



The Loopholes, Shortcomings and Controversies of Elections Cameroon (ELECAM) and its Law within the Electoral Dispensation of Cameroon

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ABSTRACT

The realm of elections enables the citizens of a country to select those who shall handle their affairs. It is meant to avoid anarchy in the political, legislative, municipal and executive management of the affairs of the society since the chosen or elected few can more easily harmonize their views when compared to the entire society.

The idea of a selected or chosen few managing State affairs has been formalized by some international legal instruments. It is in this light that Article 13 of the African Charter on Human and Peoples' Rights (1981) intimates that every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives. This Article is corroborated by Article 17 of the African Charter on Democracy, Elections and Governance (2007).

However, the principle of choosing a few has been watered down by some so-called democracies, especially some African countries. Amongst these countries, Cameroon occupies a prominent position. This is a country which has been systematically organizing and rigging elections. This situation has now got to a point that some human rights activists or enthusiasts are called upon to raise awareness as far as Cameroon's deplorable case is concerned.

It is in this light that I decided to present the loopholes, controversies and shortcomings inherent in the ELECAM Law. My aim, as far as this presentation is concerned, is to raise awareness as to the need to review this Law, and also to the need to set up a credible election management body.

It should be noted that, though still useful, this article was written before the 2011 Presidential Elections in Cameroon

1) INTRODUCTION

What is an Election Management Body (EMB)

An election management body is a structure responsible for the organization of elections in a given country. It handles a greater part of the electoral process, that is, a greater section of the process which stretches from the registration of voters to the proclamation of election results. There are four main models of election management bodies in the world, namely, the independent model (Australia, South Africa, India, etc), the government model (Denmark, Sweden, United States, etc), the judicial model (Argentina, Brazil, Mexico, etc) and the mixed model (France, Togo, Germany, etc)¹.

In Cameroon, the election management body, which is known as Elections Cameroon (ELECAM) , is a mixed model, that is, it has an independent board which determines policy issues , while there is an executive department which ensures the implementation of the decisions of the board². This department is supervised by the board which has varying degrees of supervisory powers.³ In a nutshell, Elections Cameroon is a two-pronged structure: it has a legislative unit which is known as the Electoral board, and an executive unit called the General Directorate of Elections.

1.1 Historical Background leading to the Setting-up of Elections Cameroon

Since the return of multi-party politics in Cameroon in the early 90s, the ruling CPDM (the Cameroon People's Democratic Movement) Government has been systematically overhauling its sophisticated electoral fraud mechanism or machinery. This overhauling process has been constantly reviewed to guarantee victory for the ruling party through political racketeering. It is as a result of this gloomy or bleak situation that the international community, especially the Commonwealth, mounted pressure on the Cameroon Government so that it should instill a spirit of fairness, transparency, freedom, impartiality and credibility into the electoral process.

This pressure was successful, to some extent, since the Cameroon Government reluctantly set up an elections observatory known as the National Elections Observatory (NEO) in December 2000. This structure was just a mere observatory as its name indicated. Its members just had to observe the electoral process and make some recommendations for the improvement of

¹ *Election Management Body* Available at:

en.wikipedia.org/wiki/Election_management_body
(Consulted on: 06/04/10)

² *Ibid*

³ *Ibid*

the electoral system. Indeed, they were not empowered, in concrete terms, to call any electoral officer to order. Furthermore, they could not effectively stop or prevent any electoral irregularity noticed during an election.

This unfortunate situation prompted the international community (with the Commonwealth still at the forefront of the pressure-mounting exercise) to once more, corner the Cameroon Government so that it should comply with its electoral obligations in terms of fairness, credibility, freedom, transparency and impartiality. The outcome was the very laborious birth, in December 2006, of Elections Cameroon which is popularly known as ELECAM.

2) ELECAM AND ITS DUBIOUS RELATIONSHIP WITH THE MINISTRY OF TERRITORIAL ADMINISTRATION/DECENTRALIZATION (MINATD)

Issues relating to fairness, credibility, independence, neutrality and impartiality have always been the bone of contention during elections in Cameroon. Opposition parties have always decried the lack of fairness, credibility, independence, neutrality and impartiality during the said elections. As already seen, The National Elections Observatory has not provided any commendable solution to the awkward problem of electoral fraud. This unfortunate situation has been maintained by the ruling CPDM Government.

