

A Legal Appraisal of the Mechanisms in Place for the Fight Against Electoral Fraud in Cameroon

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Abstract

This essay offers a thorough legal analysis of the safeguards put in place to stop electoral fraud in Cameroon. Numerous cases of electoral misconduct have cast doubt on the efficacy of the constitutional system designed to guarantee free and fair elections. The study looks at the laws controlling how elections are conducted as well as how the courts handle electoral disputes. The research methodology used in this work is qualitative. Additionally, it employs the doctrinal research method, which allows for the content examination of primary and secondary sources. It examines statutory legislation as well as real-world enforcement difficulties, emphasizing problems including political meddling, a lack of funding, and public confidence in electoral processes. This paper seeks to identify weaknesses in the current system and offer practical suggestions to improve the integrity of Cameroon's electoral process by analyzing case studies and recent elections. In the end, it emphasizes the significance of strong legal frameworks and accountability measures in preserving democracy and fostering public trust in election results.

Keywords: legal appraisal, mechanisms, fight, electoral fraud

1. Introduction

Across the world, electoral fraud is a problem that has an impact on democratic processes. Among other malpractices, it includes ballot stuffing, result manipulation, voter intimidation, and misuse of public funds.¹ Comprehending worldwide patterns of electoral fraud aids in

placing Cameroon's difficulties in perspective. To advance electoral integrity worldwide, regional organizations like the African Union (AU) and international organizations and initiatives like the United Nations and the International Institute for Democracy and Electoral Assistance (IDEA) have created frameworks and recommendations.² These

¹ Fonkem, A. (2014). *Electoral Reforms in Cameroon: Prospects and Challenges*. *Journal of Politics and Law*, 7(1), pp. 103-116.

² Thaddeus Meynnag. (2012). *Election Management in Cameroon: Progress, Problem and Prospect "Yaoundé-Cameroon"*. *Journal of African Election*, 5, p. 64.

standards provide benchmarks for assessing and addressing electoral fraud in Cameroon.

Cameroon achieved its independence from France and Great Britain more than 57 years ago. Since then, it has organized numerous elections at both national and local level.¹ Both domestically and internationally, the results of these elections have generated a range of reactions. The majority of observers and the people of Cameroon, however, agree that the country's election administration has to be improved. Following its independence in the early 1960s, Cameroon adopted a type of multiparty democracy due to the establishment of political parties that participated in elections to select representatives for state assemblies and a federal parliament using universal suffrage. This circumstance, however, was short-lived.

Following this restoration to political plurality, the first multiparty elections were held in 1992, with a presidential election in October and legislative elections in March. In the presidential election, leaders and members of the Social Democratic Front (SDF), which had nearly the same number of votes as the ruling CPDM party, whose candidates the Supreme Court ruled had won the election, fiercely contested the results, despite the relatively peaceful outcome of the legislative elections due to the boycott of these elections by some of the major political parties. The Ministry of Territorial Administration officers, who were primarily in charge of how the election was conducted, were charged by the SDF with conspiring with the ruling party.²

The majority of opposition parties also protested in subsequent elections in 1996 and 1997, and some of them chose to abstain from the 1997 presidential election. These parties persisted in calling for political reform, specifically the creation of an Independent Election Commission (IEC), and on December 19, 2000, a law was passed creating a National Elections Observation (NEO), whose responsibility it was to oversee and regulate all elections and

referendums held in the nation.³

The political tension that threatened to upset national harmony was significantly reduced by this new measure, even though it did not fully appease those who had been advocating for the establishment of an Independent Electoral Commission. It also provided a chance for a relatively peaceful council and legislative organization in June 2002 and a presidential election in October 2004. The majority of domestic and foreign observers concurred that there had been a noticeable improvement in election conduct following these elections, but they contend that more work has to be done. They highlight two crucial areas in which such enhancement is required: voter registration and election laws (the electoral code). They identify two crucial areas in which such enhancement is required: voter registration and election legislation, or the electoral code.⁴

The impartial authority designated to supervise all election-related matters in Cameroon is Elections Cameroon (ELECAM), which was established by law No. 2006/011 of December 29, 2006, to establish and establish the organization and operation of elections.⁵ The Ministry of Territorial Administration and Decentralization (MINATD) signed and transferred all electoral documents and materials to ELECAM in January 2010, marking the official start of the body's operations. The headquarters of ELECAM are located in Bastos, Yaoundé, and by 2010, they have the operational facilities required for their business.

