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Blending the Legal and Institutional Framework With the Economy of Communion as a New Paradigm for the Fight Against Corruption in Developing African Countries: The Case of Cameroon

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Abstract

Corruption in Africa is a colonial legacy. However, this cankerworm grew in strength in the early 1990s as a result of the economic crisis that affected the Cameroonian and most of African economies in the late 1980s, stretching to the mid 1990s. As a result of this economic crisis, the currencies of most African States were devaluated and the salaries of workers were slashed.¹ Extreme poverty then crept into the lives of these workers as they could barely meet up with their daily needs. To ameliorate these poor living standards, most workers resolved to corrupt practices and so corruption grew in strength and in might. African countries were propelled to the top of corruption rankings by corruption watchdog Transparency International. From thence, African governments have been relentless in their efforts to fight against corruption. This paper therefore carries out a critical analysis of the laws and institutions put in place for the fight against corruption in Africa with the case study being Cameroon. It equally assesses the extent of their success and the reasons for their failure. Above all it proposes a new paradigm for the fight against corruption in the developing countries of Africa which is the Economy of Communion.

Key words: Corruption; Economic crises; Economy of communion; Cameroon; Legal framework; Institutional framework; Fight against corruption

¹ This was all thanks to the Structural Adjustment Plan put in place by the IMF which was geared towards loan repayment by African States.

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1. THE NOTION OF CORRUPTION

The word corruption is a protean and variegated concept. This is because it means different things to different people at different times. In fact, it has no all embracing definition.² As J. C. Bresson rightly puts it:

The statement of the scientific discourse on corruption is facing a serious problem of conceptual clarification. This term is in fact remarkably ambiguous, confusing and elusive. This is a difficult reality to grasp. (Bresson, 1995)

On his part Rajni Kant³ says “*corruption is not easy to define but in a narrow sense, corruption is mostly concerned with bribery and it takes several forms*” (Kant, 2015). According to Gregg Gordon,⁴ corruption has severe impact on public life whether it is high profile embezzlement or low-level bribe to a petit bureaucrat, corruption is a major force destroying our natural resources. These researchers share this view. As first hand victims of corruption in Cameroon, it is safe to say that corruption is really destroying our natural resources and riches. Corruption has most commonly been defined as the abuse or misuse of public office for private gains (Dahlsstrom, 2009, p.7). However, this is only partially correct because the definition does not take into consideration abuse or misuse of private power

² “What is Corruption?”. Business Anti-Corruption Portal. Retrieved 27 July 2015.

³ Assistant Professor of Economics, A. S. College, Khanna, Punjab, India.

⁴ World Resource Institute.

for personal gains. Corruption usually takes forms such as bribery, fraud, nepotism, favoritism, tribalism and one would not forget kickbacks. As mentioned above, corruption is not only limited to the public sector but equally occurs in some aspects of governance in the private sector such as in businesses and NGOs.⁵ In a general view, corruption could be defined as amassing wealth and power for self-interest through illegal means. Corruption is worse than prostitution. The latter might endanger the morals of an individual; the former invariably endangers the morals of an entire country.⁶

1.1 Corruption in Africa

As mentioned above, corruption in Africa is a colonial legacy. Being so, it increased progressively from one historical era to another with the complex nature involving finances being introduced in Africa through colonialism. This brand of corruption survived the struggle for independence in many African countries and has since been nourished by the weak Institutions and leadership in post-colonial Africa. The Institutions were later emasculated to enhance the concentration of state power in the hands of cabals of politicians thus creating an environment not conducive to participatory democracy and the development of an expanded economic role of the state (Thomson, 2004, p.109). Waliggo (n.d., p.4) thinks that the pattern of evolution of corruption in Africa suggests that it has been increasing progressively from one historical epoch to another with an emerging trend of increasing levels of corruption with modernization and “civilization” in all African countries. The main causes of corruption in Africa include bad governance, greed, poor accountability; high quest for wealth; and unemployment. The effects of this societal ill include; poor development, poverty; rise in unemployment; economic effects; crises; and poor educational standard. African countries, because of their colonial heritage therefore suffer from similar causes of corruption as well as practically the same effects. We shall therefore focus on one country that has been consistent on the top of world corruption rankings for several years now and this is our case study.

1.2 The Case of Cameroon

Cameroon is a classic symbol of corruption in Africa. This is due to its consistency on the top of the table of most corrupt countries of the world for several years now. Cameroon has often been referred to as “*Africa’s in miniature*” and this is rightly so as she contains a little of all that could be seen as natural resources across Africa. These natural resources are transformed into income through exportation and the country is left with a high

G.D.P. output. If this income is evenly distributed, the average Cameroonian would be well above the poverty line. Little wonder that some international bodies have classified Cameroon as a lower middle income country, but the reality of its population is that of a low income country in which many people live below the poverty line. Such a classification however hampers many Cameroonian citizens from benefitting from certain scholarships, reduced publication fees on some journals and many other pecuniary advantages as they are offered only to low income countries.

Therefore, some Cameroonians do suffer simultaneously at home and abroad. At home, massive corruption and embezzlement deter millions of Cameroonians from getting their well deserved share of the “national cake” while on the international front, based on Cameroon’s GDP indexes, Cameroonians are generally seen to be doing very fine and therefore are excluded from some benefits afforded to citizens of countries labeled as low income countries. Foteck (2014) argues that corruption in Cameroon has risen to such levels that it has become part and parcel of our culture and can therefore be rightly considered to be endemic situation. It holds its legacy from the colonial dictatorship that actually designed the socio-cultural and politico-economic structures of Cameroon. Corruption has grown over the years and has deeply implanted its roots within the Cameroonian society. It has ultimately become an undesirable force almost impossible to eradicate. It is worth mentioning that from the 1980s, corrupt practices spread in almost all sectors in the country and this was attributed to the effects of the economic doom that peaked in the late 1980s. This economic crisis promoted a drastic cut down of state employees salaries by 60% precisely in 1993. This was equally followed by massive layoffs of workers in both public Corporations and private companies. Besides, in 1994, there was 50% devaluation of Central African Franc (CFA) (Fonhingong & Gemandze, n.d.) which is Cameroon’s currency. This precarious economic atmosphere accompanied by poor working environment, forced state employees to resort in to corrupt practices as the last resort for survival (Foteck, 2014, p.8).

For two consecutive years⁷ the corruption whistle blower Transparency International found Cameroon worthy of the crown for the most corrupt country on the planet. A crown these researchers undoubtedly describe as the “crown of thorns”. This is because Cameroon had the highest corruption perception index⁸ for these two consecutive years.

⁷ 1998 and 1999.

⁸ A ranking of countries according to the extent to which corruption is believed to exist. The corruption perception index was created in 1995 by Transparency International. It ranks almost 200 countries on a scale of zero to 10, with zero indicating high levels of corruption and 10 indicating low levels. Developed countries typically rank higher than developing nations due to stronger regulations.

⁵ Non-Governmental Organizations.

⁶ Karl Kraus, Australian satirist, 1874-1936, cited by E. Campos & B. Bhargava. (2007). *Tackling A social pandemic*. In E. Campos & S. Pradhan. (2007). *The many faces of corruption: Tackling vulnerabilities and the sector level*. World Bank.

This classification beats our understanding and surpasses every level of our imagination how in a world of more than 200 countries, our beloved country could wear this painful crown.⁹ It saddens us, it burdens our hearts and it makes us cry. One would therefore begin to wonder about the level and the rate of corruption inherent in Cameroon and as is rightly said, it beats every sense of our imagination and understanding.

Corruption in Cameroon affects practically every sector and is manifested both at the low and high levels. One thing which is however clear is, every Cameroonian suffers from the impact of corruption whether they be involved therein or not. This is because such impacts are manifested through, poor road infrastructures, poor social amenities, poor educational system, high prices of basic commodities etc.. However, according to Michel Van Hulst¹⁰ “corruption and bribery always hit the poor hardest, extracting an extra tax from those who can least afford it”. In Cameroon, it is practically very difficult for small business to grow in to prosperity. This is because of a corrupt tax system that seriously hampers the imminent growth of these businesses.

Bribery and embezzlement are corollaries of corruption in Cameroon and are simultaneously corroborators of the same too. It is therefore undeniable that the Cameroonian political and economic system is a corrupt one.¹¹ This could be explained by the presence of bribery, embezzlement, extortion, illicit and dishonestly gotten wealth etc..

In Cameroon, the tentacles of corruption are well spread in to every sector of the public life. This means that corruption is practiced both at the upper most levels often referred to as “grand corruption”¹² and merely petty corruption at low levels that do not usually involve very large sums of money.

