis* under which judicial precedent is a major source of law was received in the Anglophone regions as part of the general reception of English law. For the two Anglophone regions, the doctrine of binding precedent operates in the sense that the precedents laid down within each region constitute binding authority within that region. However, judicial precedent as a binding source of law in the English provinces plays but a rather limited role because of the 'regionalised' system. Although appeals may be taken from the Court of Appeal to the Supreme Court, these are not usually handled as appeals in the strict sense of the word and the decisions taken by the Supreme Court are at best only of persuasive authority. To this extent, whilst judicial precedents remain an important source of law in the Anglophone regions, because of the way the courts are structured and actually operate, it may not be as significant as it should have been. Generally, the attitude towards judicial precedent in Francophone Cameroon is different. Judiciary precedent is not regarded as a primary source of law. However,

precedents, especially of the superior courts, although not strictly binding, are of highly persuasive value in the Francophone courts.⁶⁴

6 Concluding remarks

As mentioned at the outset, this chapter aimed to provide an introductory basic overview of Cameroon, aspects of its human and natural environment, its history and the legal setup of the country. The chapter raises no claim to completeness and will be complemented by a vast variety of topics to be discussed in the following chapters.

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64 Fombad (2007).

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