In order to control the electoral process and avoid any embarrassing electoral outcome or electoral results that may flush it out of power circles, the said Government has tactfully re-involved the infamous Ministry of Territorial Administration and Decentralization in the electoral game. This re-involvement is clearly enshrined in the amended version of Section 40 of the Law Setting Up and Laying Down the Organization and Functioning of ELECAM. This Section states as follows:

“The Ministry in charge of Territorial Administration shall ensure constant liaison between the Government and Elections Cameroon. The latter shall in particular submit to it copies of minutes of meetings and progress reports.”⁴

Indeed, any link or liaison that is created by a structure (MINATD) which has spent all its time defrauding elections in Cameroon is not to be trusted at all! Thus, the capacity of ELECAM to be independent could be questioned. As a reminder, MINATD has so far been the chief architect of electoral fraud in Cameroon.

3) ELECAM AND UNRELIABLE ELECTORAL COMMISSIONS

⁴ Section 40 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

The lack of trust in MINATD, and by extension, in ELECAM, is even further expressed by an eminent CPDM parliamentarian (Ayah Paul Abine) when he severely criticizes the Bill (this Bill was finally adopted) dealing with the amended version of Section 7 of the aforementioned Law, in the following words:

“How can anyone claim to see the independence of ELECAM when the Bill provides for the mandatory membership of administrators in all the “commissions for the revision of registers of electors, commissions in charge of controlling the establishment and distribution of registration cards, local polling commissions as well as council supervisory commissions...?”⁵

Honourable Paul Ayah continues to portray his distrust of ELECAM's independence on the basis of the aforementioned amended version of Section 7 of the Law on ELECAM when he states:

“Few simpletons there are who would see independence in ELECAM when the amendment provides that the number of the “representatives of Elections Cameroon appointed by the Director General of Elections Cameroon (to the last-mentioned commissions)...shall be equal in number to the representatives of the Administration. Is it not a matter of common sense that the judicial officer who automatically has a casting vote as president will, by the allegiance he owes to the President of the Republic who appointed him, vote necessarily in favour of the “Administration?”⁶

In a nutshell, any election management body in Cameroon which works or collaborates with MINATD and the various electoral commissions cannot comfortably talk of independence, impartiality, fairness, neutrality and credibility. It could only be a replica of MINATD and the said commissions. It should once more be noted that MINATD and electoral commissions are structures which have excelled in electoral fraud.

4. THE BUREAUCRATIC NATURE OF ELECAM

ELECAM has some of the characteristics of the para-public institutions in Cameroon. These traits have ineluctably led to a catastrophic or disastrous management and even the total collapse or closure of some of the said institutions. Thus, ELECAM could also experience this situation if its administrative

⁵ *A Paper on the Amendment of the 2006 Law on ELECAM*, Presented by Honourable Ayah Paul Abine

⁶ *Ibid*

framework is not reviewed and seriously overhauled. A few of the said traits have been highlighted.

The first trait is the existence of two structures which connive with each other to plunder the resources of the para-public institution concerned. Conversely, these structures could also be at loggerheads due to conflicting interests. Precisely speaking, the structures are the board of governors, which is the supreme or supervisory body, and the managerial unit, which is the executive or implementing body. In the case of ELECAM, the supervisory body is the Electoral Board, which, inter alia, approves the action programme prepared by the Director-General of ELECAM and the progress report drawn up by the said Director-General⁷; the executive body is the General Directorate of Elections, which implements the decisions of the Electoral Board.

The second trait is the concentration of a lot of powers in the hands of the managerial unit, thereby paving the way for excessive bureaucracy. In the case of ELECAM, the Directorate General of Elections Cameroon wields a lot of powers. These powers are in the hands of the Director-General who seems to be the most important officer in the ELECAM set-up⁸. The dictatorial or high-handed management of the managers of para-public institutions is well known. The case of the Director-general of ELECAM would likely not be an exception.

In a nutshell, the bureaucratic or administrative framework of ELECAM may likely ease the poor functioning of this institution. Any adverse functional environment would likely have far-reaching or significant consequences as far as the organization of elections in Cameroon is concerned.

