

Beyond the Contours of Normally Acceptable Political Violence: Is Cameroon a Conflict/Transitional Society in the Offing?

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Abstract

Legal scholars and other social scientists agree that political violence comprising assaults on civil and political liberties may occur in the context of contentious politics. Unfortunately, there have been instances in history where such politics is marked by intermittent attacks against people's rights and freedoms. Such attacks occur when politics has gone sour, and there are times when the violence exceeds the bounds of what is acceptable. From the documented atrocities of Nazi Germany, the horrendous crimes of the regime of Slobodan Milosevic in the former Yugoslavia, the outrageous crimes perpetrated during the genocide in Rwanda, the shameful and despicable inhumanities inflicted on the people of Darfur in the Sudan, and the violence in post-electoral Kenya, to the bloodshed in areas like Mali, the Democratic Republic of the Congo, the Central African Republic, etc, violent conflict has punctuated world history. Added to this list of countries is Cameroon, which in the last quarter of 2016 degenerated into a hotspot of political violence in the English-speaking regions. The perpetration of political violence in Cameroon has raised serious questions that may be relevant not only to the resolution of the political problem that gave rise to the violence but also to laying the foundations of a post-conflict Cameroon that is united and honours the principles of truth, justice and reconciliation.

This paper describes some of the salient occurrences of political violence in Cameroon and argues that the presence of specific elements elevates this violence to the level of a serious crime in international law. It is argued herein that crimes against humanity may have been committed during the state action against the Anglophones in Cameroon. It is also argued that the political character of the violence, added to the scale of the victimisation and its systematic and protracted nature, qualify Cameroon as a transitional society engaged in conflict that is in need of transitional justice.

Reflecting on the extent of the suffering of the victims of such political violence, this paper discusses the function of the justice system in establishing the truth and holding the perpetrators accountable. Past instances of political violence in Cameroon have been glossed over, but in our opinion, healing a fragmented and disunited Cameroon with its history of grave violations of human rights requires that the perpetrators be held accountable, and that truth and justice should prevail. Such considerations should be factored into the legal and political architecture of a post-conflict, transitional Cameroon.

Keywords

Political violence; crimes against humanity; accountability for human rights violations; human rights; political participation

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1 Introduction

Many scholars from different backgrounds share a consensus on what constitutes political violence and makes it *sui generis* different from other kinds of social violence. In the wake of demands for democratic reforms in Africa in the early 1990s, national dialogue was replaced by political violence, which quickly led to the use of force by dictatorial rulers to silence political dissent. Some of these conflicts became protracted as the scale of the action increased. Common to these political conflicts in many different parts of Africa was the impunity of those who were in power at the time. There was no accountability for their violations of human rights. The violence of their reaction to protest was compounded by the weak judicial systems in those states and other unfortunate socio-economic dynamics. The hapless victims of the violence were forced to accommodate and endure without remedy the injustices that were perpetrated against them, as the system afforded no legal avenues for redress.

Some key questions are raised in response to the consideration of this repeated pattern of events. First, could such actions be classified as "most serious crimes of international concern" and thus become subject to the ICC?¹ These could be crimes against humanity, genocide, and/or war crimes. Second, could the political conflict be of a scale or nature that might warrant its being labelled a conflict in a transitional society?² Third, what role could justice play in confronting and punishing such crimes, ending the culture of impunity, and fostering truth and reconciliation as the pillars upon which a peaceful and united post-conflict society could be built?³ Political

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¹ This is the phrase that is used in the *Rome Statute of the International Criminal Court*: see the *Rome Statute of the International Criminal Court* (1998) (hereinafter referred to as the *Rome Statute of the ICC*), Art 1; Art 5 of the *Rome Statute of the ICC* provides that the jurisdiction of the ICC shall be "limited to the most serious crimes of international concern to the international community as a whole...". Also see Obura "Duty to Prosecute International Crimes" 12-13.

² See generally Mobekk "Transitional Justice in Post-Conflict Societies" 261-292.

³ For a discussion on the role of justice in post-conflict/transitional societies, see the following contemporary works: Quinn *Reconciliation(s)*; Laplante 2009 *Va J Int'l L* 915-984; Teitel 2003 *Harv Hum Rts J* 69-94; McEvoy 2007 *J Law Soc* 411-440; Mendez 2001 *Ethics & Int'l Affairs* 25-44; Dwyer "Reconciliation for Realists" 91-110; Jenkins "Amnesty for Gross Violations of Human Rights" 19-20; Correa 1991-1992 *Notre Dame*

developments in Cameroon since the last quarter of 2016 may offer us the opportunity to find answers to some of these questions. In that period the "Anglophone problem" has been a constant source of conflict.⁴ Systemic discrimination has been perpetrated against Anglophones (in terms of their identity, culture, institutions and recognition as equal human beings) in every sphere of Cameroonian life, especially in the political, cultural and economic domains.⁵ The problem, which has recently been exacerbated, has been in existence (without official acknowledgement) since at least 1961, when the negotiations for a Federal Cameroon were conducted and concluded in Foumban.⁶ English-speaking Cameroonians residing in the two English-speaking regions have since then been subject to constant attacks on their civil and political liberties⁷ and also to other forms of assault, some of which are referenced in this paper. Unfortunately political violence is not new in Cameroon. Traversing the pages of history, this paper recounts some of the previous instances of egregious political violence. However, it is argued that the current spate of atrocities being committed in the English-speaking regions is unprecedented and *sui generis*: firstly, in terms of their scale; secondly, because of the organised nature of the atrocities; and thirdly, because they are directed against a protected group of people (an ethnic group). It is argued on this basis that what is transpiring in Cameroon exceeds the bounds of normally acceptable political violence. In fact, the existence of these elements suggests that serious crimes in international law may have been and are being committed in Cameroon. For a country that has had a terrible history of human rights violations⁸ implicitly condoned by the impunity that followed their commission, these developments aptly qualify Cameroon as a transitional

L Rev 1455-1485; Orentlicher 2007 *IJTJ* 10-22; Govier "What is Acknowledgment and Why is it Important?" 63-89.

⁴ For a discussion on the historical evolution of the "Anglophone problem", see the following works: Konings and Nyamnjoh 1997 *J Mod Afr Stud* 207-229; International Crisis Group *Cameroon* 21-22; Konings and Nyamnjoh 2000 *African Anthropologist* 5-32; Konings and Nyamnjoh *Negotiating an Anglophone Identity* 193-207; and Konings and Nyamnjoh "Paul Biya and the 'Anglophone Problem'" 191-234.

⁵ Konings and Nyamnjoh 1997 *J Mod Afr Stud* 207-229; Konings and Nyamnjoh 2000 *African Anthropologist* 5-32; Konings and Nyamnjoh *Negotiating an Anglophone Identity* 193-207; Konings and Nyamnjoh "Paul Biya and the 'Anglophone Problem'" 191-234.

⁶ Konings and Nyamnjoh 1997 *J Mod Afr Stud* 207-229; Konings and Nyamnjoh 2000 *African Anthropologist* 5-32; Konings and Nyamnjoh *Negotiating an Anglophone Identity* 193-207; Konings and Nyamnjoh "Paul Biya and the 'Anglophone Problem'" 191-234.

⁷ Amnesty International 2017-2018 <https://www.amnesty.org/en/countries/africa/cameroon/report-cameroon>; also see US Department of State 2016 <https://www.state.gov/documents/organisation/265446.pdf>.

⁸ Amnesty International 2017-2018 <https://www.amnesty.org/en/countries/africa/cameroon/report-cameroon>; also see US Department of State 2016 <https://www.state.gov/documents/organisation/265446.pdf>.

society in a state of conflict.⁹ This paper also argues that for Cameroon to transcend its present bitterly fragmented condition would require adopting a political dispensation in which truth, justice and reconciliation would prevail, after the imposition of criminal sanctions on the persons responsible for the atrocities that are taking place.¹⁰

The paper commences with a glance at the notion of political violence, which discussion is followed by a brief history of political violence in Cameroon. It then describes the current ongoing political crisis in Cameroon, making mention of some of the atrocities that have been committed. It examines the woundedness of the victims of these atrocities and then identifies the distinguishing elements of these atrocities, with a specific focus on their scale and their organised nature. Finally, the paper argues that these atrocities may qualify as crimes against humanity and as genocide – serious crimes in international law which, as discussed below, warrant some form of sanction.

