

EXPLANATORY NOTE ON THE FEBRUARY 1984 AMENDMENT OF THE CONSTITUTION OF CAMEROON

By Mr. El Hadj Hayatou (Cameroon)

A bill introduced by the Government of Cameroon and passed by the National Assembly amended articles 1, 5, 7, 8, 26 and 34 of the Constitution.

This bill was prompted by the government's desire to consolidate national unity and democratize political life in Cameroon. The amendments give de jure and de facto recognition to Cameroon's fundamental option of National unity. The objective is to get rid of the ambiguity in the appellation: United Republic of Cameroon, by adopting the prestigious name "Republic of Cameroon". This stresses the one and indivisible nature of the nation. As a consequence of this amendment the Seal of Cameroon had also to be amended to be consonant with this appellation.

Furthermore, the amendments involve streamlining the exercise of executive power by vesting such power in the President of the Republic alone, and re-instituting a system of vacancy that is more in accordance, from the legal viewpoint, with the democratic and republican spirit of article 2 of the constitution. This article states that national sovereignty shall be vested in the people of Cameroon and that the authorities responsible for directing the State derive their powers from the people byway of elections by direct or indirect universal suffrage. Therefore the amendment seeks to make the Cameroonian people the sovereign masters of their destiny and of the choice of their Head of State in the event of a vacancy. By empowering the President of the National Assembly or his deputy who is next to him in order of precedence, to discharge the duties of Interim President of the Republic, the amendment confirms the National Assembly as a pre-eminent associate institution of Cameroon's ruling democracy.

The ultimate advantage of this amendment, in addition to the benefit of a stable government and an inviolable constitution, is that of ensuring the urgent election of a new President in serenity and freedom and under the impartial arbitration of an elected representative of the nation who is the President of the Assembly.

Finally, the amendment tails within the framework of the New Deal Programme for which the Cameroonian people voted on 14 January, 1984.

CONSTITUTION OF THE REPUBLIC OF CAMEROON

(Adopted on 20 May 1972)
(Promulgated on 2 June 1972)

MODIFIED by Law No. 75/1 of 9 May 1975
Law No. 79/2 of 29 June 1979
Law No. 83/10 of 21 July 1983
Law No. 83/25 of 29 November 1984
Law No. 84/1 of 4 February 1984

THE CONSTITUTION

PREAMBLE

THE PEOPLE OF CAMEROON

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 affirm its unshakeable determination to construct the Cameroonian Fatherland on the basis of the ideal of fraternity, justice and progress:

Convinced that the salvation of Africa depends on the realization of an ever more closely-knit solidarity between the African States, affirms its desire to achieve in the independence of the Cameroonian Fatherland the creation of united and free Africa, at the same time maintaining peaceful and brotherly relations with the other peoples of the world in accordance with the principles laid down by the United Nations Charter.

Resolved to exploit its natural wealth in order to ensure the well-being of every citizen by the raising of living standards, proclaims its right to development as well as its determination to devote all its efforts to that end and declares that it is ready to co-operate with all States desirous of participating in this national enterprise in respect for its sovereignty and the independence of the Cameroonian State.

THE PEOPLE OF CAMEROON

Declares that the human being, without distinction as to race, to religion, sex or belief, possesses inalienable and sacred rights;

Affirms its attachment to the fundamental freedoms embodied in the Universal Declaration of Human Rights and the United Nations Charter and in particular to the following principles:

— Everyone has equal rights and obligations. The State endeavours to assure for all its citizens the conditions necessary to their development.

— Freedom and security are guaranteed to each individual subject to respect for the rights of others and the higher interest of the State.

— No one may be compelled to do what the law does not prescribe.

— Everyone has the right to settle in any place and to move about freely, subject to the statutory provisions concerning public order, security and tranquility.

— The home is inviolate. No search may take place except by virtue of the law.

— The privacy of all correspondence is inviolate. No interference shall be allowed except by virtue of decisions emanating from the judicial authorities.