5) Appointment or recruitment of Staff in ELECAM

As it is the case in most State institutions in Cameroon, the appointment or recruitment of staff at various levels in ELECAM is not done objectively. In this connection, many CPDM militants and sympathizers have been recruited whereas such a structure has to recruit or appoint neutral persons or civil society personalities. No objectivity in recruitments and appointments can emerge from a structure whose main officials are appointed by a Head of State who gives priority to his militants and sympathizers as far as recruitments and appointments are concerned. It should be noted that ELECAM was set up without any prior genuine broad-based consultation involving all political stakeholders in Cameroon. Such a situation can only go a long way to indirectly update or render useful in the future the following statement made by Reverend Father Eugene Song:

⁷ Section 7 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

⁸ Section 22 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

“At the electoral level, we regret that the electorate in Cameroon has never been free to choose their own leaders.”⁹

Furthermore, free and fair elections cannot be expected of ELECAM partly because it promotes a lopsided secondment policy. This policy gives priority to CPDM militants or those who sympathize with the CPDM Government. In other words, instead of requesting the transfer of electoral experts (void of party leanings) from the Public Service, ELECAM prefers to implement a selective secondment policy so as to favour the ruling party.

6) ELECAM AND FINANCIAL ISSUES

ELECAM is a huge or colossal structure which needs a lot of money or financial attention. Indeed, a lot of money is needed for the day-to-day running of its branches at the subdivisional, divisional and regional levels. To crown it all, its Head Office, as it is the case with the head offices of State institutions in Cameroon, requires huge amounts of money for its activities or operations. Furthermore, funding which is normally earmarked for electoral operations is also very colossal. The Government, which always complains of lack of enough financial means, cannot obviously satisfy all the main financial exigencies or needs of ELECAM. This situation is always a threat to the logistical success of elections in Cameroon, in particular, and in Africa in general.

ELECAM is under the stifling authority of the Minister of Finance. He appoints the Treasury Accounting Officer of ELECAM and an auditor to audit the accounts of ELECAM. Moreover, the administrative and management accounts of ELECAM are submitted to him annually.¹⁰ This stifling authority has displayed its shortcomings in many para-public institutions especially in the accounting departments of these institutions. These departments have enormously contributed to the financial ruin or demise of para-public institutions.

Though the budget of ELECAM is within the confines of the law, since it is part and parcel of the State budget, as it is the case with the budget of ECN (Electoral Commission of Namibia) whose funds are appropriated by the law for electoral activities¹¹, it does not entirely ensure impartiality, neutrality and

⁹ Eugene Song, *Cameroon : A Nation Bleeding and Burning in Silence*, page 20

¹⁰ Sections 32, 33 and 34 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

¹¹ *EISA Electoral Commission of Namibia*
Available at

www.eisa.org.za/WEP/namec.htm (Consulted on: 31/03/10)

independence in the activities or operations of ELECAM because, in most cases (especially in Africa), he who pays the piper calls the tune.

7) ELECAM AND THE REGISTRATION VOID (DELAYED REGISTRATION AND NON-REGISTRATION)

It is universally acknowledged that the registration of the names of potential voters on electoral registers is one of the very significant factors which determine the outcome of an election. To this end, the CPDM Government has always made sure that the registration exercise is flawed in such a way that it can obtain victory even before the start of any election.

The said Government intends to perpetuate this situation during the ELECAM era. This assertion is justified by the non-implementation of Section 42 of the ELECAM Law. This portion of the Law stipulates as follows:

“As and until Elections Cameroon is effectively put in place, over a period which should not exceed 18 (eighteen) months, the National Elections Observatory (NEO) and other relevant electoral State bodies shall continue to carry out their respective electoral duties.”¹²

ELECAM is now effectively functioning whereas no concrete registration of potential voters' names on electoral registers is going on. The ruling party knows that any early and streamlined registration process will herald the beginning of the end of its forceful rule or stay in power. In other words, it knows that a haphazard and late registration process will secure victory for its candidates; thus, it is in its interest to delay the process for as long as possible. It should be noted that the phenomenon of delayed registration or non-registration is glaringly against the law, especially during the registration period.

8) THE WORKING TOOLS OF ELECAM

In order to ensure that ELECAM's gigantic structure functions properly or without major hitches, it is necessary to have good working tools such as reliable polling stations, trustworthy voters' registers, transparent ballot boxes, a bankable indelible ink, etc.