2 Political violence in Africa's "democracies"

As a tidal wave of democratisation swept across most of post-colonial Africa in the early 1990s, demands for political reform introduced a new dynamic of social violence within both urban and rural communities. This was accompanied by the perpetration of political violence, a *sui generis* form of social violence of different forms and magnitudes. It might involve the brutalisation of political dissidents, the use of tear gas, dogs and batons to disperse rioters, political abductions, the formation of guerrilla groups, rebellions, the vandalism of public infrastructure, the identification and victimisation of specific individuals perceived as "political animals" by the perpetrators, mob violence, physical fights between legislators, and even assassinations.¹¹ Various narratives have been shared by victims and media personnel which disclose the acceptance and normalisation of political violence in different corners of the African continent as a kind of political

⁹ Based on the gravity of the human rights violations that have been committed, and the trauma suffered by the victims attributable to the current political conflict between the Francophone-led/dominated government and the English-speaking population, even though unacknowledged formally, there is a political conflict in Cameroon. Within this political conflict, political violence is taking place.

¹⁰ The imposition of individual criminal responsibility in this context should not be limited to individuals who committed the material elements of crimes. In terms of the tradition in international criminal justice, individual criminal responsibility should be imposed on those who are directly and indirectly involved in the commission of these atrocities - the persons who committed the material elements of these crimes as well as those remotely involved in them through planning, ordering or instigating them or aiding and abetting others to commit them.

¹¹ Meadow 2009 *Marq L Rev* 231.

culture, especially when utilised by a segment of the population to make a political point or oppose a political move. In the following paragraphs this paper addresses the notion of political violence and identifies its key attributes in order to be able to assess claims that what is transpiring in Cameroon is not just criminal but is indeed a form of political violence.

2.1 Delineating the notion of political violence

The term "political violence" remains very fluid in academic discourse, as scholars in the social sciences approach it from different angles. Various definitions have been proposed,¹² but there is some agreement that the concept of political violence belongs in the domain of contentious politics, a view that is held by David Luban, for example, who uses a legal lens to see crimes against humanity as the gross and lamentable consequence of "politics gone cancerous".¹³ In Rios' opinion political violence is a phenomenon that has "been growing in alarming proportions across the world".¹⁴ Aolin cautions that an understanding of what constitutes political violence has not earned universal endorsement.¹⁵

The definition of political violence propounded by Moser and Clark¹⁶ and adopted by Rios describes it as "the commission of violent acts motivated by a desire, conscious or unconscious, to obtain or maintain political power".¹⁷ In other words, it relates to the acquisition or retention of political power through violent acts. Dumouchel sees political violence as "violence that is committed in the context of a political conflict, or that can be related, either through its cause or through its motive, to political issues"¹⁸ and argues that in a democracy political violence may be perceived differently by different persons, depending on their political leanings.¹⁹ Where there is a political culture with established institutions and norms, the state seems to hold the monopoly of legitimate violence.²⁰ Dumouchel argues further that for an act to qualify as political violence, a political dimension must be evident in its cause or motive.²¹ Hansen, however, is of the view that political violence is characterised by the

¹² Amongst the scholars worthy of mention is Thomas Obel Hansen, who labels it an "essentially contested concept" (Hansen *Political Violence in Kenya* 1).

¹³ Luban 2004 *Yale J Int'l L* 85-167.

¹⁴ Rios 2004 *Language, Literacy, & Culture Review* 29-43.

¹⁵ Aolin 2006 *Colum J Gender & L* 829-849.

¹⁶ Moser and Clark *Victims, Perpetrators or Actors?* 36.

¹⁷ Rios 2004 *Language, Literacy, & Culture Review* 30. Hansen also adopts this definition: Hansen *Political Violence in Kenya* 1.

¹⁸ Dumouchel 2012 *Ritsumeikan Studies in Language and Culture* 117-123.

¹⁹ Dumouchel 2012 *Ritsumeikan Studies in Language and Culture* 117-123.

²⁰ Dumouchel 2012 *Ritsumeikan Studies in Language and Culture* 120.

²¹ Dumouchel 2012 *Ritsumeikan Studies in Language and Culture* 120.

"pursuit of political objectives (and not [of] the end result of gaining or not gaining political power)".²² Borrowing from some of the leading definitions that have been postulated, one may define political violence as an act or series of acts used by individuals or groups of individuals to intimidate, harm, exploit, disrupt, undermine, hasten, delay, reverse, or alter the composition, functioning or continuity of a political institution or composition or structure.

The underlying impetus behind political violence is the yearning for power. This is evident in the actions of tyrannical regimes, paramilitary groups, guerrillas, and extremist religious and ethnic groups, including those who seek to undermine others, as they strive to achieve hegemony over a region, group or state. Distinct from both economic and social violence, political violence is often more collective in scope, is usually systematic in organisation, and is generally widespread in terms of the victimisation it precipitates. It can be sporadic, as a specific individual or group of persons becomes the target. Its occurrence in different parts of the world is triggered by any of a set of factors simultaneously present: conditions of acute deprivation, unending oppression, disastrous economic and social policies which consign a good proportion of a population to chronic poverty, unemployment, and social inequality and injustice. All of these motivate the drive for political power. As said by one scholar,

[i]ncreasingly, today's civil conflicts become messy and intense as political violence inflicts human pain and suffering between communal or tribal groups in intra-state conflicts. As some modern civil conflicts involving such cultural dimensions as ethnicity and religion become increasingly violent, and violence is employed to create pain and suffering, one wonders about the cruelty and violent nature of one group or national government over another. The intensity of political violence in today's civil conflicts continue to be unimaginable, and one would naturally seek an explanation for such violence.²³

A few inferences can be drawn from these definitions. What are the tactics? Political violence includes beatings, abductions, murders, extermination, sexual abuse such as rape, forced pregnancies and sterilisation, looting, and the perpetration of acts of vandalism on private and public properties.²⁴ The second inference relates to the identity of those who perpetrate or participate in political violence: government officials, party leaders or surrogates such as militia groups, paid thugs, law enforcement personnel, campaign workers, party loyalists and so forth. Thirdly, the venues in which political violence is committed include public arenas, state institutions, polling stations, etc.

²² Hansen concurs with this as well: Hansen *Political Violence in Kenya* 1; also see Hibbs *Mass Political Violence*.

²³ Hiratsuka 2012 *Educational Studies* 91-99, 92.

²⁴ Hansen also adopts this definition: Hansen *Political Violence in Kenya* 1.

Fourthly, there is the timing of the violence. This may sometimes be spontaneous, depending on the issue at hand, but sometimes the spontaneity is spurious, and it can frequently be an organised response perhaps to protests calling for equality or redress.

Granted, political violence is an outcome of "contentious politics", but it also has legal implications. If the acts committed in this context are criminal, then they should not only be labelled as such but should also be prosecuted. The same should apply when such acts meet the definition of serious crimes in international law. There is an intersection between political violence and international law, a relation that is acknowledged by one legal scholar as he argues that crimes against humanity are the gross and lamentable consequences of politics gone cancerous.²⁵ Varying in form, recent developments in the past two decades show that political violence may even be perpetrated in the context of religious fundamentalism.²⁶

In societies entrapped in contentious politics, the motives underlying political violence may vary. Meadow articulates that one such motive is "usually to force compliance, to subjugate, to persuade, or to intimidate, except for those most deviant individuals or groups who enjoy pointless bloodshed".²⁷

The scale of political violence may transcend the bounds of the ordinary, and when specific circumstances are present, the actions may qualify as serious crimes in international law. Arguably, such violence should attract the intervention of the global community. In addition, a society in which such violence occurs may well be called a conflict society²⁸ or a transitional society requiring transitional justice.²⁹ Irrespective of which of these it is, and depending on factors such as the kinds of acts committed, their organised/systematic nature, the scale of the devastation and the motives underlying it, mechanisms for accountability should be put in place.

²⁵ Luban 2004 *Yale J Int'l L* 85-167.

²⁶ Emerson and Hartman 2006 *Annu Rev Sociol* 127-144; Hunsberger 1995 *J Soc Issues* 113-129; Brandt and Reyna 2010 *Pers Soc Psychol Bull* 715-725.

²⁷ Meadow 2009 *Marq L Rev* 231.

²⁸ According to Meadow 2009 *Marq L Rev* 231, a conflict society is a society that is "characterised by a lack of consensus on governance, questionable legitimacy of governing institutions, or unresolved and ongoing religious, racial, or ethnic cleavages. Commonly, such conflict is manifested through civil war, guerrilla conflicts, domestic terrorism, or domestic military campaigns": Meadow 2009 *Marq L Rev* 232; see generally Marchetti and Tocci 2009 *Global Change, Peace & Security* 205.

²⁹ Teitel defines transitional justice as "the conception of justice associated with periods of political change, characterised by legal responses to confront the wrongdoings of repressive predecessor regimes"; Teitel 2003 *Harv Hum Rts J* 69.

2.2 Gauging the sui generis impact and dimensions of political violence

As already said, political violence may take different forms.³⁰ It may also vary in terms of the extent to which it is organised and its scale.