— No one shall be subjected to prosecution, arrest or detention except in the cases and according to the manner determined by the law.

— The law may not have retrospective effect.

— No one shall be judged or punished except by virtue of a law promulgated and published before the offence was committed.

— The law ensures the right of everyone to a fair hearing before the courts.

— No one shall be harassed because of his origin, opinions or beliefs in religious, philosophical or political matters, subject to respect for public order.

— Freedom of religion and freedom to practise a religion are guaranteed.

— The State is secular. The neutrality and independence of the State in respect

of all religions are guaranteed.

— The freedom of expression, the freedom of the press, the freedom of assembly, the freedom of association, and the freedom of trade-unions are guaranteed under the conditions fixed by the law.

— The Nation protects and promotes the family, the natural basis of human society.

— The State ensures the child's right to education. The organisation and control of education at all levels are bounden duties of the State.

— Ownership is the right guaranteed to everyone by the law to use, enjoy, and dispose of property. No one shall be deprived thereof, save for public purpose and subject to the payment of compensation to be determined by the law.

— The right of ownership may not be exercised in violation of the public interests or in such a way as to be prejudicial to the security, freedom, existence or property of other persons.

— Everyone must share in the burden of public expenditure according to his means.

— The State guarantees to all citizens of either sex the rights and freedom set out in the preamble of the constitution.

PART ONE

Sovereignty

Article 1. — The United Republic of Cameroon shall with effect from the date of entry into force of this law be known as "REPUBLIC OF CAMEROON". This Republic of Cameroon shall be a Unitary State. It shall be one and indivisible, democratic, secular and dedicated to social services. It shall ensure the equality of all citizens before the law.

The official languages of the Republic of Cameroon shall be English and French.

Its motto shall be "Peace — Work — Fatherland".

Its flag shall be of three equal vertical stripes of green, red and yellow charged

with one gold star in the centre of the red stripe.

Its national anthem shall be "O Cameroon, Cradle of our Forefathers".

The seal of the Republic of Cameroon shall be a circular medallion in bas-relief, 46 millimeters in diameter, bearing on the obverse and in the centre the head of a gill in profile turned to the dexter towards a coffee branch with two leaves and flanked on the sinister by five cocoa pods, encircled beneath the upper edge by the French words "Republique du Cameroun" and above the lower edge by the national motto "Paix — Travail — Patrie": on the reverse and in the centre the coat or arms of the Republic of Cameroon, encircled beneath the upper edge by the English words "Republic of Cameroon" and above the lower edge by the national motto "Peace — Work — Fatherland".

The coat of arms of the Republic of Cameroon shall be an escutcheon surmounted chief by the legend "Republic of Cameroon" and supported by two crossed fasces with the motto "Peace — Work — Fatherland" base.

The escutcheon shall be composed of a star or on a field vent and a triangle gules, charged with the geographical outline of Cameroon azure and surcharged with the sword and scales of justice sable.

The Capital shall be Yaounde.

Article 2. — National sovereignty shall be vested in the people of Cameroon who shall exercise it either through the President of the Republic and the members returned by it to the National Assembly or by way of referendum; nor may any section of the people or any individual arrogate to itself or to himself the exercise thereof.

The vote shall be equal and secret, and every citizen aged twenty-one years or over shall be entitled to it.

The authorities responsible for the direction of the State shall hold their powers of the people by way of election by universal suffrage, direct or indirect.

Article 3. — Political parties and groups may take part in elections. They shall be formed and shall exercise their activities in accordance with the law.

Such parties shall be bound to respect the principles of democracy and of national sovereignty and unity.

Article 4. — The State authority shall be exercised by:

— The President of the Republic and

— The National Assembly.

PART TWO

The President of the Republic

Article 5. — The President of the Republic, as Head of State and Head of Government, shall ensure respect for the Constitution and the unity of the State, and shall be responsible for the conduct of the affairs of the Republic.