At the higher level, billions of francs CFA destined for the execution of state projects for the benefit of the masses and all Cameroonians in general have been swindled and diverted into private accounts in Swiss Bank and the masses are condemned into perpetual poverty by the very people which they mandated to run their affairs. This could unarguably be described as a crime against humanity and an advanced form of slavery. Senior state officials in every sector of the public life are being prosecuted and sent to jail on daily basis for huge sums of money that have been embezzled by abusing

their position. Equally world bank officials say grand corruption could also be demonstrated through what they refer to as “the action of individuals, groups or firms... to influence the formation of laws, regulations and other government policies to their own advantage...as a result of the illicit....”

On the other hand, petty corruption is mostly practiced by low level public officials in Cameroon and other low level members of the National Security, customs officials, price control officials as well as tax officials. It is estimated that some 200-300 billion francs CFA are embezzled from the coffers of Cameroon Customs every year.¹³ Such an amount is ridiculously gross and thanks to such despicable acts, people are condemned into perpetual poverty. The most common form of petty corruption is bribery. Therefore, owing to the fact that every area of the society is tainted, from top to bottom where everything is spoiled, one could undoubtedly refer to corruption in Cameroon as an “endemic Canckerworm”.¹⁴

Because of this endemic Canckerworm in Cameroon, meaningful development strategies and efforts put in place by the authorities that be, have seriously been undermined as resources that have been only channeled for such development projects are continuously rechanneled by corrupt officials for private business. Morality has been relegated to the background and social norms have eroded in Cameroon as people no longer look forward to earn money honestly and legitimately. As a British politician once said “...so long as bad moral attitudes remain, all efforts to improve the inner cities will fail.”¹⁵ Though this statement was made in another context and event and has been criticized as being racist,¹⁶ this comment could effectively be applied to our corruption context as bad morals by the powers that be undermine every effort to bring development and alleviate poverty. These massive corrupt practices create a bad image of our country in the eyes of foreign investors.

The 2010 Corruption Perception Index of Cameroon stands at 2.2. This is the last position held by any state of the 30 African countries considered in this classification. The least corrupt countries were Botswana, Mauritius Island and Cape Verde that all scored above 5. As one Cameroonian scholar puts it;

The case of Cameroon seems to be an example of a failed government combating corruption. From the commoner in the street to the highest government official and political figure, corruption is recurrent in almost every transaction of the Cameroonian’s daily life. The individual participates in

⁹ This is what Linus T. Asong refers to as “The Crown of Thorns”.

¹⁰ Co-founder of Transparency International and the Head of the CHOC program of the United Nations Development Program (UNDP), for fighting corruption in Cameroon.

¹¹ Collins Today English Dictionary defines a corrupt system as a system in which people seek personal illegitimate gains through bribery, embezzlement and extortion is a corrupt system. It also states that any system that works on the basis of dishonesty and illicitly gotten wealth by public officials is a corrupt system.

¹² This level usually involves mostly high level public officials carrying out weighty illegal transactions.

¹³ Figures gotten from Cameroon Calling Report of 27 December 2015.

¹⁴ Mechamic Macomba of Transparney International Senegal.

¹⁵ This statement was made thirty years ago by the Duchy of Lancaster and a close aide of David Cameron Oliver Letwin.

¹⁶ Labour Party Deputy Lead Tom Watson condemned Letwin’s statement with the strongest of words telling the Guardian they were “evidence of an ignorant and deeply racist view of the world.

corruption either passively or actively. Cameroon has written its name on the Manual of corruption so much such that the name “Cameroon” is synonymous to corruption as every aspect of our daily lives seems to be exploited for corruption. Since Cameroon became independent after the declaration of the United Nation in 1961, the country has made slide progress towards economic progress compared to other countries that lack the enormous potentials in making a significant progress in economic development. Cameroon with natural resources of all sort, with rich volcanic and tropical climate for cash crop production and finally its rich touristic sites, are areas which are being exploited, yet our economic development has been in a sluggish response and instead poverty is on the size. Many have questioned the determination of this country in combating corruption which apparently has good anti-corruption laws and institutions in place. (Fombe, n.d., p.2)

Truly, as Nyemkuna puts it, it is questionable whether this country is really willing to fight corruption, despite its good anti-corruption laws and institutions. At this juncture, it will be necessary to carefully examine the anti-corruption laws and institutions that be, for the fight against corruption in Cameroon.

2. INSTITUTIONS PUT IN PLACE TO FIGHT AGAINST CORRUPTION IN CAMEROON

After Transparency International placed Cameroon at the helm of most corrupt countries in the world for two consecutive years,¹⁷ Cameroon’s government has taken unprecedented steps to combat corruption in Cameroon. This has been seen through the creation of numerous state institutions which include the following:

2.1 The National Anti-Corruption Observatory

The National Anti-Corruption Observatory¹⁸ was created in 2000 by a Presidential Decree. It saw the light of day as a result of tremendous pressure put on the Cameroonian regime to fight back against corrupt practices that had placed Cameroon at the helm of corrupt countries in the previous two years. It was put in place to check political corruption. It had as main objectives to organize anti-corruption initiatives and to be a watch dog over the government’s anti-corruption efforts and initiatives. The body consisted of 15 members but was however a part of the Prime Minister’s office.

However, like its name indicates, this body was merely an observatory meaning that it lacked prosecution powers. It could only observe, then make reports and recommendations. This greatly weakened the efficiency of the body and seriously undermined the government’s efforts to effectively fight against corruption.

The second criticism that can be raised here is the fact that this institution was attached to the Prime Minister’s

office. One would therefore doubt how independent this body would be and how clearly it could observe and make objective reports and recommendations.

To add salt to injury, this body depended on funding from the government but unfortunately, in 2004, the body received no funding from the government. This therefore raised the eyebrows of the corruption whistle blower organization, Transparency International and the U.S State Department about the intention of Cameroon government to effectively fight against corruption.

Due to the ineffectiveness of this body in the fight against corruption from the time it was created in 2000, corruption still persisted at an unpredicted rate. In 2007, Polycarpe Abah Abah¹⁹ published the result of an anti-corruption body referred to as “operation Antelope” (Fombe, n.d., p.42). This report brought forth staggering and shocking revelations as concerns the degree of decadence of the practices within Cameroon’s public sector. The report revealed the existence of about 20.000 “ghost workers” who were receiving wages from the public treasury.²⁰ The report equally revealed that more than 16.600 workers were already dead at the time of the control and others who were more than 120 years old had their wages regularly collected by others. Up to 4.000 senior officials by this report were receiving multiple monthly money transfers from the State Treasury. However, ironically, the same minister who published this report was arrested for embezzlement of public funds that were estimated in billions of francs CFA. After all, as it is often said and is true in this case, “what is good for the goose is equally good for the gander”. This brings us to our next institution which is the National Anti-Corruption Committee.

2.2 The National Anti-Corruption Committee

The National Anti-Corruption Committee translated in French as Commission Nationale Anti-Corruption better know by its French acronym CONAC²¹ was created on 11th March 2006.²² CONAC is a quasi public agency meaning it is an independent governmental body created through legislation to perform a particular service or a set of public functions. Technically, it is a public entity and thus exercises public powers but it remains relatively independent of the government that created it. CONAC oversees all the anti-corruption efforts in the Cameroonian public service. This body has a mandate for the mission to collect information, investigate on suspicion of corruption, study corruption reports and publish its reports on corruption while proposing possible solutions to the powers that be. Decree No.2006/88 provided CONAC with broad powers, permitting it to investigate, prosecute

¹⁷ 1998 and 1999.

¹⁸ Hereinafter referred to as the Observatory.

¹⁹ The then Cameroonian Minister of Economy and Finance.

²⁰ [Http://agendia.jigsy.com/entries/economy/the-cameroon-civil-service-and-the-war-of-figures](http://agendia.jigsy.com/entries/economy/the-cameroon-civil-service-and-the-war-of-figures)

²¹ Hereinafter referred to as CONAC.

²² By Decree No. 2006/88.

and sanction all forms of corruption. The decree equally gives CONAC the power to open legal inquiries into “all causes of corruption that reached it without giving out the name of its sources”. To this regard, CONAC has established hotlines through which all cases of corruption could be reported.

The body equally has the duty to assess and evaluate the work of Ministerial Committees of public procurement. The decree further gives CONAC the duty to perform other functions that relate to:

- Diagnosing the phenomenon of corruption that is cause, occurrences and its consequences.
- Putting in place strategies that will enhance the dissemination of corruption related information as well as awareness.
- Organization of a regular national forum on corruption
- Plan a regular review of other governmental agencies over the fight against corruption
- Establishment and operationalisation of a national coalition against corruption involving all parts of the social structure i.e. civil society, private sector, advocacy groups not leaving out NGOs.²³
- Strengthening the legal framework for the fight against corruption.
- Help set up a consumer rating control advocacy group.

As mentioned above, CONAC is a quasi-public agency and by this status it exercises a relative degree of independence. This independence is necessary for effective functioning. However, such independence will mean little or no accountability to the body that created it or to the people who elected into office the body that created it.