Victimisation is undoubtedly the unavoidable consequence of political violence, and the victims (both direct and indirect)³¹ have their dignity assaulted. The dignity of a human being is inherent in his or her personhood. It is so integral to individuality that the right to dignity may seem to be the most inalienable of any human right.³² When a person's dignity is injured or violated, there is a feeling of woundedness in the person, a feeling that is not easily and quickly extinguished. That person is in need of restoration, which is unlikely to emanate from the state. The perpetration of political violence by a set of individuals under the direction of the state damages the relationship between the victims and the perpetrators.³³ The victims have a reasonable expectation that the state will fulfil its obligations to respect, protect and promote their human rights,³⁴ yet in perpetrating the political violence the state thwarts these expectations and its relationship with its citizens is severed.

Political violence often involves brute harm to the victim's personhood, but it can also involve economic deprivation or psychological damage following the loss of loved ones. Those who experience such loss are often denied knowledge of the source and circumstances of their trauma. Who pulled the trigger that killed my son? Why was my daughter kidnapped? Why was my son arrested, detained and tortured? Why have they targeted us? Not getting the answers to such questions is in itself a kind of torture. The people feel betrayed by the political order and the relationship of trust is broken: the people's trust in the state, and also the state's trust in its citizens. Regardless of whether the victims are othered in terms of their ethnicity, their tribe, their religion, their race, their sexual orientation or their political affiliation, and regardless of how

³⁰ Meadow 2009 *Marq L Rev* 231.

³¹ *Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Violations of International Human Rights and Humanitarian Law* UN GAR A/RES/60/147 (2006); also see Agbor 2017 *PELJ* 11.

³² See the *Universal Declaration of Human Rights* (1948), Art 1: "All human beings are born free and equal in dignity and rights...".

³³ As used in this context, "relationships" are not confined to the ordinary intimacies shared between those related by affinity or consanguinity. The sense of the term must be broadened to include all those involved in the state system who are bound to one another by some set of obligations, such as the apparatchiks, the elite superiors, the public, and even the international authorities.

³⁴ Cassese *International Law* 384-386.

they perceive themselves, they are perceived by the state as enemies within the system, as "enemies inside".

When the state fails to acknowledge the injustices emanating from its perpetration of political violence, the ensuing silence and official denials simply prolong the suffering of the victims. The failure of the system to recognise the victims as legitimate members of the political order strips them of their personhood. If healing is ever to occur, the process will have to begin with restoring their full rights as human beings, and yet the trauma may remain unhealed. Also, there is scarcely ever any form of sanction of the perpetrators of political violence, irrespective of the scale of the victimisation, so that the suffering endured by the victims far exceeds the acknowledgement of accountability by the guilty. Their reluctance to express remorse and atone for their actions makes it very difficult for the victims to accede to reconciliation.

2.3 A synopsis of the perpetration of political violence in Cameroon

Cameroon's legal and political system makes little allowance for public participation. These institutions are not designed for this purpose, and even when such accommodation exists on paper, numerous technicalities are inserted which eventually make public participation a practical impossibility. A pertinent example of this is the limitation of access to the Constitutional Council.³⁵ Cameroon is a democracy in theory but more of a surveillance state in practice, as citizens' freedoms have been curtailed and their rights infringed through increased state control in both public and private life. Political violence has been a normal and acceptable part of Cameroonian politics for the past

³⁵ The Constitution mandates the Constitutional Council as the institution with the power to resolve matters pertaining to the Constitution. The mandate and access thereto are provided in Article 47 of the Constitution:

- (1) The Constitutional Council shall give a final ruling on:
 - the constitutionality of laws, treaties and international agreements;
 - the constitutionality of the standing orders of the National Assembly and the Senate prior to their implementation;
 - conflict of powers between State institutions; between the State and the Regions, and between the Regions.
- (2) Matters may be referred to the Constitutional Council by the President of the Republic, the President of the National Assembly, the President of the Senate, one-third of the members of the National Assembly or one-third of the Senators. Presidents of regional executives may refer matters to the Constitutional Council whenever the interests of their Regions are at stake.
- (3) Laws as well as treaties and international agreements may, prior to their enactment, be referred to the Constitutional Council by the President of the Republic, the President of the National Assembly, the President of the Senate, one-third of the members of the National Assembly, one-third of the Senators, or the Presidents of regional executives pursuant to the provisions of paragraph (2) above.

28 years or so, its purpose being to consolidate the *status quo* and maintain power for the benefit of the few. A quick walk down memory lane will support this statement. In 1990 demands for political pluralism were marked by the formation of political parties and other political groups in the hope that this would end the decades-long one-party rule. These demands were rejected outright and met with the use of brute force on the instructions of the government. Arrests, prolonged detentions, enforced disappearances, extrajudicial killings, assassinations that did not spare even the clergy, and assaults on numerous civil liberties were perpetrated by the Biya regime under the cover of fostering national unity and maintaining public order. Surreptitious operations were launched against unarmed civilians who had engaged in mass political protest against the system as a means of participating in the governance of their land. The 1990 political demands came from a broad spectrum of Cameroonians – Francophones and Anglophones, Christians and Muslims, literates and illiterates, young and old, poor and rich, employed and unemployed, the privileged, the downtrodden, the homeless. Some legislative reforms were made in response.³⁶ Whether or not these have been of any use is a moot point.

A brief time later the liberalisation and democratisation of Cameroon's politics would trigger calls for a sovereign national conference – a national forum where elected and appointed public officials would be held accountable for the socio-economic and political wrongs committed by them while in office.³⁷ The protracted delays and repeated categorical denials by the President plunged the entire nation into chaos – mass protests, vandalism, and the destruction of public infrastructure were some of the anti-government protest tactics used by the people. The common cry was "*Biya doit partir*" ("Biya must go!").³⁸ In response, the government perpetrated acts of political violence similar to those committed in 1990. However, the scale of state violence was increased, as was the ferocity and intensity of the action, as the underlying motive was to silence dissident voices and reinforce the leader's grip on political power.

1992 was not very different from the previous two years. Following the first multi-party presidential election, which was held in October 1992, the country slipped into the abyss of rancorous politics and disintegrated into a political

³⁶ Examples of these laws include the law on *Law on Freedom of Mass Communication*, Law No 90/052 of 19 December 1990, commonly referred to as the "MC Law of 1990", and *Law Enabling the Formation of Political Parties*, Law No 90/056 of 19 December 1990; Fombad "Mass Media and Democratisation in Africa" 228; Takougang and Krieger *African State and Society* 117.

³⁷ Konings "Post-colonial State and Economic and Political Reforms" 244-265.

³⁸ Konings "Post-colonial State and Economic and Political Reforms" 244-265.

dystopia. Law enforcement personnel, military and para-military units were deployed to counter civilian protests, and performed sinister acts of political violence. The imposition of a state of emergency in Bamenda (the seat of the Social Democratic Front, Cameroon's leading opposition political party and the then residence of its National Chair, John Fru Ndi) and the circumscription of the civil and political rights of the people therein were some of the measures taken by the Biya regime to quell the protest action.

In 2008 constitutional reforms to give the President of the Republic an unlimited term of office sparked another series of public protests across the nation. Once again the Biya regime used similar tactics of violent suppression, to the same ends – the curtailment of political rights and freedoms, the denial of citizens' participation, and the retention of political power.

As already said, political violence is not new to Cameroon. It is the government's established *modus operandi* of curtailing citizenship.³⁹ The Anglophone crisis that erupted in 2016 with its call for either federalism or secession has gone unresolved because of the persistent use of political violence as an answer to this complex political question. This crisis has been different from others in the country in many ways. Firstly, it is geographically limited to the English-speaking regions, where the mass deployment of predominantly French-speaking Cameroonian troops in the military and para-military units has increased the tension.⁴⁰ Secondly, the scale of the brutality is unfathomable. Thirdly, the attack here is directed not only against a people but also against their culture, institutions, processes and legacy. Fourthly, the purpose of the action is to reinforce the subservience of English-speaking Cameroonians as second-class citizens in relation to their French-speaking counterparts.⁴¹ Given these purposes, the nature of the violence has been different from before. Innocent and unarmed civilians, including women and children, have been the hapless victims of the persecution. Sporadic covert

³⁹ See generally the following works on these political developments in Cameroon: International Crisis Group *Cameroon* 21-22; Konings "Post-colonial State and Economic and Political Reforms" 244-265.

⁴⁰ For a sketchy description of these incidents see the following online publications: Kindzeka 2017 <http://www.dw.com/en/cameroon-troops-deployed-ahead-of-anglophone-independence-declaration/a-40751054>; Shaban 2017 <http://www.africa-news.com/2017/11/17/upsurge-of-violence-in-cameroon-s-anglophone-crisis-worries-un/>; and Sixtus 2017 <https://www.irinnews.org/analysis/2017/12/04/cameroon-government-declares-war-secessionist-rebels>.