Instead of obtaining these electoral tools from the right quarters, ELECAM has decided to move towards MINATD which recently handed over electoral materials to it. What type of results can emerge from a structure (MINATD) which provides electoral tools it has been using to systematically defraud elections? Apart from a few of these tools such as transparent ballot boxes, MINATD's electoral tools are fraud-prone. To this end, its so-called indelible ink and electoral

¹² Section 42 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

reports cannot be relied upon. Thus, ELECAM is committing a great mistake by relying on the said tools. The situation will even be worse when ELECAM will rely on MINATD's polling stations and electoral roll. When compared to the Electoral Commission of Ghana, in terms of producing a good electoral roll, ELECAM has a long way to go since:

"In its efforts at enhancing the transparency of its operations, the Electoral Commission of Ghana has brought many changes and improvements in the Ghanaian electoral process. The first change and improvement was the compilation of a credible electoral roll with the active collaboration and participation of the political parties."¹³

In a nutshell, it could be inferred that ELECAM is relying on electoral tools which have failed in their task. These tools take Cameroonians several years back in the history of elections in the world.

9) ELECAM AND SOME LEGAL SHORTCOMINGS

In order to have free and fair elections, one of the conditions to be fulfilled is the setting up of a convincing or credible legal framework. Though the Cameroonian legal framework has some commendable electoral provisions, much still has to be done. In order to illustrate the fact that much work still lies ahead of Cameroonians as far as the improvement of the legal electoral framework is concerned, the cases of the Law on ELECAM and the Constitution of Cameroon have been taken into consideration.

As concerns the Law on ELECAM, two examples have been taken into account. They go a long way to portray the fact that this Law is not a product of a broad-based consultation involving all the stakeholders in an electoral process, especially the civil society.

The first example deals with the amended version of Section 7 of the said Law. It states, *inter alia*, that:

"The Electoral Board shall hold consultations with the Administration, the Judiciary, political parties and, eventually, the civil society within the framework of the management of the electoral process, in particular, with a view to constituting the joint electoral commissions provided for by law."¹⁴

¹³ *Electoral Reform/Electoral Commission of Ghana*
Available at

www.ec.gov.gh/node/10 (Consulted on: 31/03/10)

¹⁴ Section 7 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

Taking cognizance of the fact that the civil society has now become a very pivotal element in the electoral process, I think that the idea of **eventually** consulting the civil society is not tenable. In other words, the civil society, together with other structures involved in the consultation exercise should be consulted at the same time. It is as if the Law on ELECAM is striving to eliminate the civil society from the electoral process. The second example concerns the amended version of Section 40 of the Law on ELECAM. This version stipulates as follows:

"State services shall collaborate with, and assist, Elections Cameroon in the performance of the duties assigned to it."¹⁵

This version of Section 40 prompts any vigilant electoral critic to smell a rat since collaboration between ELECAM and State services is no longer the result of a mere request from ELECAM, as expressed below in the former version of Section 40, but a mandatory or compulsory provision bringing together ELECAM and State services. The said former version states as follows:

"Elections Cameroon shall receive any collaboration and assistance requested from Government services for the performance of its statutory duties."¹⁶

The aforementioned examples are just a few of the numerous cases of the legal loopholes in the Law on ELECAM.

As regards the 1996 Constitution of Cameroon, it is unfortunate that the legal protection of ELECAM is not enshrined in this supreme legal instrument. This situation clearly displays the fact that much weight is not given to ELECAM as it is the case with the Independent Electoral Commission of Botswana which is legally protected in the 1966 Constitution of Botswana¹⁷. In other words, expressing the provisions determining or defining a very sensitive election management body such as ELECAM in a law alone and not both in a law and the Constitution, or just in the Constitution, smacks of levity or a tragic-comedy. The Cameroonian Government feels that making personalized amendments to the Constitution (such as the one which, in 2008, authorized the Cameroonian

¹⁵ Section 40 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

¹⁶ Section 40 of Law N° 2006/011 of 29 December 2006 to Set Up and Lay Down the Organization and Functioning of Elections Cameroon (ELECAM)

¹⁷ Sections 65 A and 66 of the 1966 Constitution of Botswana

Head of State to perpetuate his stay in power through as many presidential elections as possible) is more important than enshrining non-personalized ELECAM provisions in the Constitution. What a pity !!!

10) SOME RECOMMENDATIONS

10.1 Short-term Recommendations

The recent electoral history of Cameroon has been marred by all sorts of vices or rigging ills. These vices or ills were highlighted by the National Commission on Human Rights and Freedoms (NCHRF) of Cameroon in the following words:

- late, and, sometimes, haphazard delivery of voters' cards;
- cases of persons in possession of many voters' cards;
- inaccessibility of some polling stations to some persons with disabilities;
- failure to accredit some representatives of political parties;
- the controversial role of some administrative authorities;
- cases of unsealed or improperly sealed ballot boxes;
- cases of multiple votes during the 22 July 2007 Elections;
- etc¹⁸.