After a new measure was passed by parliament in March to increase the number of members on the Board from 12, ELECAM began operations with 12 members. By July 7th, 2011, the Head of State nominated six additional members, bringing the total to 18. In Cameroon, they operate in 220 of the country's 360 local councils and 30 of its 58 divisions. With a four-year renewable mandate, ELECAM's 18 members are

¹ Asongu, Simplice A., and Nwachukwu, Jacinta C. (2017). The Role of Governance in Africa's Development. *Journal of African Business*, 18(3), pp. 319-322.

² Bob-Milliar, George M. (2017). Electoral Management Bodies and Electoral Integrity in Africa: A Comparative Analysis of Ghana and Cameroon. *African Journal of Political Science and International Relations*, 13(1), pp. 1-16.

³ Chia, Emmanuel. (2018). Elections and Electoral Violence in Africa: A Case Study of Cameroon. *African Journal of Political Science and International Relations*, 12(5), pp. 56-71.

⁴ Fokwang, Jude A. (2019). Election Management Bodies and Electoral Integrity in Cameroon: The Case of Elections Cameroon (ELECAM). *The Journal of Pan African Studies*, 12(4), pp. 41-57.

⁵ Fonjong, Lotsmart N. (2017). Electoral Violence and Democratic Stability in Cameroon. *African Journal of Political Science and International Relations*, 11(7), pp. 99-112.

appointed by the head of state and the president of the Republic and are led by a director general. ELECAM has held two presidential elections, in 2011 and 2017, the results of which were still disputed by Maurice Kamto, the chairman of the Cameroon Renaissance Movement (MRC); two senatorial elections, in 2013 and 2018; and two legislative elections, in 2013 and 2019. All these elections organized by ELECAM are believed by the majority of Cameroonians home and abroad to have been marred by irregularities and serious vote rigging.

The integrity and credibility of Cameroon's electoral processes are seriously threatened by electoral fraud. Although the country has a good legal framework that aims to regulate elections, there are some issues with the way these laws are implemented to combat electoral fraud in Cameroon. For this reason, this paper aims to evaluate the efficacy of the mechanisms in place to combat electoral fraud in Cameroon.

2. Analysis of the Nature and Scope of Electoral Fraud

The term "electoral fraud" describes unlawful actions that purposefully tamper with or compromise the electoral process, jeopardizing the legitimacy and fairness of elections. It includes a variety of practices intended to skew the outcomes of an election, such as ballot tampering, voter suppression, vote buying, intimidation, and election result fabrication.¹ Free and fair elections are essential to a democratic society's operation, and electoral fraud threatens these ideals. Intentionally breaking election laws and regulations in order to obtain an unfair advantage during the voting process is known as electoral fraud.² These fraudulent activities can occur at various stages of the electoral cycle, including voter registration, campaigning, voting, and result tabulation.

A vast array of unlawful actions intended to compromise the integrity of the electoral process are included in electoral fraud. During Cameroon's electoral history, numerous forms of electoral fraud have been documented. Cameroon frequently experiences the following forms of electoral fraud.