⁴¹ For an understanding of the "Anglophone problem" see generally the following works: International Crisis Group *Cameroon* 21-22; Konings "Post-colonial State and Economic and Political Reforms" 244-265; Konings and Nyamnjoh 1997 *J Mod Afr Stud* 207-229; Konings and Nyamnjoh 2000 *African Anthropologist* 5-32; Konings and Nyamnjoh *Negotiating an Anglophone Identity* 193-207; and Konings and Nyamnjoh "Paul Biya and the 'Anglophone Problem'" 191-234.

acts have been committed by state-directed operatives, including the military, the gendarmes, and para-military units such as the BMM and BIR,⁴² who have flooded and ransacked the villages of people who could be described as actively passive in the political processes and institutions. Homes have been raided, occupants assaulted, youths chased into the bushes, and private property looted. People have been arbitrarily arrested, social gatherings prohibited, and movement restricted during certain hours. Neighbouring Nigeria has recorded a huge number of Cameroonian refugees from these regions.⁴³ All of these acts have occurred in specific areas of the English-speaking regions of Cameroon. And the salient feature of these actions is easily perceived – they are systematic in nature.⁴⁴ The key political actors in Cameroon's French-speaking regions are the remote instigators of the violence, who plan, order, aid and abet the commission of these acts. The use of the armed forces against political dissidents has far exceeded the bounds of conventional law enforcement. In recent times, most of the English-speaking population centres have been under constant attack, and the people's livelihoods have been destroyed. As the violence is constant, it would seem to any observer to be the usual way in which Cameroonians conduct their day-to-day lives and, as observed by Simpson, Mokwena and Segal, the unpalatable consequences of the acceptance and normalisation of such a historical process of violence

... manifest themselves not only in the formal political arena, but are displaced in all spheres of life. Hence it seems appropriate to talk of a culture of violence, the systematic intrusion of violence, political at origin...⁴⁵

2.4 Beyond the borders of "normally acceptable" political violence

Across, the globe, political violence is a regular feature of contentious politics, as political actors resolve the key political questions of who gets what, when, why and how – irrespective of the political system of the state in which the violence takes place (established democracies, emerging democracies, fig-

⁴² These French acronyms refer to different para-military units in Cameroon: BMM stands for *Brigade Mobile Mixte*, which is comprised of soldiers, gendarmes and police forces which conduct day-to-day operations in the country. BIR stands for *Batallion d'Intervention Rapide*. Roughly translated, it means Rapid Response Brigade.

⁴³ Carsten 2018 <https://af.reuters.com/article/topNews/idAFKBN1F01P3-OZATP>; Dahir 2018 <https://qz.com/1179202/cameroons-anglophone-crisis-is-threatening-to-spin-out-of-control/>; and Shaban 2018 <http://www.africanews.com/2018/03/31/condition-of-cameroonian-refugees-in-nigeria-worries-top-unhcr-official/>.

⁴⁴ The term "systematic" as used here refers to the organised nature of the crimes that have or are being committed; see the brief discussion below on the definitional elements of crimes against humanity; see generally Agbor "Reflection on the Phrase 'Widespread or Systematic'" 352-378.

⁴⁵ Simpson, Mokwena and Segal 1991 *S Afr Hum Rts Yrbk* 195.

leaf democracies, autocracies, monarchies, etc). The way political disputes are resolved in a legal system is a key determinant of the likelihood of the perpetration of political violence. In other words, where legal and political institutions are constitutionally mandated to resolve disputes, and where over time such institutions fulfil their mandate by making themselves accessible to the people in order to work with them towards a resolution of a dispute, then the tendency of the people to resort to political violence is minimised. On the other hand, where such institutions and processes are made inaccessible and designed to consolidate the grip on power of a political elite, then the probability of recurrent political violence becomes very high. In part, responsibility for the high incidence of political violence in Cameroon may be attributed to the absence of strong institutional and legal mechanisms that could engage in the resolution of political disputes.

The focus of this paper, however, is the perpetration in Cameroon of political violence that exceeds the bounds of what can be described as normally acceptable political violence in any society. Given its scale and the organised nature of the violence, and its direction against a particular segment of the population, it is very likely that crimes against humanity have been committed in Cameroon.

2.5 The commission of crimes against humanity in Cameroon

Since the last quarter of 2016 the people of English-speaking Cameroon have been subjected to incessant violent acts that target their lives and political freedoms. These acts include the killing of identified individuals, the mass arrests of youths, prolonged detentions without criminal charges, torture, inhumane and degrading treatment or punishment, and the sexual molestation of abducted females, all of which are politically motivated.⁴⁶ The scale of the victimisation, as has been said, is very wide. In addition, the perpetrators of these crimes are police officers and military personnel of all ranks deployed mostly from the French-speaking area of the country, some of whom are attached to para-military units such as the BIR or the GMI. The atrocities are perpetrated on the instructions of senior state officials of the Francophone-led government. Put simply, the planning and preparation of these crimes, and their perpetration, are the responsibility of the state (that is, the Francophone-

⁴⁶ The argument that these acts are politically motivated is based on a very simple and straightforward premise: in response to the demands of these political entities for secession or federation, the Francophone-led government intends to silence the publication of these opinions, slow the momentum of change, restrain the political participation of the citizenry, and ultimately jettison the issue as irrelevant to Cameroon's contemporary politics.

led government). However, the issue here is not so much the commission of these crimes. The bigger and more complicated issue is the fact that these crimes constitute a concerted, planned attack⁴⁷ which in my opinion is not only massive in scale but is also systematic, given its organised nature. When the crimes listed here are directed against a civilian population, then the conditions in which they can be characterised as crimes against humanity have been fulfilled.⁴⁸

The commission of crimes against humanity or the failure to prevent or prohibit them falls under the jurisdiction of the International Criminal Court.⁴⁹ Per the Rome Statute of the ICC, crimes against humanity include

... any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a) Murder;
- b) Extermination;
- c) Enslavement;
- d) Deportation or forcible transfer of population;
- e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f) Torture;
- g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity;
- h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under

⁴⁷ The *Rome Statute of the ICC* defines an attack as follows: "Attack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a state or organisational policy to commit such attack"; see *Rome Statute of the ICC*, Art 7(2)(a). According to Mettraux, the requirement of an attack within the definition of crimes against humanity denotes "a course of conduct involving the commission of acts of violence": Mettraux *International Crimes* 156.

⁴⁸ For the definition of crimes against humanity, see the *Rome Statute of the ICC*, Art 7(1). Earlier definitions were to be found in various international instruments that predate the *Rome Statute of the ICC*. For a descriptive and analytical history of crimes against humanity, see generally Agbor "Reflection on the Phrase 'Widespread or Systematic'" 352-378.

⁴⁹ *Rome Statute of the ICC*, Art 5 (jurisdiction of the ICC) and Art 7 (crimes against humanity).

international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

- i) Enforced disappearance of persons;
- j) The crime of apartheid;
- k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.⁵⁰

One of the requirements of the definition of such crimes is that they involve the element of an attack, which is described as "a course of conduct involving the commission of acts of violence".⁵¹ This may include even the maltreatment of persons who take no active part in hostilities.⁵² In the context of the definition, the attack is the "vehicle for the commission of crimes against humanity".⁵³ Accordingly, the attack is the framework in which the crimes are perpetrated.⁵⁴ In order to determine whether the attack in question is widespread or systematic, a few parameters to consider are the number of the criminal acts, the number of the victims, the existence of criminal patterns, the existence of a policy or plan targeting specific group(s) of individuals, the inescapability of the attack, the involvement of military or political authorities, the logistics and financial resources involved, the existence of public statements or political views underpinning the events, the means and methods used in the attacks, and the adoption of discriminatory measures.⁵⁵

Looking closely at the nature of the criminal acts that have been committed, their repetitiveness, the scale of the violence, the specific targets of these crimes (which indicate that they are planned in accordance with policy), and the involvement of military and para-military units under the control of the Francophone-led government, it is clear that an attack is taking place, and that it is directed against the civilian population of English-speaking Cameroonians.

⁵⁰ *Rome Statute of the ICC*, Art 7(1). While the jurisprudence of the ICC is still being developed, for a general understanding of the core elements of these crimes, the jurisprudence of the two *ad hoc* UN tribunals is invaluable. In addition, the publications of academics offer useful insights: see generally Triffterer *Commentary on the Rome Statute*; Cassese, Gaeta and Jones *Rome Statute*.

⁵¹ Mettraux *International Crimes* 156; also see Art 7(2)(a) of the *Rome Statute of the ICC* for the meaning of the word "attack".

⁵² The Appeal Chamber held that "the attack in the context of a crime against humanity is not limited to the use of armed force; it encompasses any mistreatment of the civilian population..."; see *Dragoljub Kunarac, Radomir Kovač & Zoran Vuković v The Prosecutor* Case No IT-96-23 & 23/1-T Appeals Chamber of 12 June 2002 para 86; *The Prosecutor v Dragoljub Kunarac, Radomir Kovač & Zoran Vuković* Case No IT-96-23-T & 23/1-T Trial Chamber I of 22 February 2001 para 416.