Lack of accountability may lead to abuse of position and power equally. CONAC relies partly on the information gotten from whistle blowers to investigate and prosecute corruption. The problem however, is that in a country filled with insecurity, it is difficult to predict who will come for your life after you blow your whistle. Even though it has been stated that CONAC does not release information on its informants, the big picture is still massively scary. In an era where even the most advanced of countries cannot protect their classified data from intrusion by “Hacktivism”²⁴ or

²³ Non-Governmental Organisations.

²⁴ According to Wikipedia, Hacktivism or hactivism (a portmanteau of *hack* and *activism*) is the subversive use of computers and computer networks to promote a political agenda. With roots in hacker culture and hacker ethics, its ends are often related to the free speech, human rights, or freedom of information. The term was coined in 1994 by a Cult of the Dead Cow (CDC) member known as “Omega” in an e-mail to the group. Due to the variety of meanings of its root words, hacktivism is sometimes ambiguous and there exists significant disagreement over the kinds of activities and purposes it encompasses. Some definitions include acts of cyber terrorism while others simply reaffirm the use of technological hacking to affect social change.

“Anonymous”,²⁵ it is difficult for a whistle blower to predict the outcome of his information which may have been stored by CONAC as classified.

Furthermore, in a country where the duty of secrecy in particular professions is not respected *stricto sensu* by its employees, it becomes very difficult to predict how a whistle blower’s information considered as classified will really be kept classified.²⁶

Many at times, those that are being investigated have informants inside the investigation team that releases to them information about every move the commission plans to carry out. This makes suspects to sometimes be one step ahead of investigators, putting their books together and balancing their accounts in a prompt manner so that they don’t get embarrassed during an impromptu check from the commission. These inside informants are equally likely to leak the detail of informants to these suspects.

Finally, there are situations where prosecuting the suspects may need sworn evidence from witnesses. In such a situation, it becomes difficult to get a witness to give evidence on oath. This is because many a times, these witnesses fear for their lives. It thus makes it very difficult to prosecute suspects in cases where the submission of evidence on oath becomes really necessary. In advanced countries like the United State of America, the criminal justice system has put in place what is called the Witness Protection Program.²⁷ The WPP guarantees the security of witnesses before, during and after the trial. Their families are also afforded protection under this scheme. In some extremely dangerous cases, the identities of the witnesses are changed and they are relocated to new locations for a complete start over for which the State caters for. This program gives the witnesses confidence to step forth and speak. However, with the absence of such a scheme back home, here in Cameroon, getting people to talk as whistle blowers still remains an uphill task.

2.3 National Financial Investigation Agency (ANIF)

²⁵ According to Wikipedia, Anonymous (used as a mass noun) is a loosely associated international network of activist and hacktivist entities. A website nominally associated with the group describes it as “an Internet gathering” with “a very loose and decentralized command structure that operates on ideas rather than directives”. The group became known for a series of well-publicized publicity stunts and distributed denial-of-service (DDoS) attacks on government, religious, and corporate websites. Anonymous originated in 2003 on the image_board 4chan, representing the concept of many online and offline community users simultaneously existing as an anarchic, digitized global brain. Anonymous members (known as “Anons”) can be distinguished in public by the wearing of stylised Guy Fawkes masks.

²⁶ In some professions, particular in the medical profession, information related to the HIV status of patients and other deadly diseases are incessantly leaks. Sometimes before you leave the hospital, people on the streets in town already know your predicaments as some hospital employees always turn to play the devil’s advocate.

²⁷ Hereinafter referred to as W.P.P.

The National Financial Investigation Agency²⁸ was created in 2005²⁹ in line with CEMAC Regulation No. 01/03/CEMAC/UMAC/CM of April 4, 2003. ANIF works in collaboration with and is dependent on CEMAC³⁰ Central Bank which is BEAC.³¹ To begin with, ANIF works with the banking supervisory commission better known by its French acronym as COBAC³² which has jurisdiction over issues concerning anti-money laundering and combating financial terrorism.³³

According to Article 35 of the COBAC Regulation,³⁴ ANIF has to send statistics and information reports to GABAC³⁵ three times a year or annually. GABAC acts as a regional coordinator of ANIFs in member countries of CEMAC and BEAC.³⁶ GABAC gives summary report every six months on the activities of ANIFs to CEMAC and BEAC. In 2013, ANIF received 250 reports of money laundering.³⁷ These reports came from individuals as well as micro-financial and banking institutions and commenced investigations that resulted in 85-90 cases brought to the Attorney General. The fight against money laundry has led by ANIF obliging banks and micro-financial establishments to report suspicious transactions on any bank account.

2.4 Operation Sparrow-Hawk

Operation Sparrow-Hawk better known by its French appellation as “Operation Epervier” is a vast judicial operation initiated and executed by the Cameroonian Justice Ministry as part of a broad fight against corruption in Cameroon. This operation was first launched in 2004 but was officially formalized by Presidential Decree in 2006. Since it was launched, it has carried out several arrests of high ranking officials ranging from Prime Minister, Ministers and Directors of state institutions and corporations. This operation has so far produced mixed feelings in the minds of the Cameroonian public.

Firstly, this operation tackles corruption and makes arrests mostly at the top level. That is to say it targets high level corruption and pays little attention to the low level or petty corruption. Some anti-corruption pundits say the regime is devouring its own children.³⁸ Some top government officials have witnessed certain

unprecedented arrests and detention for alleged corruption and embezzlement charges. Many have referred to this system as a Machiavellian witch-hunt of rivals at worst and as a tool of settling political scores. Whatever may be the motive behind these arrests, one thing stands clear which is “there can be no smoke without fire”. Corruption charges labeled against these officials most certainly will have a base and if not, the justice system will come to their rescue where they are innocent because “an accused person is presumed innocent until proven guilty”. This operation is not preventive in nature. It only carries out arrests and submits accused persons for prosecution. It seeks essentially to bring a cure but as it is often said, “prevention is better than cure”.

Finally, Operation Sparrow Hawk does not recover lost funds. Prosecuting and convicting guilty persons therefore has little to benefit the general public if they cannot be restored to their original position before the occurrence of the corrupt act by recovering lost money and rechanneling to their intended projects before embezzlement.

2.5 The Special Criminal Court

The Special Criminal Court³⁹ was created in 2011. The creation of this court is aimed at fighting against embezzlement of public funds and to ensure speed in judicial proceedings and the restitution of property. It has changed the Penal Code punishment for misappropriation of public property. The Penal Code⁴⁰ calls for punishment and confiscation of offence related property and section 18 of the law creating the Special Criminal Court calls for restitution and *nolle prosequi*. The Cameroon Special Criminal Court (SCC) was created under Law n° 2011/028 of 3 December 2011, creating the Special Criminal Court.⁴¹ The court has jurisdiction to hear and punish those who have misappropriated public funds up to the tune of 50.000.000 FCFA and above.

2.6 The High Court

The High Court has competence in criminal matters: to try felonies, related offences and to grant bail in felonious offences. Felony⁴² is a serious offence usually punishable with death or a term of imprisonment whose maximum is more than 10 years and whose minimum imprisonment term is not less than 10 years. In Civil, Commercial and Labour matters, the court hears cases related to the status of persons, marriage, divorce, filiations, adoption, inheritance; Recovery of debts exceeding 10.000.000 FCFA; and cases where damages claimed exceed 10.000.000 FCFA. The high court receives and handles

²⁸ Hereinafter referred to as ANIF.

²⁹ By Decree No. 2005/187 of May 31, 2005.

³⁰ Communauté Economique de Monétaire de L’Afrique Centrale.

³¹ Banque des Etats de L’Afrique Centrale.

³² Commission Bancaire de L’Afrique Centrale.

³³ This is in accordance with COBAC Regulation No. 01/03.

³⁴ Regulation No. 01/03/CEMAC/UMAC/CM.

³⁵ Group d’Action contre le Blanchiment d’Argent en Afrique Centrale.

³⁶ BEAC stands for Bank of Central African States known in French as Banque de Etats de l’Afrique Centrale

³⁷ Desire Geoffry Mbock, permanent secretary of the task force against money laundering in Central Africa.

³⁸ Francois Sounda, Managing Editor Jeune Afrique told RFI, referring the famous operation sparrow Hawk.

³⁹ Hereinafter referred to as the SCC.

⁴⁰ In section 184 and 35.

⁴¹ This was subsequently amended by Law No.2012/11 of 6 July 2012.

⁴² Section 21 of the Cameroon Penal Code classifies offences into three categories which are; simple offences, misdemeanours and felonies.

cases of misappropriation of funds up to the tune of 50.000.000 FCFA and below.

3. LEGAL FRAMEWORKS FOR THE FIGHT AGAINST CORRUPTION IN CAMEROON

After an analysis of the existing institutional frameworks, our analysis will now be geared towards the existing legal framework. Corruption is considered as a serious issue and this explains why the government has taken upon itself the task of ratifying several international and regional legal instruments having a bearing on corruption. Apart from these international instruments, several domestic legal instruments that deal with corruption have been enacted. As far as the international instruments are concerned, there is the United Nations Convention against Corruption, the United Nations Convention on the Fight against Transnational Organized Crimes, and the African Union Convention on the Fight against Corruption.