He shall define the policy of the Nation. The President of the Republic may delegate some of his powers, to members of the Government and to certain high-ranking officials of the Administration, as part of their respective powers and duties.

Article 6, — The President of the Republic shall be elected by universal suffrage and direct and secret ballot.

Candidates for the office of President of the Republic must be in possession of their civic and political rights and have attained the age of thirty-five years by the date of the election.

The nomination of candidates, the supervision of elections and the proclamation of results shall be regulated by law.

The office of President of the Republic may not be held together with any other elective public office or professional activity.

Article 7. — The President of the Republic shall be elected for five years by universal suffrage. He may be re-elected. His election shall require a majority of the votes cast, and shall be held not less than twenty nor more than fifty days before the expiry of the term of the incumbent President.

The President-elect shall take the oath in the manner laid down by the law. Where the President of the Republic is temporarily unable to discharge his duties, he shall instint a Minister of this choice to discharge such duties within the scope of an express delegation of powers.

Should the Presidency of the Republic become vacant as a result of death, or resignation or of the occupant being permanently prevented from attending to his duties, as duly ascertained by the Supreme Court the powers of the President of the Republic shall be frilly assumed, until the election of the new President, by the President of the National Assembly, and where the latter is also unable to act, by his vice following the order of precedence in the Assembly.

The Constitution shall not be amended nor the composition of the Government changed by the interim President of the Republic, namely the President of the National Assembly or his vice. He may not organize a referendum or run for the Presidency of the Republic.

Voting to elect a new President of the Republic shall take place not less than twenty days nor more than forty days after the vacancy.

Article 8. — The Ministers and Vice-Ministers shall be appointed by the President of the Republic who shall define their powers and duties. He shall terminate their appointment.

The President of the Republic shall preside over the Council of Ministers. Members of the Government shall be responsible to him.

The office of Minister or Vice-Minister shall not be compatible with the function of parliamentarian, national representative of a trade or profession and any post or occupation.

Article 9. — The President of the Republic shall:

- represent the State in all public activity and be head of the armed forces;
- accredit ambassadors and envoys extraordinary to foreign powers;
- receive letters or credence of ambassadors and envoys extraordinary from foreign powers;
- negotiate and ratify agreements and treaties, provided that treaties dealing with the sphere reserved by article 20 to the legislature shall be submitted before ratification for approval in the form of law by the National Assembly;
- exercise the prerogative or clemency after consultation with the Higher Judicial Council:

- confer the decorations of the Republic;
- promulgate laws as provided by Article 29:
- be responsible for the enforcement of laws:
- have the power to issue statutory rules and orders;
- appoint to civil and military posts;
- ensure the internal and external security of the Republic:
- act up, regulate and direct all administrative services necessary for the fulfillment of his task.

Article 10. — The President of the Republic shall refer to the Supreme Court under the conditions prescribed by the law provided for in Article 32 any law which he considers to be contrary to his Constitution.

Article 11. — The President of the Republic may where circumstances require proclaim by decree a State of Emergency, which will confer upon him such special powers as may be provided by law.

In the event of grave peril threatening the nation's territorial integrity or its existence, independence or institutions, the President of the Republic may proclaim by decree a State of Siege and take all measures as he may deem necessary

He shall inform the nation by message of his decision.

PART THREE

The National Assembly

Article 12. — The National Assembly shall have a term of five years. It shall be composed of one hundred and fifty members whose election shall be by direct universal suffrage and secret ballot.

The National Assembly may at the instance of the President of the Republic decide by law to extend or shorten its terms of office.

Article 13. — Laws shall be passed by a simple majority of the members

present.

Article 14. — Before promulgating any bill, the President of the Republic may request a second reading. In this case, laws shall only be passed by the National Assembly by a majority of its membership.

Article 15. — The National Assembly shall meet twice a year, the duration of each session being limited to thirty days.