⁵³ Mettraux *International Crimes* 157.

⁵⁴ Mettraux *International Crimes* 157.

⁵⁵ Mettraux *International Crimes* 171.

The crimes that have been committed include murders, abductions, random arrests and the prolonged detention of the individuals arrested, torture, sexual molestation, and other inhumane acts. The definition in the Rome Statute of the ICC of an attack leading to crimes against humanity ("a widespread or systematic attack directed against any civilian population") is extensively covered, leaving little room for uncertainty.⁵⁶ In my view, the violence in Cameroon is taking place within the framework of systematic planning directed against a civilian population. In the circumstances, it is submitted that crimes against humanity have been and are being committed in Cameroon.

2.6 Cameroon: portrait of a conflict-torn, transitional society?

The question to which answers should be given is how to deal with the crimes that have been and are being committed in Cameroon. Previous instances of political violence were marked by a complete absence of any form of accountability. No legal avenues have been put in place to prosecute the perpetrators of the criminal violence and the victims were never provided with any remedies for their ills.⁵⁷ This has further blackened the country's already black human rights record.⁵⁸ Cameroon therefore remains a fragmented, broken and disunited land where the pains endured by the victims of human rights violations remain as sharp today as on the day they were inflicted. The commission of a serious crime in international law⁵⁹ is not simply to be ignored.

⁵⁶ See, for example, the following cases: *The Prosecutor v Laurent Semanza* Case No ICTR-97-20-T Trial Chamber III of 15 May 2003 para 326; *The Prosecutor v Jean-Paul Akayesu* Case No ICTR-96-4-T Trial Chamber I of 2 September 1998 paras 460-469; *The Prosecutor v Alfred Musema* Case No ICTR-96-13-T Trial Chamber I of 27 January 2000 paras 199-211; *The Prosecutor v George Rutaganda* Case No ICTR-96-3-T Trial Chamber I of 6 December 1999 paras 65-71; *The Prosecutor v Clement Kayishemba and Obed Ruzindana* Case No ICTR-95-1-T Trial Chamber I of 21 May 1999 paras 119-134.

⁵⁷ International law unequivocally recognises the right to an effective remedy for violations of human rights. Numerous treaties both at global and regional levels provide this right. For example, the *Universal Declaration of Human Rights* (1948), Art 8; the *International Covenant on Civil and Political Rights* (1966), Art 2(3)(a); the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), Art 14(1); the *Convention on the Rights of the Child* (1989) (hereafter the CRC), Art 39; the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950) (hereafter the *European Convention*), Art 13; the *Inter-American Convention on Human Rights* (1969) (hereafter the *American Convention*), Art 25(1); the *African Charter on Human and Peoples' Rights* (1981) (hereafter the *Banjul Charter*), Art 7(1)(a); and *African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (2000) (hereafter *Maputo Protocol*), Art 25; see also Agbor 2017 PELJ 11.

⁵⁸ For a corroboration of this, see the US Department of State's annual country human rights reports on Cameroon for the past several years.

⁵⁹ A crime against humanity is a serious crime in international law (per the language of the *Rome Statute of the ICC*, Art 7). It is also a uniquely developed serious crime in international law through customary international law, unlike the crime of genocide and

It is imperative for Cameroon to address the trauma suffered by a large part of its population if it is to become a unified state where accountability, truth, peace and justice prevail.

3 The aftermath of the current political crisis – pursuing justice and accountability

The pursuit of justice in a post-conflict society that has experienced grave violations of human rights is in my opinion key to the achievement of peace, stability and unity. In the context of Cameroon, given the nature of the violations committed, bringing justice to both the victims and the perpetrators would signal the end of one era and usher in another, an era characterised by accountability for the wrongs previously committed. Specific individuals would have to bear responsibility for what transpired. The imposition of individual criminal responsibility makes possible the allocation of individual guilt, rather than the assigning of collective guilt on everyone. The individuals who bear responsibility would have to be identified, investigated, charged, prosecuted, and convicted. In addition, the institutions through which they perpetrated these atrocities would have to be discredited and dismantled. Lastly, Cameroonians would be provided with a unique and priceless opportunity to document permanently a record of the victims' experiences.

In the following discussion we share our views on what we consider to be the role that justice should play in conflict-torn Cameroon.

3.1 *The role of justice in peace building and reconciliation*

Numerous social scientists (scholars and practitioners alike) have doubted openly the role of justice in peace-building and reconciliation in societies that have undergone profound human rights violations on a massive scale. Even though this paper does not attempt to settle the issue, the developments that occurred in many such societies tend to suggest to this author that justice has a significant role to play in peace building and reconciliation. The legal and political developments that occurred in many post-conflict transitional societies stand as eloquent examples of instances where justice became a tool not only for accountability but also for initiating and managing the much-needed reconciliation and peace-building processes. Examples of this abound: the former Yugoslavia, Rwanda, Sierra Leone, Iraq, Cambodia, and East Timor.⁶⁰

war crimes, are treaty crimes. Put together, these constitute serious crimes in international law due to their inherent gravity; see Obura "Duty to Prosecute International Crimes".

⁶⁰ Scharf and Williams 2003 *Case W Res J Int'l L* 161-190.

It would be good to be able to add Cameroon to this list. Quoting Justice Goldstone, Ed Vulliamy, correspondent for *The Guardian*, observed some time ago that "[j]ustice being done, and being seen to be done, is the difference between a lasting peace and an interval between hostilities".⁶¹

Bringing about a just dispensation in Cameroon would require the imposition of constraints on the actions of both state and non-state actors. Justice depends on acknowledging the primacy of the truth, and in Cameroon would necessarily also involve addressing the human rights abuses that have already occurred. To ignore those abuses would be to perpetuate the mistrust of the entire socio-legal and political system, and not only to grant legitimacy to the past violations of whatever is humane and kind in an orderly society but also by implication to validate such actions in the future.

3.2 *Establishing individual responsibility, denying collective guilt and deterring future violations*

The pursuit of justice in Cameroon would identify and expose individuals who bear responsibility for the atrocities committed and would avoid assigning collective guilt to the entire population. In situations where specific individuals are not identified there is a temptation to assign collective guilt to the people as a whole or to a group of people. By individualising guilt the idea that the adversary group as a whole bears collective responsibility for committing the crimes would be contradicted, and so justice would become an invaluable tool in promoting peace and reconciliation. Michael Walzer writes that:

... the assignment of responsibility is the critical test of the argument for justice... If there are recognisable war crimes, there must be recognisable criminals... The theory of justice should point us to the men and women from whom we can rightly demand an accounting, and it should shape and control the judgments we make of the excuses they offer (or that are offered on their behalf) ... There can be no justice in war if there are not, ultimately, responsible men and women.⁶²

Making use of justice as a means of bringing about accountability for the atrocities committed in Cameroon would require the prosecution of the leaders who bear responsibility for what has taken place,⁶³ and norms and institutions would have to be developed to make this possible. Otherwise the persons who escaped their individual criminal responsibility would be emboldened by their

⁶¹ Vulliamy 1998 *Int Aff* 89.

⁶² Walzer *Just and Unjust Wars* 287-288.

⁶³ "Modes of participation" here has to do with direct and indirect involvement. In tandem with developments in international law, Art 25 of the *Rome Statute of the ICC* stipulates the various modes of participation in the commission of serious crimes in international law.

impunity and might at the least attempt to interfere with the peace-building process.

3.3 Demolishing the institutions of the failed past and exposing the leaders responsible for the commission of atrocities

Pre-conflict Cameroon was characterised by numerous ills that made it more or less a banana republic: rife corruption, maladministration, absence of the rule of law, weak institutions, an overarching executive, a dysfunctional legislature, chronic poverty, high levels of unemployment, a weak judicial system, a culture of impunity, political exclusion, and the belief that democracy is a matter of who gets the greatest numbers in an election rather than how well minorities are protected. The institution of justice in the country would help to change this. It would discredit the leaders as well as the ideology that have promoted political violence. Such institutions inevitably rule by law, which is not at all the same thing as the rule of law. When a government denies the inalienable rights of some its citizens, this denial is facilitated through the use of political and legal structures. In South Africa the apartheid government used its legal apparatus to oppress the majority of the country's citizens. What were ironically called the "security" police were used to torture and murder members of the black opposition groups.⁶⁴ The South African Truth and Reconciliation Commission had the task of documenting the full extent of government involvement in the commission of racially-motivated inhumanities, and was so successful that it was able to remove the stigma of past wrongs from the new governmental institutions.