3.1 International Instruments

International instruments here refer to all international instruments geared towards the fight against corruption to which Cameroon is a signatory and which have been duly ratified by the Cameroonian parliament.

3.1.1 The United Nations Convention Against Corruption

The United Nations Convention against Corruption is the first legally binding international anti-corruption instrument to which Cameroon is a signatory. This convention was adopted on the 31st of October 2003 and ratified by Cameroon on the 25th of April 2004. It has as purpose to promote cooperation and to prevent and combat transnational organized crime more effectively.⁴³

The States Parties to this Convention were moved by the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development⁴⁴ and the rule of law. It is equally concerned with the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering, it further deals with cases of corruption that involve vast quantity of assets, which may constitute a substantial proportion of the resources of States and that threaten the political stability and sustainable development of those States. It is clear that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies,

⁴³ Article 1 of the United Nations Convention Against Corruption.

⁴⁴ Sustainable development has been defined by the Brundtland Commission as development that meets the needs of the present without jeopardizing the possibility of the future generation to meet their own needs.

requiring international co-operation to prevent and control it because a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively. This convention is divided into seven chapters.

Chapter I entitled General Provisions provides definition to certain terms used in the convention and the scope of the convention. The terms defined in this chapter of the convention includes: Public official, foreign public official, official of a public international organization, property, proceeds of crime, freezing, confiscation, predicate offence and controlled delivery.

In its Chapter II which is on preventive measures, the convention requires that each State Party should, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.⁴⁵ Each State Party shall endeavor to establish and promote effective practices aimed at the prevention of corruption.⁴⁶

Through this convention, state parties recognize that, to effectively fight against corruption, each State Party should, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, which prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.⁴⁷

In sub-section 2 of article 6, each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided. The convention equally makes provision for codes of conduct for both public and private servants.⁴⁸

Chapter III of this convention talks exclusively on bribery of national and international public officials. It obliges each State Party to adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

⁴⁵ Article 5 (1) of the United Nations Convention on Against Corruption.

⁴⁶ Ibid, Article 5(2).

⁴⁷ Article 6(10) (a) & (b) of the United Nations Convention on Against Corruption.

⁴⁸ See Article 8 to 13 of the United Nations Convention on Against Corruption.

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.⁴⁹

In its commitment to tackle corruption not only at the national level but equally at the international level, the convention provides opportunities for cooperation among states. This the convention does by providing possibilities for extradition.⁵⁰

3.1.2 The United Nations Convention Against Transnational Organized Crime

This convention has been ratified by Cameroon. It was the inspiration behind the creation of the National Anti-Corruption Commission in 2006 in Cameroon. Many developing countries have signed and ratified this convention for several reasons which include:

First of all, developing countries and countries with economies in transition had gradually become aware, in a more or less painful way, of the ramifications and potentials of modern transnational organized crime. However, for several of them the problem had not caused dramatic crises domestically. Consequently, the new obligations were viewed as being out of proportion with their domestic experiences and their political agenda at home.

Secondly, many policy-makers in some developing countries had geared their thinking towards the short-term, mainly as a result of pressing needs. Consequently, the implications of the expansion of transnational organized crime were not included as a parameter in the development of policies for the future. In addition, this short-term thinking could not capture the ramifications of concerted action against transnational organized crime, using the new Convention as the framework and main tool. In other words, the short-term thinking failed to assess the impact of the tendency of organized criminal groups to seek conditions of relative safety when governmental action increases the risk and cost of operations. It should be made very clear that the political commitment and the conviction about the need for the Convention and the desirability of concluding it remained totally undiminished. The negotiations, however, went through a phase of caution on the part of several developing countries and became, as a result, more intricate.

The purpose of this convention is to promote inter-

state cooperation, to prevent and combat transnational organized crime more effectively, and encourage technical cooperation.⁵¹ For the purposes of this convention, an organized criminal group means a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the convention in order to obtain directly or indirectly a financial or material benefit.

Article 5 of the Convention centers on the criminalization of participation in an organized criminal group. This article provides that each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally.⁵²

Article 8 of the said convention, States:

(a) "Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally.

(b) The promise, offering or giving to a public official, directly or indirectly of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(c) The solicitation or acceptances by a public official, directly or indirectly, of an undue advantage for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

3.1.3 African Union Convention on Preventing and Combating Corruption

Apart from international instruments, there is equally a regional instrument notably the African Union Convention on the Fight against Corruption which was adopted on the 11th of July 2003 at the African Union Heads of States Summit at Maputo in Angola.

The Convention criminalizes corruption in the public and private sector, obligating state parties to adopt legislative, administrative and other measures to tackle corruption, which is reported to cost Africa approximately \$148 billion annually (Olaniyan, 2004). This Anti-Corruption Convention aims to achieve four objectives:

Firstly, to promote and strengthen the development in Africa of anti-corruption mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors;⁵³ equally, to promote, facilitate and regulate co-operation among state parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa.⁵⁴ Furthermore, to remove

⁴⁹ Ibid, article 15 and 16.

⁵⁰ See Chapter IV 43, 44.

⁵¹ Article 1 of the United Nations Conventions against Transnational Organised Crime.

⁵² Article 5(a) & (b).

⁵³ Article 2 (1) of the Convention.

⁵⁴ Article 2(2)

obstacles that affect the free exercise of human rights, including economic, social and cultural barriers.⁵⁵ Finally, to establish conditions necessary to foster transparency and accountability in the management of public affairs.⁵⁶

However, while the Anti-Corruption Convention brings some striking novelties to international efforts against corruption specifically by linking corruption and human rights, it does not spell out the precise content of this relationship or lay down a coherent framework of remedies for individuals or groups whose human rights are violated as a result of corruption. Rather, it focuses on criminal sanctions, and leaves out victims, especially vulnerable and excluded individuals or groups, thus denying them direct access to remedies, such as compensation and restitution.

The Convention defines corruption as “acts and practices including related offences prescribed in this Convention”, and illicit enrichment as “the significant increase in the assets of a public official or any other person, which he or she cannot reasonably explain in relation to his or her income”.⁵⁷ Accordingly, article 4 elaborates what the Convention considers “acts of corruption and related offences” to include the offering of illicit payments; acts or omissions by government officials for the purpose of obtaining a bribe; the fraudulent diversion by a public official or any other person of any property belonging to the state or its agencies; the offering or giving, promising, soliciting or accepting, undue advantage to or by any person in a private sector entity; the use or concealment of proceeds derived from the acts enumerated in the Convention; and participation as a principal, co-principal, agent, instigator, accomplice, accessory after the fact, in a conspiracy to commit enumerated acts.

3.2 National Instruments on Corruption

As far as national instruments are concerned, there is the constitution of Cameroon, the Cameroon Penal Code, the Law on the Declaration of Assets and Property, and the law No. 2003/004 of 21/04/2003 on Bank Confidentiality and the Criminal Procedure Code.

3.2.1 The Constitution of Cameroon⁵⁸

Each country whether civilised or less civilised has a constitution. This is the highest law of the land which is often referred to as the grundnorm. The fundamental powers of the State to wit; Executive, Parliament, and the Judiciary are defined, established and limited by the constitution. A constitution is important to the people in the sense that it provides the social framework for the protection of their rights and privileges as citizens. It occupies the peak of the legal pyramid in Cameroon. All

laws must conform to it. Where the provisions of a law goes contrary to the constitution, that law is considered to be unconstitutional and therefore must be modified or it is null and void. It sets out the relationship between state institutions and citizens. The constitution as a source of law sets out legal rules that bind the administration, parliament and the judiciary.

Cameroon has had several constitutions but the focus here is on the 1996 Constitution⁵⁹ of Cameroon. Article 66 of the 1972 Constitution of Cameroon as amended in 1996 requires the filing of a statement of assets and liabilities for all public officials. Law No 2006/3 of 25/04/2006 was equally enacted and concerns the said declaration of assets of public officials. This law is very important in the fight against corruption and embezzlement as it provides the possibility to ascertain at the time when the public official is leaving office whether the wealth he has amassed could possibly be justified given his salary and benefits.

Unfortunately, it is important to note that article 66 of the Constitution and Law No. 2006/3 are available just on pieces of papers and are not yet applicable for reasons best known to the executive arm of the government.

3.2.2 Law No. 67/LF/1 of 12th June 1967 Instituting Cameroon Penal Code

The Penal Code is a substantive law and the main national instrument that punishes corruption as well as other criminal offences in Cameroon. The Penal Code identifies and punishes varied forms of corruption which are bribery, indulgence, undue demand, compulsion of public servant, procuring influence, misappropriation of public funds and corruption of employee.