The opening-date of each session shall be fixed by the Assembly's steering committee after consultation with the President of the Republic. In the course of one such session the Assembly shall approve the Budget. Provided that in the event of the budget not being approved before the end of the current financial year the President of the Republic shall have power to act according to the old budget at the rate of one twelfth for each month until the new budget is approved.

On request of the President of the Republic or of two thirds of its membership the Assembly shall be recalled to an extraordinary session, limited to fifteen days, to consider a specific programme of business.

Article 16. — The National Assembly shall adopt its own rules of organization and functioning in the form of a law to establish its standing orders.

At the opening of the first session of each year, it shall elect its President and Steering Committee.

The sittings of the National Assembly shall be open to the public: provided that in exceptional circumstances and on the request of the Government or of a majority of its members strangers may be excluded.

Article 17. — Elections shall be regulated by law.

Article 18. — Parliamentary immunity, disqualification of candidates or of sitting members and the allowances and privileges of members shall be governed by law.

PART FOUR

Relations between the Executive and the Legislature

Article 19. — Bilk may be introduced either by the President of the Republic or by any member of the National Assembly.

Article 20. — The following shall be reserved to the legislature:

(a) the fundamental rights and duties of the citizen, including:

— protection of the liberty of the subject.

— human rights,

— labour and trade union law.

— the overriding duties and obligations of the citizen in respect of national defense.

(b) The law of persons and property, including:

— nationality and personal status.

— law of moveable and immoveable property.

— law of civil and commercial obligations.

(c) The political administrative and judicial system in respect of:

— elections to the National Assembly.

— general resolution of national defense.

— the definition of criminal offences not triable summarily and the authorization of penalties of any kind, criminal procedure, amnesty, the creation of new classes of Courts.

— the organization of the local authorities.

(d) The following matters of finance and public property:

— currency,

— budget.

— imposition, assessment and rate of all dues and taxes.

— legislation on public property.

(e) Long-term commitments to economic and social policy, together with the general aims of such policy.

(f) The educational system.

Article 21. — Provided that with regard to the subjects listed in Article 20 the National Assembly may empower the President of the Republic to legislate by way of Ordinance for a limited period and for given purposes.

Such Ordinances shall enter into force on the date of their publication. They shall be tabled before the National Assembly for purposes of ratification within the time limit fixed by the enabling law.

They shall remain in force as long as the Assembly has not refused to ratify them.

Article 22. — Matters not reserved for the legislature shall come under the jurisdiction of the authority empowered to issue statutory rules and orders.

Article 23. — Bills laid on the table of the National Assembly shall be considered in the appropriate committee before debate on the floor of the House.

Article 24. — The text laid before the Assembly shall be that proposed by the President of the Republic when the proposal comes from him, and otherwise the text as amended in committee, but in either case amendments may be moved in the course of the debate.

Article 25. — The President of the Republic may at his request address the Assembly in person, and may send messages to it: but no such address or message may be debated in his presence.

Article 26. — The Ministers and Vice-Ministers shall have access to the National Assembly and may take part in its debates.

Article 27. — The programme of business in the Assembly shall be appointed by the Chairmen's Conference, composed of Party Leaders. Chairmen of

Committees and Members of the Steering Committees of the National Assembly, together with a Minister or Vice-Minister.

The programme of business may not include bills beyond the jurisdiction of the Assembly as defined by Article 20.

Nor may any bill introduced by a member or any amendment be included which if passed would result in a burden on public fluids or an increase in public charges without a corresponding reduction in other expenditure or the grand of equivalent new supply.

Any doubt or dispute on the admissibility of a bill or amendment shall be referred for decision by the President of the Assembly or by the President of the Republic to the Supreme Court.

The programme of business shall give priority and in the order decided by the Government, to bills introduced or accepted by it.

Any business shall, on request by the Government, be treated as urgent

Article 28 — The National Assembly may inquire about governmental activity by means of oral or written questions and by setting up Committees of inquiry with specific terms or reference.