Through the work of such a commission it would be possible to dismantle the institutions and discredit the leaders who initiated and implemented the campaign of atrocities in Cameroon against Cameroonians. In the event that there was a failure to disclose information about those responsible for these human rights violations, then they might ultimately earn some degree of *de facto* legitimisation. There is a need for accountability in Cameroon in order to de-legitimise and discredit the individuals, institutions and ideology that contributed to the commission of these grave human rights violations. Justice Goldstone entertained the view that

... exposure of the nature and extent of human rights violations frequently will reveal a systematic and institutional pattern of gross human rights violations. It will assist in the identification and dismantling of institutions responsible and deter future recurrences.⁶⁵

⁶⁴ Scharf and Williams 2003 *Case W Res J Int'l L* 171.

⁶⁵ Goldstone 1996 *NYU J Int'l Law & Pol* 485, 490.

3.4 Documenting a detailed historical record of the past

A multitude of crimes has been committed against unarmed civilians in the English-speaking regions of Cameroon. They constitute assaults on their human rights and liberties. Perpetrated on the instructions of the Francophone-led government and executed by the forces of law and order and other para-military units, the scale of the victimisation is huge. In the aftermath of these atrocities, it is hoped that the pursuit of justice will enable Cameroonians and the international community to thoroughly document the details. A reliable record of those events must be compiled if their recurrence is to be prevented. Michael Ignatieff states that

... the great value of legal proceedings is that their evidentiary rules confer legitimacy on otherwise contestable facts. In this sense, war crimes trials make it more difficult for societies to take refuge in denial; the trials do assist the process of uncovering the truth.⁶⁶

Robert Jackson, US Supreme Court Associate Justice and Chief Prosecutor at Nuremburg, reasoned like Ignatieff. Reporting to US President Harry Truman he said that one of the undeniable legacies of the Nuremburg trials was that they documented the Nazi atrocities

... with such authenticity and in such detail that there can be no responsible denial of these crimes in the future and no tradition of martyrdom of the Nazi leaders can arise among informed people.⁶⁷

Accurately assessing and assigning blame for the gross violations of human rights ordered and directed by the state in Cameroon, perpetrated by its agents, and occurring over a such a long period would be a daunting task. Denials, fabrications and distortions of the truth would be common.⁶⁸

There is a need for an accurate report of the conflict, because people, especially the victims, need to know what happened and who bears responsibility. The trial of these perpetrators, if well executed, would bring out specific details of the nature and extent of the crimes, by whom they were committed, on whose orders, against which specific victims, and why. As Scharf and Williams write,

[b]y carefully proving these facts one witness at a time in the face of a vigilant cross-examination by distinguished defence counsel, the international trials will

⁶⁶ Ignatieff 1996 *Index on Censorship* 110-122.

⁶⁷ Jackson *Report to the President* 49.

⁶⁸ In Richard Goldstone's words, "[i]t doesn't take hours after human rights violations for the denials to begin ... Justice plays a vital role in stopping that fabrication, in stopping that cover-up, which is inevitable": Goldstone *Healing Wounded People*.

produce a definitive account that can pierce the distortions generated by official propaganda, endure the test of time, and resist the forces of revisionism.⁶⁹

3.5 Victim catharsis

By bringing the perpetrators of political violence to justice would serve an additional function: it would acknowledge the victims of the crimes committed, a dimension and role which Scharf and Williams consider to be an "often overlooked but equally as important an element to the success of any peace process as is punishing the offenders".⁷⁰ Offering victims an opportunity to speak about their injuries publicly, offers them a sense of justice and enables them to release their pent-up feelings. Truth, reconciliation, peace building and national dialogue would be incomplete if such a platform were not offered to the victims of these violations. In the words of Antonio Cassese, the pursuit of justice

... is essential to the restoration of peaceful and normal relations especially for people who have had to live under a reign of terror, because it breaks the cycle of violence, hatred, and extra-judicial retribution.⁷¹

Regarding victim catharsis, Richard Goldstone notes that

... the Nuremberg Trials played an important role in enabling victims of the Holocaust to obtain official acknowledgement of what befell them.⁷²

Public acknowledgements of the victims' experiences may constitute some form of satisfaction equivalent to reparations. In addition, public narrations may also steer the victims away from retaliatory attacks.

4 Conclusion – the need for the promotion of citizen participation in Cameroon

In the foregoing discussion we have underscored the fact that the nature of humanity and politics makes conflict inevitable. However, the probability that conflict will escalate to uncontrollable proportions depends on many variables, some of which include the political system in place in a particular society, the establishment of institutions to manage political conflicts, and the presence of the rule of a kind of law that provides for the principle of the equality of all before the law as well as the protection of all by the law, the protection of all minorities, respect for diversity, and inclusiveness in the political dispensation,

⁶⁹ Scharf and Williams 2003 *Case W Res J Int'l L* 175.

⁷⁰ Scharf and Williams 2003 *Case W Res J Int'l L* 175.

⁷¹ Yugoslav Tribunal *Joint Statement by the President and the Prosecutor* UN Doc CC/P10/027-E (1995).

⁷² Goldstone "Fifty Years after Nuremberg" 215-216.

and that encourages dialogue and debate on issues of national interest. These factors would enhance citizenship participation in different ways and might minimise the possibility of the occurrence of political violence. Unfortunately, Cameroon's political dispensation is nothing like this. Cameroonian politics derives from the erroneous premise that democracy is based solely on winning the majority of the votes in an election, which, in essence, renders minorities unprotected, unrecognised and disrespected. In this regard, because there are more French-speaking Cameroonians than English-speaking Cameroonians, the French Cameroonians believe they can govern as they wish. Tolerance and diversity are compromised, and inclusiveness is made a privilege rather than a norm. The feeling of marginalisation and disrespect in Cameroon's national politics is fuelled by the systematic disregard accorded to Anglophone Cameroonians. Their frustration is aggravated by the political system's offering no avenues for the peaceful resolution of conflicts. For instance, the judiciary is predominantly French-speaking and is also partly responsible for the current crisis, as the civil law system is gradually and progressively being imposed in the common law regions. The imposition of civil law practitioners in the common law areas is not only a cultural and intellectual assault but also contributes to the effort to eradicate everything Anglophone.

To overcome this bitter fragmentation of Cameroonian society, Cameroonians must reflect on and practise the ideals of equality in terms of the dignity and worth of every person, recognition before the law, protection by the law, and the fair distribution of available opportunities. The notion of the equality of every person in terms of worth and dignity is fundamental to the success of any democracy across the globe. Being democratic, however, does not guarantee the success of a state: it merely creates opportunities. In competing for these opportunities, everyone should be treated equally, irrespective of their gender, linguistic background, or any other identifiable differentiating characteristic. In cases of overt discrimination, the victim must explore the channels in place to seek redress. The application of the ideals of equality in Cameroon will mean that every individual will be given the opportunity to dream and to act, to succeed or fail, depending on his or her passions and aptitudes.

To operate a political order that is discriminatory, disrespectful of the dignity and worth of a group of people, politically exclusive and ethnically biased is to mould a divided society. As mentioned earlier, these are the realities in Cameroon. Discrimination, impunity, and political exclusion are some of the reasons for the deep divisions in Cameroonian society. Even though the ruling elite suggests otherwise, the current political stalemate is a result of politics and policies that have been in place for decades that treat specific classes of people as politically worthless. The ruling elite is predominantly from a

particular tribe or linguistic group. Perceiving the country as belonging to them, they manage it in ways that further their interests only. As such, many Cameroonians are excluded from political participation, and when they voice their concerns they are victimised by the authorities.