2.1 Ballot Tampering

The act of manipulating ballots in order to affect election results is known as ballot tampering. This can involve replacing valid ballots with fraudulent ones, altering or destroying ballots, or packing ballot boxes full of fictitious votes. Ballot tampering impairs the accuracy of election outcomes and undercuts the idea of voter choice.³

2.2 Voter Suppression

Deterring or preventing eligible voters from exercising their right to vote is the goal of voter suppression strategies. This can be accomplished in a number of ways, including by removing people from the voting rolls, enforcing stringent voter identification laws, and erecting obstacles to voter registration. Voter suppression impairs the democratic process by preventing some groups of people from casting ballots.⁴

2.3 Vote Buying

Vote buying is the practice of exchanging products, cash, or favors for votes. By jeopardizing the independence and integrity of voters, this dishonest behavior subverts the idea of free and fair elections.⁵ Vote buying has the potential to skew the electorate's will and elect politicians who don't truly reflect the interests of the people.

2.4 Intimidation and Violence

The purpose of violence and intimidation during elections is to use fear and intimidation to compel or sway voters' decisions. This can involve threats, harassment, or physical violence directed at voters, candidates, or election officials. The freedom and impartiality of the voting process are compromised by intimidation and violence, which foster a climate of dread.⁶

2.5 Falsification of Election Results

When official election results are manipulated or altered in order to influence the outcome of an

¹ Ballot Pedia. Electoral fraud. Available at https://ballotpedia.org/Electoral_fraud. Accessed on the 21/10/2024.

² Ngwafu, P. (2020). Electoral Fraud and Political Instability in Cameroon: A Critical Analysis. *Journal of African Elections*, 19(2), pp. 150-170.

³ Nfor, N. G., & Amin, N. A. (2020). Electoral Fraud and Democratic Consolidation in Cameroon. *Journal of Politics and Law*, 13(4), pp. 1-15.

⁴ Nguh, E. A., Nfor, N. G., & Nkwenti, M. N. (2019). Electoral Fraud in Cameroon: The Need for an Effective Legal Framework. *Journal of African Elections*, 18(1), pp. 101-119.

⁵ International IDEA. Definition of Vote buying. Available at <https://www.idea.int/publications/catalogue/vote-buying>. Accessed on 21/10/2024.

⁶ Nkwi, P. N., & Nkwenti, M. N. (2020). Electoral Fraud in Cameroon: A Threat to Political Stability and Democratic Governance. *Journal of International Relations and Diplomacy*, 8(2), pp. 57-68.

election, this is known as falsification of election results. A number of techniques, including falsifying tally sheets, manipulating computerized voting systems, or miscounting or misreporting votes, can accomplish this. Election results lose their legitimacy and credibility when they are falsified.¹

2.6 Coercion and Manipulation of Electoral Officials

Actions that affect or regulate the conduct of those in charge of holding elections are referred to as coercion and manipulation of electoral authorities. Bribery, intimidation, and other types of undue influence may be used to persuade electoral officials to support a specific candidate or party. The integrity and impartiality of the election process are compromised when electoral officials are coerced or manipulated.

2.7 Multiple Voting

Multiple voting occurs when individuals cast more than one vote in an election. This can be done by individuals using multiple identities or by exploiting weaknesses in the voter registration and identification systems. Multiple voting distorts the principle of one person, one vote and compromises the fairness and accuracy of election results.²

3. Causes of Electoral Fraud in Cameroon

Numerous factors contribute to electoral fraud, particularly in Cameroon, the country we are studying. We have the following among these causes.

3.1 Weak Legal Framework and Enforcement

A weak legal system and insufficient enforcement measures are two of the main causes of electoral fraud in Cameroon. People or organizations looking to influence election results may take advantage of gaps created by insufficient laws and regulations pertaining to electoral processes and ineffective enforcement.³

3.2 Political Patronage and Clientelism

Electoral fraud is frequently caused by political

clientelism and patronage, in which politicians exploit resources and favors to keep their base of devoted supporters. This can entail offering promises of future benefits, tangible goods, or monetary transfers in return for political support. People are encouraged to commit fraud in order to win elections since patronage networks are so prevalent.