3.2.2.1 Bribery

The word bribery has several appellations. In Cameroon, it is common to hear people call it “Kola nut”, “Choko”, “myjar”, “petrol”, “Oil” “chokuchoku”, “Handshake” and in French “Dossier bien habille”, “Dossier cravate” “Gombo”, just to name a few.⁶⁰ These terms are used in a bid to water down the disapproving meaning attached to bribery. Bribery is defined as “*the offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties*”.⁶¹ On its part, the Penal Code does not clearly define the term bribery but provides punishment for the commission of certain acts which together constitute the act of bribery. The Penal Code in section 134 which deals with this form of corruption provides that:

⁵⁵ Article 2(4)

⁵⁶ Article 2(5)

⁵⁷ Article 1

⁵⁸ Hereinafter sometimes referred to as the Constitution.

⁵⁹ This constitution went into force on 18 January 1996.

⁶⁰ Justice Mbah Acha Rose Fomundam. (2009). Corruption Under Cameroon Law, p.2. Retrieved from http://fakoamerica.typepad.com/files/corruption-under-cameroon-law_justice-mbah-acha.pdf, (assessed on the 12/01/2016).

⁶¹ West's Encyclopedia of American Law. (2008). (2nd ed.). The Gale Group, Inc.

Any public servant or government employee who, for himself or for a third party, solicits, accepts, or receives any offer, promise, gift or present in order to perform, refrain from performing or postpone any act of his office shall be punished with imprisonment for from 5 to 10 years and with fine of from 200,000 to 2 million francs.⁶²

One can therefore draw from the provision of this section that bribery refers to the act of soliciting, accepting, or receiving any offer, promise, gift or present in order to perform, refrain from performing or postpone any office obligations by public servant or government employee whether for himself or for a third party. According to the section, bribery can take the form of an offer, a promise, gift, or present. Such bribery is usually given in exchange for acting contrary to professional obligations or to accomplish certain duties. To pay or receive a bribe is corruption *per se* and is usually understood as the evidence of corruption.

A bribe should not however be confused with demonstration of goodwill. The expectation of a particular voluntary action in return is what makes the difference between a bribe and a private demonstration of goodwill.

It is arguable from the use of the words “public servant” or “government employee” in the provision of section 134(1) as to whether the act of bribery is limited only to this category of persons. When a person offers or provides payment in order to persuade someone with a responsibility to betray that responsibility, it is known as seeking undue influence over that person’s actions. On the other hand, when someone with power seeks payment in exchange for certain actions, that person is said to be peddling influence. The legislator’s intention may therefore be interpreted to mean whoever initiates the deal; either party to an act of bribery can be found guilty of the crime independently of the other. A bribe can consist of immediate cash or of personal favours, a promise of later payment, or anything else the recipient views as valuable. This is referred to both the giver and the receiver of bribe.

No written agreement is necessary to prove the crime of bribery, but usually a prosecutor must show corrupt intent. Bribery charges may involve public officials or private individuals. Even when public officials are involved, a bribe does not need to be harmful to the public interest in order to be illegal.

As seen in the provision cited above, the section punishes both the giver and the receiver with imprisonment for from five to ten years and with fine of from two hundred thousand to 2 million Francs CFA. Sub-section 2 further provides that the punishment shall be imprisonment of from one to five years, and a fine of from 100.000 FCFA to 1 million FCFA where the act does not lie within the competence of the person corrupted, but was facilitated by his office. It should be noted that punishment of the act does not depend on whether it produced its effect.

⁶² Section 134(1) of Law No 77/23 of 6 December 1977, the Penal Code.

3.2.2.2 Indulgence

Indulgence is one of the forms through which corruption is identified and punished by the Penal Code. This form of corruption is treated under the Penal code. It provides that:

Any public servant who grants exemption from any fee, due, duty, tax or contribution, or who delivers at a lesser price than that prescribed any produce of a government department, of a cooperative, or of any authority or corporation either public or subject to administrative control of the state, or in which the state holds directly or indirectly the majority of the shares shall be punished with imprisonment for from two to ten years and with fine of from twenty thousand to two million.⁶³

Unlike the provisions of section 134, the application of section 137 is restricted as it deals solely with public servants who act to the detriment of a government department, co-operative, or any State Authority or corporation either public or subject to the administrative control of the state, or in which the state holds directly or indirectly the majority of the shares. The corrupt act envisaged here is where the public servants grant exemption from any fee, due, duty, tax or contribution, or he delivers at a lesser price than that prescribed any produce of the establishment. The imprisonment term as well as the fine provided by in this section for anyone under this category who perpetrates the act, is more severe as it is double that of bribery. The Code stipulates a penalty of two to ten years imprisonment with fine of from 200.000 FCFA to 2.000.000 FCFA. The worry that arises from the limitation posed by this section that has not been answered by the legislator is whether similar act perpetrated by individuals in private corporations where the state is not directly or indirectly a shareholder can be prosecuted under the same provision of the law.

3.2.2.3 Undue Demand

Undue demand has equally been recognized as constituting corruption under Cameroonian criminal law. This act is treated under the Penal Code.⁶⁴ Again, like its predecessor, the Penal Code under this section, punishes any public servant, notary, public auctioneer, bailiff or process server or any of their representatives, who acts corruptly. What amounts to corrupt acts as elaborated and described by this section consist of demanding any fee, due, duty or tax which is not due or any material benefit otherwise than on payment of the proper price. The punishment is allocated by the Penal Code for perpetrators of such acts is imprisonment for from two to 10 years and a fine of from 20,000 FRS to 2 million francs CFA.

3.2.2.4 Compulsion of Public Servant

The Penal Code⁶⁵ punishes anyone who through interference or threats procures a public servant

⁶³ Section 137 of the Penal Code.

⁶⁴ Section 142.

⁶⁵ Section 160.

improperly to perform or refrain from any act of his office. The section provides that:

Whoever by interference or threat procures a public servant improperly to perform or to refrain from any act of his office, shall be punished with imprisonment for from two to ten years and with a fine of thousand to one million francs.⁶⁶

From the wordings of this section, one can arguably conclude that the punishment provided under this section is directed solely to those who through interference or threats procure a public servant improperly to perform or refrain from any act of his office. This in other words means that the public servant in this situation is exonerated from punishment.

3.2.2.5 Procuring Influence

This form of corruption is equally treated under the Penal Code.⁶⁷ This offence applies to two categories of persons; “any person” referred to in the section as whosoever, and any “public servant”.

The first category which is “any person” is handled by proviso (1) of section 161 which provides *inter alia* that:

Whoever by assault or threat or by gift or promise corrupts a person having any influence, real or supposed, with interest to procure any advantage from any public authority, shall be punished in like manner as under section 160.⁶⁸

This means that for the individual to be guilty for the offence of procuring influence as corruption, he must have acted with assault or threat or by presenting gifts or making promises, with intent to corrupt a person having any influence real or supposed, with interest to procure any advantage from any public authority.

On the other hand, the second category of persons which is civil servant is handled by proviso (2) of section 161. This section provides that:

Any public servant who for himself or a third party solicits, receives or accepts any offer, promise or gift to procure any advantage from any public authority or body placed under the control of the public authority, any contract, operation or other benefit arising from agreements concluded with public authority or a body placed under the control of the public authority and in this way taking undue advantage of the real or supposed influence that his status or office has conferred upon him shall be punished in like manner as under section 160.⁶⁹

As Justice Acha Rose⁷⁰ puts it, the corrupt act here consist in soliciting, receiving, or accepting any offer promise or gift to procure any advantage from public authority or body placed under the control of the public authority, any contract, operation or other benefit arising from agreements concluded with a public authority or body placed under the control of the public authority. The public servant by so acting takes due advantages

of the real supposed influence that his status or office has conferred upon him. It should be noted that the punishment provided under section 161 is same as that provided under section 160 discussed above.

3.2.2.6 Corruption of Employee

Under this head, the Penal Code treats corruption of the employee envisaged as the offender. The Penal Code treats this offence under section 312. This section provides *inter alia* that:

Any employee in receipt of any form of emolument who without the permission of his employer receives any gift or accepts any promise for doing or omitting any act of his employment shall....⁷¹

The conduct that amounts to corruption here is the employee receiving any form of emolument, gift or accepting any promise without the permission of his employer, for doing or omitting any act of this employment. The punishment for such act is one to three years imprisonment or a fine of from 50.000 frs to 500.000 frs or both such imprisonment and fine.

3.2.2.7 Misappropriation of Public Funds⁷²

This is the form of corruption that is so common to ordinary Cameroonians and widely practiced by public servants because of the frequency at which top government officials are convicted and put behind bars. This should not however, be interpreted to mean that the offence is restrictively for civil servants as the section prescribing the offence uses the word “whoever”. Embezzlement is one of the forms of corruption and power abuse that can develop in closed institutional and moral spheres, independently of the public sanction.