Lastly, accountability must be made a central tenet in the Cameroonian socio-legal system. For decades there has been a culture of impunity in the DNA of Cameroonian politics. Anything could be done by anyone with political power, without that person's having to suffer any legal consequences. The culture of impunity imperils Cameroon's democracy and assaults the rule of law. It jeopardises the respect for and protection of human rights and leaves the people in a state of apprehensiveness. Making people account for their actions would be key to healing the divisions, woundedness and bitterness harboured in the hearts of many Cameroonians. Cameroon's democracy must be built on norms and virtues that take the country forward rather than that keep specific individuals in power. These virtues would include the willingness to learn from the lessons of history, open-mindedness in speaking out for and against the government, a culture of tolerance which enables people to accept those who differ from them, honestly appraising facts and policies, developing a sense of mutual responsibility, courageously defying orders from superiors which are irrational and manifestly unlawful, and a feeling of brotherhood - that all Cameroonians rise or fall as one nation. As politics involves the practical question of who gets what, when and why within a given system, various segments of the population are bound to have conflicting views on what should be done. Conflict may become somewhat of a constant in such a situation, and it may take different forms, from civil protest to outright violence, including even the loss of lives on a large scale. If this is true, then Cameroon as a democratic state must put in place institutional mechanisms and processes to ensure that conflicts are readily resolved if and when they arise, and norms must be established that ensure inclusiveness, accessibility and the equality of all. Secondly, political campaigns should be seen as the exercise of this right to participate in the governance of one's country. Political campaigns here include the preparation and dissemination of literature that contains views unacceptable to the existing government. The curtailment of political campaigns in itself constitutes a violation of the right to participate in government, irrespective of the number of individuals affected. An active political citizenry is to be encouraged in a democracy. Thirdly, in any a political system the state seems to retain the monopoly of legitimate political violence. Its violent actions committed in the context of a political conflict are sanctioned by lawfulness (and are at times portrayed as anti-crime operations). It may be difficult to find a balance between the exercise of the right to participate through

protest and the obligation to respect such a right. More importantly, if a state has to resort to violence in the context of a political conflict, then other factions within the conflict are bound in response to employ what may be called "illegitimate" political violence. However, irrespective of whether the political violence is seen as legitimate or illegitimate, when such violence exceeds what is conventionally thought to be acceptable, then serious concerns are raised. In this regard, attention must be paid to the nature of the violence and the crimes committed as part of it; the scale of the victimisation; the systematic nature of the perpetration; and especially the motives underlying the perpetration. These issues may indicate whether or not serious crimes in international law have been committed. In Cameroon, however, this question has been answered: crimes against humanity have been committed. The seriousness of the crimes, based on the scale of the victimisation, the assault on the rights and freedoms of the people, and the degree of the woundedness suffered by the victims, have made Cameroon a conflict society in dire need of the institution of justice as a vehicle to bring about a fresh start.

Bibliography

Literature

Agbor "Reflection on the Phrase 'Widespread or Systematic'"

Agbor AA "A Reflection on the Phrase 'Widespread or Systematic' as Part of the Definition of Crimes Against Humanity" in Jalloh CC and Elias O (eds) *Shielding Humanity: Essays in International Law in Honour of Judge Abdul G Koroma* (Martinus Nijhoff Leiden 2015) 352-378

Agbor 2017 *PELJ*

Agbor AA "Pursuing the Right to an Effective Remedy for Human Rights Violation(s) in Cameroon: The Need for Legislative Reform" 2017 *PELJ* 1-20

Aolin 2006 *Colum J Gender & L*

Aolin FN "Political Violence and Gender During Times of Transition" 2006 *Colum J Gender & L* 829-849

Brandt and Reyna 2010 *Pers Soc Psychol Bull*

Brandt MJ and Reyna C "The Role of Prejudice and the Need for Closure in Religious Fundamentalism" 2010 *Pers Soc Psychol Bull* 715-725

Cassese *International Law*

Cassese A *International Law* 2nd ed (Oxford University Press Oxford 2005)

Cassese, Gaeta and Jones *Rome Statute*

Cassese A, Gaeta P and Jones JRWD *The Rome Statute of the International Criminal Court: A Commentary* (Oxford University Press Oxford 2002)

Correa 1991-1992 *Notre Dame L Rev*

Correa J "Dealing with Past Human Rights Violations: The Chilean Case after Dictatorship" 1991-1992 *Notre Dame L Rev* 1455-1485

Dumouchel 2012 *Ritsumeikan Studies in Language and Culture*

Dumouchel P "Political Violence and Democracy" 2012 *Ritsumeikan Studies in Language and Culture* 117-123

Dwyer "Reconciliation for Realists"

Dwyer S "Reconciliation for Realists" in Prager CAL and Govier T (eds) *Dilemmas of Reconciliation: Cases and Concepts* (Wilfrid Laurier University Press Waterloo 2003) 91-110

Emerson and Hartman 2006 *Annu Rev Sociol*

Emerson MO and D Hartman D "The Rise of Religious Fundamentalism" 2006 *Annu Rev Sociol* 127-144

Fombad "Mass Media and Democratisation in Africa"

Fombad CM "The Mass Media and Democratisation in Africa: Lessons from Cameroon" in Mbaku JM and Ihonvbere JO (eds) *The Transition to Democratic Governance in Africa: The Continuing Struggle* (Praeger Westport 2003) 221-248

Goldstone "Fifty Years after Nuremberg"

Goldstone RJ "Fifty Years after Nuremberg: A New International Criminal Tribunal for Human Rights Criminals" in Jongman AJ (ed) *Contemporary Genocides: Causes, Cases, Consequences* (PIOOM Leiden 1996) 215-216

Goldstone *Healing Wounded People*

Goldstone RJ *Healing Wounded People, Speech at the United States Holocaust Memorial Museum* (27 January 1997)

Goldstone 1996 *NYU J Int'l Law & Pol*

Goldstone RJ "Justice as a Tool for Peace-Making: Truth Commissions and International Criminal Tribunals" 1996 *NYU J Int'l Law & Pol* 485-501

Govier "What is Acknowledgment and Why is it Important?"

Govier T "What is Acknowledgment and Why is it Important?" in Prager CAL and Govier T (eds) *Dilemmas of Reconciliation: Cases and Concepts* (Wilfrid Laurier University Press Waterloo 2003) 63-89

Hansen *Political Violence in Kenya*

Hansen TO *Political Violence in Kenya: A Study of Causes, Responses, and a Framework for Discussing Preventive Action* (Institute for Security Studies Pretoria 2009)

Hibbs *Mass Political Violence*

DA Hibbs Jr *Mass Political Violence: A Cross-national Causal Analysis* (Wiley New York 1973)

Hiratsuka 2012 *Educational Studies*

Hiratsuka H "Analysing the Psychological Dimension of Political Violence in Modern Civil Conflicts" 2012 *Educational Studies* 91-99

Hunsberger 1995 *J Soc Issues*

Hunsberger B "Religion and Prejudice: The Role of Religious Fundamentalism, Quest, and Right-wing Authoritarianism" 1995 *J Soc Issues* 113-129

Ignatieff 1996 *Index on Censorship*

Ignatieff M "Articles of Faith" 1996 *Index on Censorship* 110-122

International Crisis Group *Cameroon*

International Crisis Group *Cameroon: Fragile State?* (Brussels International Crisis Group 2010)

Jackson *Report to the President*

Jackson RH *Report to the President from Justice Robert H Jackson, Chief of Counsel for the United States in the Prosecution of Axis War Criminals, October 7, 1946*, quoted in 1955 *AJIL* 44, 49

Jenkins "Amnesty for Gross Violations of Human Rights"

Jenkins C "Amnesty for Gross Violations of Human Rights in South Africa: A Better Way of Dealing with the Past?" in Edge I (ed) *Comparative Law in Global Perspective: Essays in Celebration of the Fiftieth Anniversary of the Founding of the SOAS Law Department* (Transnational Ardsley 2001) 19-20

Konings "Post-colonial State and Economic and Political Reforms"

Konings PJJ "The Post-colonial State and Economic and Political Reforms in Cameroon" in Fernández Jilberto AE and Mommen A (eds) *Liberalisation in*

the Developing World – Institutional and Economic Change in Latin America, Africa and Asia (Routledge London 1996) 244-265

Konings and Nyamnjoh 1997 *J Mod Afr Stud*

Konings P and Nyamnjoh FB "The Anglophone Problem in Cameroon" 1997 *J Mod Afr Stud* 207-229

Konings and Nyamnjoh 2000 *African Anthropologist*

Konings P and Nyamnjoh FB "Construction and Deconstruction: Anglophones or Autochtones?" 2000 *African Anthropologist* 5-32

Konings and Nyamnjoh *Negotiating an Anglophone Identity*

Konings P and Nyamnjoh FB (eds) *Negotiating an Anglophone Identity: A Study of the Politics of Recognition and Representation in Cameroon* (Brill Leiden 2003)

Konings and Nyamnjoh "Paul Biya and the 'Anglophone Problem'"

Konings P and Nyamnjoh FB "Paul Biya and the 'Anglophone Problem' in Cameroon" in Mbaku JM and Takougang J (eds) *The Leadership Challenge in Africa: Cameroon under Paul Biya* (Africa World Press Trenton 2004) 191-234

Laplante 2009 *Va J Int'l L*

Laplante LJ "Outlawing Amnesty: The Return of Criminal Justice in Transitional Justice Schemes" 2009 *Va J Int'l L* 915-984

Luban 2004 *Yale J Int'l L*

Luban D "A Theory of Crimes against Humanity" 2004 *Yale J Int'l L* 85-167

Marchetti and Tocci 2009 *Global Change, Peace & Security*

Marchetti R and Tocci N "Conflict Society: Understanding the Role of Civil Society in Conflict" 2009 *Global Change, Peace & Security* 201-217

McEvoy 2007 *J Law Soc*

McEvoy K "Beyond Legalism: Towards a Thicker Understanding of Transitional Justice" 2007 *J Law Soc* 411-440