These electoral hurdles, though pinpointed by NCHRF observer teams during specific periods, that is, the dual Legislative and Municipal Elections of 22 July 2007 as well as the By-elections of 26 October 2008, limpidly epitomize, in a general manner, the electoral nightmares Cameroonians have been experiencing.

Taking cognizance of the fact that ELECAM, on the basis of its current set-up and the prevailing political or electoral dispensation, cannot guarantee the disappearance of the aforementioned hurdles, I hereby recommend that it should be immediately disbanded, and a broad-based conference (involving all stakeholders in the electoral process), convened, to set up a suitable election management body, a conference that would right the wrongs of the ELECAM Law.

Mindful of the said hurdles, the new election management body should be a viable or reliable structure modelled on the traits or characteristics of reputable election management bodies such as the Electoral Commission of Ghana. Moreover, independent and credible civil society personalities should be appointed to manage the new structure. These personalities should be allowed to shun the traits of para-public institutions in Cameroon. They should also set up bankable supervisory commissions

which can appropriately handle electoral issues, commissions which are all-inclusive, that is, commissions comprising political parties, the civil society, etc.

The ultimate short-term measure is the immediate setting up of a funding mechanism that would provide the much needed funds to manage or run the affairs of the newly created election body. This mechanism should not, in any way, depend on the Ministry of Finance for the obtainment of its funds. A simpler and streamlined way of obtaining these funds should be prioritized.

10.2 Medium-term Recommendations

After setting up a credible election management body, a recruitment policy based on universally accepted standards should be devised. Since election management is a very sensitive issue, a renowned recruitment firm should be hired to carry out the recruitment of the staff of the new election management institution. This recruitment should place civil servants on the sidelines or relegate them to the background as much as possible. Priority should be given to electoral experts or those who have a good mastery of election management. No room for persons with party leanings!!!

After the recruitment exercise, a good training programme should be designed for the recruited staff. This programme has to usher in a convincing supplementary election management era for the trainees concerned. The said trainees have to train those electoral staff who will be temporarily recruited to work in the field. No room for adventurers in the field!!!

The onus is on the field staff to ensure that the names of as many Cameroonians of voting age as possible are registered on the electoral roll. Furthermore, these staff should be involved in the setting up of polling stations which are not fraud-prone, polling stations which can contribute to the achievement of ELECAM's (or the new election management body's) mission of ensuring the impartiality, objectivity, transparency and transparency of elections¹⁹. No room for amateurish work!!!

10.3 Long-term Recommendations

Trustworthy supervisory electoral commissions should be set up at the council, divisional, regional and national levels. These commissions should be manned by credible civil society members. They have to be tactful and shrewd enough to clear the electoral mess which has been created by the current regime's partial or biased supervisory commissions. In other words, the Ministry of Territorial Administration, political parties, traditional chiefs and quarter heads should not

¹⁸ National Commission on Human Rights and Freedoms (Cameroon), *Report on the State of human Rights in Cameroon (2007 -2008)*, NCHRF Publication (2009), p. 20. Yaounde: Messie Printing Press

¹⁹ *allafrica.com : Cameroon : ELECAM – Action Now*
Available at

allafrica.com/stories/200902030598.html (Consulted on:31/03/10)

be members of the commissions that will be set up. These commissions should be set up during the period preceding the next Presidential Elections in 2011.

Mindful of the importance of the training exercise in an electoral system, a long-term retraining programme has to be elaborately designed. This programme should enable the staff of the newly created election body as well as the field staff to regularly attend seminars, conferences, refresher courses, etc, so as to continuously update their skills or regularly build their capacity. The retraining exercise should take place both at the national and international levels. A good retraining exercise could ward off the potential source of civil war created by ELECAM²⁰.

The last long-term recommendation is the quest for a self-sufficient funding source. In other words, the State should, in the long run, be only one of the funding bodies of the newly created election management body and not the sole funding body. In this connection, foreign and private funding sources have to be sought. The funding of the election management body should be rendered sustainable.

Notwithstanding the devastating nature of the above-mentioned controversies, loopholes and shortcomings emanating from the ELECAM Law, and irrespective of the aforementioned recommendations, the said Law marks a slight improvement when compared to the nightmarish NEO period.

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