According to the provisions of Section 184, the offence is constituted in taking or keeping dishonestly any property moveable or immoveable, belonging to, in transmission to, or entrusted to the state, or to any authority or corporation either public or subject to the administrative control of the state or in which the state holds directly or indirectly the majority of the shares.⁷³ It is worth noting that the means by which the property is taken and kept is not qualified by the law but can be by any means.

The penalties prescribed for this offence vary with the value of the property. Section 184 (1) (a) provides that where the value of the property is more than ½ a million FCFA, the penalty is life imprisonment. For property which is worth is half a million FCFA or less, the penalty is imprisonment for from 15 to 20 years.⁷⁴ Where the value is 100,000 FCFA or less, the penalty is imprisonment for from 5 to 10 years and with fine from 50,000 FRS to 500,000 FCFA.

⁶⁶ Section 160 of the Penal Code.

⁶⁷ Section 161 proviso (1) & (2) of the Penal Code.

⁶⁸ Section 161(1) of the Penal Code.

⁶⁹ See section 161 (1) of the Penal Code.

⁷⁰ Presently the Cameroonian Minister of Supreme State Control.

⁷¹ Section 312 of the Penal Code.

⁷² Section 184 of the Penal Code.

⁷³ See section 184 sub section 1 to 6 of the Penal Code.

⁷⁴ Section 184(1)(b) of the Penal Code.

The legislator further provides a ceiling to the effect of mitigating circumstances on the provisions of this section. This is the purport of sub section 2 which provides that the penalty in case of mitigating circumstances may not be reduced below 10 years, 5 years, or 2 years as the case may be and its execution may not be suspended.⁷⁵

To demonstrate the seriousness of this offence, 184(4) provides that, the court may order any form of confiscation of any property,⁷⁶ moveable or immovable, belonging to the offender, and attached, which is the proceeds of the offence. Besides this, the law stipulates that the trial judge must order the publication of the judgment, and impose certain forfeitures on the offender, such as:

- *Removal and exclusion from any public service, employment or office.*
- *Incapacity to be a juror, assessor, expert, referee, or sworn expert.*
- *Incapacity to be guardian, curator, deputy guardian, or committee save of the offender's own children, or member of a family counsel.*
- *Prohibition of wearing any decoration.*
- *Prohibition of serving in the Armed Forces.*

Prohibition on keeping a school, for teaching in any educational establishment, and in general from holding any post connected with the education or care of children.

3.2.2.8 Law No. 2003/004 on Bank Confidentiality

The duty of Confidentiality is a legal obligation of the bank to protect and keep transactions between the bank and the customer secret. It can also be termed the duty not to disclose customer's account or other transactions with the customer. Economic policy has been advanced as a justification of the duty of secrecy. This is because the bank has a very detailed knowledge of the customer's affairs acquired while acting as its customer's pay-master and receiver of amounts due to him. This includes privacy in relation to financial income and assets. The banker's duty of security was succinctly enacted by the Cameroonian legislator in Ordinance No 85/002 of 31st August 1985.⁷⁷ However, the law applicable today is Law No 2003/004 of 21st April 2003. Article 3 of this law indicates that bank secrecy consists of the obligation of confidentiality imposed on credit establishments in relation to acts, facts and information concerning their customers which come to their knowledge in the course of exercising their functions. This obligation extends to individuals who not being part of the personnel of credit establishment obtain information (for example a computer specialist who is hired to operate the computer). English law governing the banker's duty of secrecy has been clearly laid down in the landmark case of *Tournier v. National Provincial and Union Bank of England*.⁷⁸

The worry is whether this duty is absolute or whether there are circumstances where the bank can feel justified in making disclosures concerning its customer's affairs. The Cameroonian legislator expresses the view that the duty is not absolute but qualified as he states in Art 45 of the 1985 Ordinance. Equally the duty to keep the customers affairs secreta is emphasised by the Penal Code in sections 310 and 311.

In order to facilitate the fight against corruption, the law provides exceptions to the bank's duty of confidentiality. A banker's obligation to respect his/her clients' privacy is not absolute, and no protection is afforded to criminals

That a bank may be compelled by law to disclose the state of its customer's account is recognised by the proviso of Article 45 of the 1985 Ordinance. The 2003 law brought a lot of innovation as it provides in its Article 8 to 25 instances where the bank will be under compulsion by law to make disclosures of the customer's account.

The first is Civil Proceedings (inheritance or divorce, for example). For the purpose of evidence clarity in matters of inheritance and divorce (especially where the parties are in a joint property regime, the banks may be called upon to divulge information relating to the bank-customer transactions and customer accounts.

Secondly, in criminal proceedings, Money laundering, association with a criminal organisations, theft, tax fraud, blackmail are all cases of criminal proceedings. If circumstantial evidence gives rise to a suspicion that the financial assets are the proceeds of a crime, then, financial institutions may inform the authorities without breaching bank-client confidentiality; if the suspicion is well-founded, they must inform the Money Laundering Reporting Office.

Issues relating to bank secrecy sometimes generate the problem of conflict of laws. It usually occurs that banks that maintain offices around the world and deals with multinational customers. For example, a Cameroonian branch of a French bank may be asked by a court in Cameroon to supply information maintained with head office in Paris. There are two methods by which the courts can come by this information: letters of request or rogatory and subpoena.

3.2.2.9 The Criminal Procedure Code⁷⁹

The Cameroon Criminal Procedure Code equally constitutes part of the anti-corruption instruments in Cameroon. Part XI⁸⁰ of this Code is dedicated to extradition. Extradition is the process whereby upon request, a state hands over a foreigner found in its territory to a requesting state in order that he is prosecuted for one or more specified offences of ordinary law or subject him to a term of imprisonment passed against him after a criminal trial for an offence of ordinary law.

⁷⁵ Section 184(4) of the Penal Code.

⁷⁶ For confiscation of property, see section 35 of the Penal Code.

⁷⁷ Relating to the operation of Credit Establishments.

⁷⁸ [1924] 1 K.B. 461.

⁷⁹ Instituted by Law No. 2005/007 of 27 July 2005.

⁸⁰ Section 645- 675.

The Code further provides in Section 642 (2) that:

(a) *“Felonies and misdemeanours of which are not directed against any kind of government shall be considered as common law offences and may justify extradition.*

(b) *Offences of universal jurisdiction provided by international conventions and ratified by Cameroon shall be considered as ordinary law offences.*

4. THE PROBLEM WITH THESE INSTITUTIONAL AND LEGAL FRAMEWORKS

Despite all the efforts put in place by the Cameroon government, the vast legal and institutional framework, the eradication of corruption has remained an uphill task. Corruption is still quite rampant and our corruption ranking over the years has barely seen a significant improvement. Below is a table showing the Corruption Perception Index (CPI) of Cameroon from 1996 to 2011. The CPI score relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt). Table 1 is a presentation of some few countries position of which Cameroon is included according to the CPI.

Table 1
Position of Corruption Ranking With That of Cameroon Inclusive (Fombe, 2014, p.33)

Year	Nigeria	Cameroon	S.Africa	Ghana	Kenya	Uganda
1996	0.69	2.46	5.68	3.3	2.21	2.71
1997	1.76	2.46	4.95	3.3	2.21	2.71
1998	1.9	1.4	5.2	3.3	2.5	2.6
1999	1.6	1.5	5.0	3.3	2.0	2.2
2000	1.2	2.0	5.0	3.5	2.1	2.3
2001	1.0	2.0	4.8	3.4	2.0	1.9
2002	1.6	2.2	4.8	3.9	1.9	2.1
2003	1.4	1.8	4.4	3.3	1.9	2.2
2004	1.6	2.1	4.6	3.6	2.1	2.6
2005	1.9	2.2	4.5	3.5	2.1	2.5
2006	2.2	2.3	4.6	3.3	2.2	2.7
2007	2.2	2.4	5.1	3.7	2.1	2.8
2008	2.7	2.2	4.9	3.9	2.1	2.6
2009	2.5	2.2	4.7	3.9	2.2	2.5
2010	2.4	2.3	4.5	4.1	2.1	2.5
2011	-	2.5	4.1	3.9	2.2	2.4

The above table shows that, despite the numerous legal and institutional frameworks put in place by

the state, corruption is still ravaging every aspect of Cameroonian life, progressing at a ferocious tempo. What therefore could be the reason for the ineffectiveness of these strategies put in place by the government? This is the million dollar question. However, the following explanations could be attempted;

The first argument that we are advancing here is the fact that the monthly wage rate of the average Cameroonian is really poor. During the economic crises of the late 1980s and early 1990s, wages of workers was slashed into three and just 1/3 of their total salaries were paid back to them as monthly wage. This was part of the SAP⁸¹ program initiated by the IMF⁸² as a means to help contain the crises. Decades after the economic crises have been contained, salaries still remain unbelievably low. Even allowances offered by the Government are still relatively low.⁸³ These low salaries make it difficult for workers to meet up with their monthly expenditures for themselves and their families. They therefore resort to alternative methods of increasing their earnings and this is through extortion, bribery or embezzlement which is corollaries of corruption. Therefore, a fundamental and substantial increment in salaries and other workers' benefits would help to reduce these unorthodox methods of self enrichment.