Meadow 2009 *Marq L Rev*

Meadow RG "Political Violence and the Media" 2009 *Marq L Rev* 231-240

Mendez 2001 *Ethics & Int'l Affairs*

Mendez J "National Reconciliation, Transnational Justice, and the International Criminal Court" 2001 *Ethics & Int'l Affairs* 25-44

Mettraux *International Crimes*

Mettraux G *International Crimes and the Ad Hoc Tribunals* (Oxford University Press Oxford 2005)

Mobekk "Transitional Justice in Post-conflict Societies"

Mobekk E "Transitional Justice in Post-conflict Societies: Approaches to Reconciliation" in Ebnother A and Fluri P (eds) *After Intervention: Public Security Management in Post-Conflict Societies - From Intervention to Sustainable Local Ownership* (Geneva Centre for the Democratic Control of Armed Forces Geneva 2005) 261-292

Moser and Clark *Victims, Perpetrators or Actors?*

Moser C and Clark F *Victims, Perpetrators or Actors? Gendered Armed Conflict and Political Violence* (Zed Books London 2001)

Obura "Duty to Prosecute International Crimes"

Obura K "Duty to Prosecute International Crimes under International Law" in Murungu C and Biegon J (eds) *Prosecuting International Crimes in Africa* (PULP Pretoria 2011) 11-31

Orentlicher 2007 *IJTJ*

Orentlicher DF "'Settling Accounts' Revisited: Reconciling Global Norms with Local Agency" 2007 *IJTJ* 10-22

Quinn *Reconciliation(s)*

Quinn JR (ed) *Reconciliation(s): Transitional Justice in Post-conflict Societies* (McGill-Queen's University Press Montreal 2009)

Rios 2004 *Language, Literacy, & Culture Review*

Rios CD-L "Understanding Political Violence" 2004 *Language, Literacy, & Culture Review* 29-43

Scharf and Williams 2003 *Case W Res J Int'l L*

Scharf MP and Williams PR "Functions of Justice and Anti-justice in the Peace-building Process" 2003 *Case W Res J Int'l L* 161-190

Simpson, Mokwena and Segal 1991 *S Afr Hum Rts Yrbk*

Simpson G, Mokwena S and Segal L "Political Violence" 1991 *S Afr Hum Rts Yrbk* 193-219

Takougang and Krieger *African State and Society*

Takougang J and Krieger M *African State and Society in the 1990s: Cameroon's Political Crossroads* (Westview Boulder 1998)

Teitel 2003 *Harv Hum Rts J*

Teitel RG "Transitional Justice Genealogy" 2003 *Harv Hum Rts J* 69-94

Triffterer *Commentary on the Rome Statute*

Triffterer O *Commentary on the Rome Statute of the International Criminal Court: Observers' Notes, Article by Article* 2nd ed (Hart Oxford 2008)

Vulliamy 1998 *Int Aff*

Vulliamy Ed "Bosnia: The Crime of Appeasement" 1998 *Int Aff* 73-92

Walzer *Just and Unjust Wars*

Walzer M *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (Basic Books New York 1992)

Case law

Dragoljub Kunarac, Radomir Kovač & Zoran Vuković v The Prosecutor Case No IT-96-23 & 23/1-T Appeals Chamber of 12 June 2002

The Prosecutor v Alfred Musema Case No ICTR-96-13-T Trial Chamber I of 27 January 2000

The Prosecutor v Clement Kayishemba and Obed Ruzindana Case No ICTR-95-1-T Trial Chamber I of 21 May 1999

The Prosecutor v Dragoljub Kunarac, Radomir Kovač & Zoran Vuković Case No IT-96-23-T & 23/1-T Trial Chamber I of 22 February 2001

The Prosecutor v George Rutaganda Case No ICTR-96-3-T Trial Chamber I of 6 December 1999

The Prosecutor v Jean-Paul Akayesu Case No ICTR-96-4-T Trial Chamber I of 2 September 1998

The Prosecutor v Laurent Semanza Case No ICTR-97-20-T Trial Chamber III of 15 May 2003

Legislation

Constitution of the Republic of Cameroon, 1972

Law Enabling the Formation of Political Parties, Law No 90/056 of 19 December 1990

Law on Freedom of Mass Communication, Law No 90/052 of 19 December 1990 (MC Law of 1990)

International instruments

African Charter on Human and Peoples' Rights (1981)

African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2000)

Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Violations of International Human Rights and Humanitarian Law UN GAR A/RES/60/147 (2006)

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Convention on the Rights of the Child (1989)

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

Inter-American Convention on Human Rights (1969)

International Covenant on Civil and Political Rights (1966)

Rome Statute of the International Criminal Court (1998)

Universal Declaration of Human Rights (1948)

Yugoslav Tribunal Joint Statement by the President and the Prosecutor UN Doc CC/P10/027-E (1995)

Internet sources

Amnesty International 2017-2018 <https://www.amnesty.org/en/countries/africa/cameroon/report-cameroon>

Amnesty International 2017-2018 *Cameroon* <https://www.amnesty.org/en/countries/africa/cameroon/report-cameroon/> accessed 31 March 2018

Carsten 2018 <https://af.reuters.com/article/topNews/idAFKBN1F01P3-OZATP>
Carsten P 2018 *At least 15,000 Cameroonian Refugees Flee to Nigeria Amid Crackdown* <https://af.reuters.com/article/topNews/idAFKBN1F01P3-OZATP> accessed 9 April 2018

Dahir 2018 <https://qz.com/1179202/cameroons-anglophone-crisis-is-threatening-to-spin-out-of-control/>

Dahir AL 2018 *Cameroon's Anglophone Crisis is Threatening to Spin out of Control* <https://qz.com/1179202/cameroons-anglophone-crisis-is-threatening-to-spin-out-of-control/> accessed 9 April 2018

Kindzeka 2017 <http://www.dw.com/en/cameroon-troops-deployed-ahead-of-anglophone-independence-declaration/a-40751054>

Kindzeka M *Cameroon: Troops Deployed Ahead of Anglophone Independence Declaration* <http://www.dw.com/en/cameroon-troops-deployed-ahead-of-anglophone-independence-declaration/a-40751054> accessed 9 April 2018

Shaban 2017 <http://www.africanews.com/2017/11/17/upsurge-of-violence-in-cameroon-s-anglophone-crisis-worries-un/>

Shaban ARA 2017 *Upsurge of Violence in Cameroon's Anglophone Crisis Worries UN* <http://www.africanews.com/2017/11/17/upsurge-of-violence-in-cameroon-s-anglophone-crisis-worries-un/> accessed 9 April 2018

Shaban 2018 <http://www.africanews.com/2018/03/31/condition-of-cameroonian-refugees-in-nigeria-worries-top-unhcr-official/>

Shaban ARA 2018 *Condition of Cameroonian Refugees in Nigeria Worries Top UNHCR Official* <http://www.africanews.com/2018/03/31/condition-of-cameroonian-refugees-in-nigeria-worries-top-unhcr-official/> accessed 9 April 2018

Sixtus 2017 <https://www.irinnews.org/analysis/2017/12/04/cameroon-government-declares-war-secessionist-rebels>

Sixtus M 2017 *Cameroon Government 'Declares War' on Secessionist Rebels* <https://www.irinnews.org/analysis/2017/12/04/cameroon-government-declares-war-secessionist-rebels> accessed 9 April 2018

US Department of State 2016 <https://www.state.gov/documents/organisation/265446.pdf>

US Department of State 2016 *Country Reports on Human Rights Practices for 2016 – Cameroon* <https://www.state.gov/documents/organisation/265446.pdf> accessed 31 March 2018

List of Abbreviations

AJIL	American Journal of International Law
Annu Rev Sociol	Annual Review of Sociology
BMM	Brigade Mobile Mixte
BIR	Batallion d'Intervention Rapide
Case W Res J Int'l L	Case Western Reserve Journal of International Law
Colum J Gender & L	Columbia Journal of Gender and Law
CRC	Convention on the Rights of the Child
Ethics & Int'l Affairs	Ethics and International Affairs
Harv Hum Rts J	Harvard Human Rights Journal
ICC	International Criminal Court
IJTJ	International Journal of Transitional Justice
Int Aff	International Affairs
J Law Soc	Journal of Law and Society
J Mod Afr Stud	Journal of Modern African Studies
J Soc Issues	Journal of Social Issues
Marq L Rev	Marquette Law Review
Notre Dame L Rev	Notre Dame Law Review
PELJ	Potchefstroom Electronic Law Journal
Pers Soc Psychol Bull	Personality and Social Psychology Bulletin
NYU J Int'l Law & Pol	New York University Journal of International Law and Politics
S Afr Hum Rts Yrbk	South African Human Rights Yearbook
Va J Int'l L	Virginia Journal of International Law
Yale J Int'l L	Yale Journal of International Law