The Government, subject to the imperatives of national defense and the security of the State, shall furnish any explanation and information to the Assembly.

The procedure of all such committees of inquiry shall be laid down by law.

Article 29. — The President of the Republic shall promulgate laws passed by the National Assembly within fifteen days of their being forwarded to him unless he requests a second reading or refers the matter to the Supreme Court.

On his failure to do so within such period, the President of the National Assembly may record the fact and himself promulgate.

Laws shall be published in official languages of the Republic.

Article 30. — The President of the Republic, after consultation with the President of the National Assembly, may submit to a referendum any reform bill which, although normally reserved for the legislature, could have profound repercussions on the future of the Nation and the national institutions.

This shall apply in particular to:

- Bills concerning the organization of the Public authorities or the amendment of the Constitution;
- Bills to ratify international agreements or treaties having particularly important consequences:
- Certain reform bill relating to the law⁷ of persons and property, etc.

The bill shall be adopted by a majority of valid votes cast. The referendum procedure shall be determined by law.

PART FIVE

The Judiciary

Article 31. — Justice shall be administered in the territory of the Republic in the name of the people of Cameroon.

The President of the Republic shall ensure the independence of the judiciary, and shall appoint to the Bench and to the legal service.

He shall be assisted in this task by the Higher Judicial Council which shall give him its opinion on all proposed appointments to the Bench and on disciplinary sanctions concerning them. It shall be regulated as to procedure and otherwise by law.

PART SIX

The Supreme Court

Article 32. — The Supreme Court in addition to the powers and duties provided for by Articles 7, 10 and 27 shall give final judgment on:

- (a) such appeals as may be granted by law from the final judgments of the Courts of Appeal and lower courts:
- (b) Enforceable court decisions whenever the application of the law is in issue:
- (c) Complaints against administrative acts, whether claiming damages or on grounds of ultra vires:

(d) Disputes which the law expressly refers to it.

The composition of the taking of cognizance by and the procedure of the Supreme Court shall be laid down by law.

Article 33. — Where the Supreme Court is called upon to give an opinion in the cases contemplated by Articles 7, 20 and 27, its numbers shall be doubled by the addition of personalities nominated for one year by the President of the Republic in view of their special knowledge or experience.

PART SEVEN

Impeachment

Article 34. — A Court of Impeachment shall be set up. The conditions governing the bringing of matters before it and its organization shall be fixed by law. The Court of Impeachment shall have jurisdiction, in respect of acts performed in the exercise of their offices, to try the President of the Republic for high reason and the Ministers and Vice-Ministers for conspiracy against the security of the State.

PART EIGHT

The Economic and Social Council

Article 35. — There shall be an Economic and Social Council which shall be regulated as to powers and in other respect by the law.

PART NINE

Amendment of the Constitution

Article 36. — Bills to amend this Constitution may be introduced either by the President of the Republic or the National Assembly.

Provided that any bill introduced by a member of the Assembly shall bear the signature of at least one third of its membership.

An amendment presented to the Assembly on the initiative of the members or of the President of the Republic shall be passed by a majority of the membership of the National Assembly.

The President of the Republic may decide to submit any amendment to the people by way of a referendum.

Article 37. — No procedure to amend the Constitution may be accepted if it tends to impair the republican character, unity or territorial integrity' of the State, or the democratic principles by which the Republic is governed.

PART TEN

Final Provisions

Article 38. — The legislation resulting from the laws and regulations applicable in the Federal State of Cameroon and in the Federated States on the date of entry into force of this Constitution shall remain in force in all of their provisions which are not contrary to the stipulations of this Constitution, for as long as it is not amended by legislative or regulatory process.

Article 39. — This Constitution shall be registered and published in the Official Gazette of the Republic of Cameroon in French and in English, the French text being authentic.

It shall be implemented as Constitution of the Republic of Cameroon.

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