Another reason for this upsurge in corruption despite the measures taken by the state may be because people do not necessarily respect the laws because of the sanctions attached to them. If this was the case, the heavy sanctions and penalties attached to our anti-corruption laws would have just done the trick. Some people simply respect laws because of their moral upbringing and because it occurs to them that doing wrong is wrong.

Furthermore, punishing people for corruption offences doesn't bring back embezzled funds and therefore, the masses are still condemned to perpetual suffering even after the authors of this inhumane and degrading crimes have been brought to book. New people are appointed but the same result is still obtained. Round and round, we find our country in a vicious cycle of unending corruption.

Also, these laws and institutions are not preventive in nature. All they do be investigate and prosecute already committed corruption offences. Even though it could be argued that in some sense CONAC is preventive in the nature of its activities because it has put to the disposal of the public hotlines through which they could report corruption attempts made by those in power against them, the absence of the WPP makes it really difficult for this witnesses to act as whistleblowers.

⁸¹ Structural Adjustment Plan.

⁸² International Monetary Fund.

⁸³ This is the case of family allowance benefits which stands today at 2500 fis CFA per month per child. This amount is ridiculously small.

Finally, the failure of these laws and institutions to effectively combat corruption in Cameroon is because corruption is a mindset problem in Cameroon and these laws and institutions do not seek to change or ameliorate this mindset that has eaten Cameroonians deep from the grass root level. These laws and institutions only fight corruption at the top but fail to take into consideration what's happening at the grass root level.

4.1 The Way Forward

We fundamentally believe that for the fight against corruption to be effective and successful, there is the need for complete overhaul of the mindset of the Cameroonian people especially the youths as they are considered to be the future leaders of the country. This procedure will definitely take a couple of years to yield its fruits but definitely its fruits would be prove of its worthiness. Changing the Cameroonian mindset will definitely entail transforming the mentality of the "I-rationality" to the "We-rationality", a system that will enforce a culture of communion and sharing as contrary to greed and selfishness. The best possible system that we are proposing is the Economy of Communion. Incorporating this system into our education system will definitely enhance a complete mindset transformation of the kids in primary and secondary schools as well as in our higher education system. This is what we refer to as a complete overhaul of mindsets of emerging Cameroonians. What then is Economy of Communion?

4.2 Introducing the Economy of Communion⁸⁴

The EoC project is a unique one which grew out of the social and spiritual vision of the *Focolare*, lay Catholic, and ecclesiae movement active in more than 140 countries. The *focolare* itself began in 1943 in Trent Italy. Amid the bombed ruins of their city and homes, Chiara Lubich and a small group of companions or friends prayed and shared the gospel together. Above all shared food and material goods among themselves and offering what they could do to others. Eventually they came to believe that God is the only value worth living for, and that they were called to live out the prayer that Jesus prayed the night before he died: "Father May they all be one".

Their prayer and work are directed towards promoting understanding, mutual respect and love among peoples, and to establish a "culture of giving" that stands in contrast to what they term the contemporary "culture of having". This is a new lifestyle, which has been spreading in many nations. This reality has begun to offer a new way of participating in the various fields of social life. Its scope also goes far beyond this initial

⁸⁴ Hereinafter referred to as EOC.

analysis because it also attempt to "humanize the Economy"⁸⁵ As we earlier said; the world vision of this movement is centered on the reality of God who is the father of all, and if God is the father of all, then all people are called to live as sons and daughters of God and above all as brothers and sisters in universal brotherhood and taste of a more united world.

4.3 The EOC as a New Paradigm for the Fight Against Corruption in Cameroon

Corruption is characterised by selfishness and greed while the EOC promotes the culture of sharing and the "we rationality". To combat this social ill in Cameroon, a practical adoption and application of the economy of communion practice in Cameroon will be of inestimable importance in the fight against corruption in Cameroon. This is because of the role it will play in transforming the corrupt mindset that prevails amongst Cameroonians both at the higher and the grass root levels. This change will begin within our educational system where training will not only be based on academics but equally on morality and spirituality.

4.3.1 Academics and Spirituality (the Formation of New Men)

It is of no gain saying that much has been done by the present regime since 1998 and 1999 that Cameroon was ranked by Transparency International⁸⁶ as the most corrupt country on the planet, to ameliorate the situation. These efforts by the government to combat this cankerworm are glaring in the several international and national instruments put in place and the numerous institutions established for this reason. In the midst of all that has been done, the question that still looms in the dark is to what extent has success been registered in this regard. It may not be biased to conclude that little success has been registered in this fight as the ill of corruption keeps eating deep into the system irrespective of the measures put in place. Many reasons might have accounted for this but one reason that stands out clear which this writes up holds strong and explores is the strategy put in place for the fight against this evil that has eaten deep into the Cameroonian society. We hold the view that effort is directed towards solving the problem than targeting the source of the problem which is the mindset of the people. Premising on this, we therefore propose a new strategy that focuses more on forming a new breed of individuals, Cameroonians with a new mindset, what may be called "the New Man". A shift from the old paradigm

⁸⁵ Cf. Chiara Lubich, "Lezione tenuta in occasione del conferimento della laurea in Economia, "Nuova Umanita 21-1 112 (1999).

Chiara Lubich asked: What is the culture of giving? It is the culture of the gospel. It is the gospel because we understood giving from the gospel. Give and gifts will be given to you, a good measure, packed together, shakedown, and overflowing, will be poured into your lap (Lk6:38).

You received without charge, give without charge.

⁸⁶ Transparency International is a civil society organization leading the society in the fight against corruption.

of relying on the law and prisons to the new paradigm of what is termed the “BOTH/AND CULTURE”.⁸⁷

The BOTH/AND CULTURE⁸⁸ is a philosophy that provide for a shift from the conventional attitude that refuses to complement but rather believes in the “or” syndrome, that is to say A or B, to a system that embraces and complement each other otherwise known as “AND”. To form the “New Man”, it is required that there be a system that allows for a blend of academics and spirituality. There must be a balance between academics and spirituality. Spirituality refers to a person’s individual relationship with his creator.⁸⁹ Spirituality should not be confused with religion. Religion is an institutionalized system of attitudes and repetitive practices that define and enhance one’s faith.⁹⁰ Spirituality in this context refers to one’s personal relationship with his creator.

4.3.2 Spirituality

Spirituality has been viewed in previous research studies as “the developmental engine that propels the search for meaning, purpose, and contribution” (Rowling, 2008). Wong-McDonald and Gorsuch (2000) noted that when a person faces a potential stressor he first exercises all of his resources to find a solution to it. Upon realizing that the situation is beyond his ability he then leaves it in God’s hands. This strives to reiterate the need for accepting that as humans, we are created by a supernatural being that rules over us and as a result should be involved in whatever activity we indulge in. This only confirms the assertion that we all have a common origin.

Relying thus on this premise, this new paradigm that advocates for a marriage between academics and spirituality is a ground for the justification why actions should be guided by the doctrine of “common interest”. This doctrine holds that actions should be guided by the effects or consequences they would have on others and the society at large. As said earlier, this change of mind set will require that actions should be guided both the short term and long term impact on others and the community as a whole. The doctrine of common good posits that all humans belong to a particular society or community and therefore their actions should be directed to the community as a whole “Common Good”. This is founded in the biblical scripture that instructs us to love our neighbors as ourselves.⁹¹ This imperative entails not only that we should help those in

need, but also address the causes of destitution and poverty. This doctrine which stands out today as social doctrine of the Catholic Church can even be traced in most of the African culture and particularly in what is referred to as “*M’bangsuma*”.⁹² “*M’bangsuma*” as posited by Fr. George Nkeze,⁹³ describes the social philosophy and practice in Cameroon whereby people are moved by the feeling of solidarity to pledge never to eat anything without sharing it with other members of the group. At the root of this practice is the philosophy of life which is itself *M’bangsuma*, which signifies and expresses the following:

- Spirituality: The spiritual and religious nature of all God’s creatures.
- Solidarity: Which enables the Cameroonian to live in harmony with the world, the ancestors, nature, family, and with his fellow man.
- Relatedness: This encompasses the Cameroonian conceptual vision of the whole of reality.
- Family Spirit: In the cameroonian culture, the “you” and the “we”, the collective or community takes precedence over the personal the “I” (Jingwa, 2012).

This means that the Cameroonian customs support that every human action whether mental or otherwise, takes place in the context of relatedness. This belief which may take different appellations exists in all the local cultures in Cameroon. With a knowledge of this at the foundation of customs at the grassroots, the practice of considering others (the bigger community) in individual action may not be strange altogether, but requires that it should be properly conceptualized and institutionalised in the academic curricular. This is the bases for education in CUIB (the then UIDB)⁹⁴ grounded in its mission.