3.3 Lack of Transparency and Accountability

In Cameroon, election fraud is exacerbated by the electoral process's lack of accountability and openness. Fraudulent activities are encouraged when election management organizations and officials are not held responsible for their conduct or when transparency measures are inadequate. Voter registration, ballot counting, and result announcement procedures may all be manipulated in this way.

3.4 Ethno-Political Divisions

Election fraud in Cameroon is largely caused by tensions and ethnic conflicts. Rival political groups frequently take use of ethnic differences to rally support and commit electoral fraud in order to give their respective ethnic groupings electoral victories. This exacerbates political and social conflicts and calls into question the electoral principles of fairness and equal representation.⁴

3.5 Limited Civic Education and Awareness

Cameroon's electoral fraud is a result of the populace's lack of civic education and awareness. They are more vulnerable to manipulation and coercion by political players when citizens lack sufficient knowledge about their rights, the voting process, and the repercussions of electoral fraud. One way to lessen electoral fraud is to raise civic consciousness and education.

4. Effects of Electoral Fraud on Cameroon

4.1 Erosion of Democratic Process

The integrity of Cameroon's democratic processes is threatened by electoral fraud, which also erodes public faith in the electoral process. Disillusionment, indifference, and a drop in civic involvement can result when voters believe that elections are unfair or rigged. The growth of a dynamic and engaged democracy is hampered by this deterioration of democratic procedures.

¹ Lewik. Falsification of Election. Available at <https://www.lewik.org/term/15561/falsification-of-election-results-section-107a-german-criminal-code/>. Accessed on 21/10/2024.

² Chofor, R. N., & Fonjong, L. N. (2020). Electoral Fraud and Democratic Governance in Cameroon: A Legal Perspective. *Journal of African Elections*, 19(1), pp. 90-115.

³ Nkwi, P. N., & Nkwenti, M. N. (2020). Electoral Fraud in Cameroon: A Threat to Political Stability and Democratic Governance. *Journal of International Relations and Diplomacy*, 8(2), pp. 57-68.

⁴ Nfor, N. G., & Amin, N. A. (2020). Electoral Fraud and Democratic Consolidation in Cameroon. *Journal of Politics and Law*, 13(4), pp. 1-15.

4.2 Violation of the Rights of the Citizen

In Cameroon, electoral fraud violates citizens' rights. The freedom to freely select representatives and take part in the democratic decision-making process is denied to citizens when electoral processes are corrupted. Both the legitimacy of the government and the ideals of political equality are threatened by this infringement on citizens' rights. Additionally, it violates human rights because election fraud jeopardizes Cameroon's efforts to preserve and advance human rights. Depriving citizens of their right to free and fair elections makes it more difficult for them to exercise other essential liberties and rights. This covers the rights to peaceful assembly, association, and expression as well as the right to take part in public affairs.

4.3 Threat to Social Cohesion and Stability

National tensions and socioeconomic differences are made worse by electoral fraud. It can exacerbate preexisting rifts and cause social unrest and instability when some groups believe that electoral fraud favors particular political or ethnic groups. Cameroon's general stability and social cohesiveness are seriously threatened by this.¹

4.4 Lack of Public Confidence

Public trust in democratic institutions and the electoral process is damaged by electoral fraud. People become disillusioned and skeptical of the political system when they believe that elections are tainted by fraud. This may result in lower voter turnout, disinterest in politics, and a decline in confidence that elections can effect significant change.

4.5 Impediment to Socioeconomic Development

The socioeconomic advancement of the nation may be hampered by electoral fraud. Leaders who gain power dishonestly may put their own interests ahead of the general wellbeing of the populace. This may lead to corruption, inefficient use of funds, and a dearth of policies and initiatives that effectively address urgent social and economic issues.

4.6 Leads to Legitimate Crisis

The legitimacy of the ruling government is threatened by electoral fraud. The legitimacy of

the government and its capacity to reflect popular will are called into doubt when election results are contaminated by fraudulent activities. A crisis of legitimacy could result from this, undermining the government's power and capacity to rule.