4.4 The CUIB Model of Holistic Education, the New Paradigm

It may not be wrong to talk of the CUIB Model as an example of the new paradigm that request for a union of academics and spirituality because of the uniqueness of its mission and identity which are suspended on very strong and uncommon pillars. The mission of CUIB is “to prepare Professional Servant Leaders of moral and spiritual values who will contribute to the sustainable development of their communities”.⁹⁵ The academic philosophy of

⁸⁷ The BOTH/AND culture depicts a practice that provide a blend of academics and spirituality, work and leisure just to name but these.

⁸⁸ In our context, BOTH/AND CULTURE depicts academics and spirituality.

⁸⁹ Cox, C. J. (2011). The relationship between spirituality, stress, and academic performance (p.15) (Master thesis). Graduate College of Bowling Green State University. Retrieved from https://etd.ohiolink.edu/!etd.send_file%3Faccession%3Dbgsu1305258623%26disposition%3Dinline (accessed on the 10/03/2016).

⁹⁰ Ibid

⁹¹ Mark 12 verse 31, New International Version.

⁹² As noted by Fr. Georges Nkeze, *M’bangsuma* is from a language used by the *Betis*, one of the over 200 tribes that live in Cameroon. The concept signifies spirituality, solidarity, relatedness or togetherness and Family Spirit. Nkeze George Jingwa. (2012). In *New Wineskins: The Economy of Communion as a Model for Catholic Business Schools in Africa—The case of the University Institute of the Diocese of Buea (UIDB), Cameroon*, *Journal of Catholic Higher Education*, 31(2), 2012, 271-285, 76.

⁹³ President and Pro-Chancellor of the Catholic University Institute of Buea, Cameroon.

⁹⁴ CUIB stands for Catholic University Institute of Buea.

⁹⁵ Catholic University Institute of Buea, *The Entrepreneurial University, 2013/2014 University Bulletin*, p.4.

CUIB is drawn from the seven key pillars that chart the new ways for the 21st century university education, the pillars that are intricately necessary if the “new man” must be formed, a system that will put an end to the putting of new wine into old wineskin.⁹⁶ This foundation pillars include the following:

(a) Spirituality and moral values

It is the soul of the university’s entrepreneurial education. It holds that education which enables the human person to be sincere, truthful, respectful and conscious is the best form of education needed for this century.

(b) Academic Excellence

The university’s commitment to academic excellence is rooted in the character of its creator. Instead of driving each other towards excellence, the university frees each other to grow and express the excellence that is within the entire faculty, staff and students.

(c) Entrepreneurial Spirit

The university empowers the students to be job creators and masters of their destinies through entrepreneurial learning (learning by doing). Its entrepreneurial culture encompasses three things: a vocation, an “attitude” or “mindset” and a sense of doing business on one’s own account and at one’s own risk.

(d) Scientific and Technical Know-How

This enables the students to acquire new techniques and skills, in order to meet the needs of the rapid and changing world.

(e) Social and Environmental Awareness and Responsibility

The education that enables the students to be accountable to the communities, promotes common good, respect creation and preserves the environment.

(f) Integrated Education for Life

The education that helps the student to seek a balance in life by living the BOTH/AND culture- faith and reason, prayer and work, physical and spiritual exercises, knowledge and virtue.

(g) The Economy of Communion (EoC)

By adopting the Focolare’s EoC philosophy, CUIB intends to form “a new people”, “men and women”, business leaders, entrepreneurs, business leaders, scholars, administrators, students, rich and poor, families who would be called “homo donator” capable of putting into the culture of giving in a new society which puts solidarity and sharing at the heart of its understanding of relationships.⁹⁷

4.5 Practical Implementation of Strategy Directed Towards Creating the “NEW MAN”, Blending Academics and Spirituality

We hold the view that while academics are of the utmost importance as it is the source of knowledge and know-

how; it does not provide a complete build up for the individual. A complete individual needs both academics and spirituality what can be referred to as a “holistic education” or better still “integral human development”. To achieve this, certain strategies have been put in place by CUIB which exemplifies the new paradigm.

To begin with, there is the introduction of Catholic Studies at the core curriculum. The institution has developed a core curriculum of Catholic studies, which attempts to more directly address the anthropological presuppositions of the EoC, Catholic social thought reflected in the traditional belief of M’bangsuma. Courses to the respect are compulsory for all students.

Furthermore, there EoC philosophy has been included in the business curriculum. The integration of the EoC model in the business curriculum of the university is still to be articulated. However, the university at this initial stage in performing activities that will help it meet its objective to help stakeholders appreciate the basic tenets of the EoC philosophy. This has been projected through the organisation of international, national and in house seminars on EoC.⁹⁸

Also, the EoC has been incorporated in extracurricular activities. Each working day, from 11:45 to 01:30, all the offices of the university are closed to pave the way for all the EoC related activities. The “EoC hour”, as it is called, begins with the celebration of the Holy Mass at midday the greatest act of communion with those of the Catholic faith while those of other religious background to use the same hour to commune with their creator. From 12:30 to 01:30, EoC is reserved for sharing, meditations, ritual celebrations, birthdays, the base group works, tutoring, inspirational talks etc..⁹⁹ Every Thursday from 12:30 to 01:30 students and faculty are expected to devote their time to working with their school base groups or Entrepreneurial groups. These activities are meant to build and strengthen the culture of communion within the campus and among administration, Faculty, Staff and students.

Again, EoC has been included in the assessment of students’ academic work. Since students must belong to a School Base Group of 3 or 5 students, faculty members use this base group to give assignments to students and evaluate them based on these groups. The essence of this Group work and assessment is to help in training our students on collaboration, conflict resolution, group genius ability, care and support for one another, group success and team building. This is one way in which CUIB attempts to fight greed, tribalism and other ills which are

⁹⁶ This is tied to the biblical quotation in the gospel according to Luke which states “no new wine into old wineskin”. See LK: 5:37.

⁹⁷ See Catholic University Institute of Buea, The Entrepreneurial University, 2013/2014 University Bulletin, p.6.

⁹⁸ For example, in March 2012, the university organised an International Seminar on the EoC in collaboration with the International Commission on the EoC in Rome at UIDB (as it then was). Another International Conference on EoC is scheduled for first week of March 2016 at CUIB.

⁹⁹ See generally Nkeze George Jingwa. (2012), op cit, note 11, pp.282-283.

causes of corruption plaguing the country. In structuring these groups, factors such as gender, tribe, intellectual capacity, language, social ties are taken into consideration in order to foster a true spirit of communion as reflected in the trinity.

In a bid to foster the EoC culture at the level of restaurant services, faculty, administration, and students eat together.¹⁰⁰ There is no separate faculty section. The seats in the restaurant are built in fours to encourage sharing and family spirit. The idea of behind this is to demonstrate that economic activity can be viable when performed in a climate of freedom, equality and fraternity.

Environmentally, the EoC has been demonstrated in the designing and construction of what is now known as the CUIB EoC village. This village is made up of seven “boukarous”, circular buildings, to remind the community that sharing is our culture. They equally serve to facilitate collaborative work, learning in groups and sharing.¹⁰¹

This model therefore provides the perfect environment for the training of individuals who will consider others in whatever actions they take. The “New Man” who when opportune to be in a position of influence will not request for a favour to execute a function which legally he is entitled to do, give money or promise a favour in return for a service he has a right to or siphon resources meant for the community.

CONCLUSION

An overwhelming majority of Africans continue to live in absolute poverty because of this cankerworm referred to as corruption. Despite all efforts put in place by African governments, the situation still remains deteriorating. There is therefore the need for a new paradigm to fight against this locust. This is where the economy of communion is of a vital importance. Providing for a culture of sharing, it goes directly against the founding principles of corruption which are greed and selfishness. Corruption as rightly analyzed above is a mindset issue and it could best be tackled by transforming this mindset from the grass root right to the helm of African states. The EoC can better attain this objective. This can effectively be done by introducing the EoC culture at educational institutions across Africa to help in the formation of new men. We believe that if young Africans are trained with the mindset of sharing and communion, corruption will have very little chance

¹⁰⁰ CUIB has created its own restaurant known as the Saint Martha Faculty, Staff and Student club which tries to put into practice the ideals of EOC. Meals are subsidised to encourage faculty, administration and students to eat together.

¹⁰¹ See for the design and format the CUIB website <http://uidb-cameroon.com/>

to prevail in our societies. Targeting young minds is particularly important because the youths are the leaders of tomorrow. Therefore, training “new men” with moral and spiritual values who will in future lead the country will be a major step towards the right direction in the fight against corruption. This process may take a couple of years to materialize but the truth is it will definitely yield the expected fruits. Like the English man says “better late, than never” and as it is written in the *Holy Bible*, “train up a child in the way he should go: And when he is old, he will not depart from it”.¹⁰² It is therefore time for African states to commence with the formation of “New Men”.

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¹⁰² Proverbs 22:6, King James Version.