4.7 Diminished International Reputation

The international reputation of the government can be negatively impacted by electoral fraud. When election procedures are tainted by fraudulent activities, it casts doubt on the nation's adherence to democratic values and the rule of law, which can have diplomatic ramifications and a loss of international credibility. Additionally, electoral fraud damages Cameroon's international reputation and its relationship with foreign donors and partners. The world community and international observers become concerned when elections are thought to be rigged. This may lead to strained diplomatic relations, less foreign aid, and restrictions on global collaboration and alliances.

4.8 Weakens Governance and Accountability

Cameroon's general governance and accountability systems are weakened by electoral fraud. Elections marred by fraud diminish transparency, undermine the independence of institutions, and make it more difficult for the people to hold the government responsible. Effective governance is compromised by this breakdown of accountability and governance.²

4.9 Weakens Democratic Institutions

Cameroon's democratic institutions are weakened by electoral fraud. The independence and impartiality of the organizations in charge of monitoring elections, like electoral commissions and courts, are threatened when the electoral process is tainted. The rule of law and democracy are hampered by this breakdown of institutional integrity.

5. Mechanisms for Combatting Electoral Fraud in Cameroon

There are institutional and legal safeguards in place to prevent electoral fraud in Cameroon. As will be discussed in turn below, these restrictions are either national or international in origin.

¹ Bob-Milliar, George M. (2017). Electoral Management Bodies and Electoral Integrity in Africa: A Comparative Analysis of Ghana and Cameroon. *African Journal of Political Science and International Relations*, 13(1), pp. 1-16.

² Fonjong, Lotsmart N. (2017). Electoral Violence and Democratic Stability in Cameroon. *African Journal of Political Science and International Relations*, 11(7), pp. 99-112.

5.1 Constitution of Cameroon

The legal foundation for elections and the ultimate law of the land are established by the Cameroonian Constitution. It lays forth the fundamentals of democratic administration, protects citizens' right to vote, and specifies how elections should be held, including safeguards against electoral fraud. The Cameroon Constitution Law No. 96/06 of January 18, 1996. The electoral system must be democratic, according to Article 29. It will ensure that citizens can freely express their will. It must be open, routinely planned, and overseen by a separate entity.

This article emphasizes the importance of a democratic electoral system that ensures the free expression of the citizens' will.¹ Although electoral fraud is not specifically mentioned in Article 29, it is indirectly addressed by laying the groundwork for fair and transparent elections, which emphasizes the importance of an independent body in organizing and overseeing elections and the necessity of transparency in the electoral process.

5.2 The Penal Code of Cameroon

Vote buying, stuffing ballots, and fabricating election results are among the electoral frauds that are illegal under the Penal Code. The Cameroon Penal Code Law No. 2016/007 of July 12, 2016. The Penal Code's Section 102 deals with the offense of making false statements or representations. It makes it illegal to give misleading information or make false claims during the election process, such as making false statements about one's identity or eligibility to vote.

The crime of document fabrication and forgery is the subject of Section 103. Voter registration cards, election results, and other official documents pertaining to the electoral process are among the documents that are forbidden from being altered or counterfeited.²

Section 116 deals with the bribery offense. It makes it illegal to propose, give, or accept bribes in order to sway an election's outcome. This involves vote purchasing, in which people trade things or cash for votes.

The offense of intimidation or threats is covered under Section 117. In order to influence or control the electoral process, it forbids using force, threats, or intimidation against voters, candidates, or election officials.

Section 119. The multiple voting offense is the main topic of this section. It makes it illegal to cast multiple ballots in an election or to attempt to do so.³

Section 288. (1) Section 122-1 of the Penal Code⁴ also apply against any person who: registers on electoral registers using a false identity or who, during his registration, conceals any of the ineligibilities provided for under this law;

through false statements or certificates, registers himself unduly on an electoral register or who, through the same means, unduly registers or cancels the name of a citizen;

upon losing his right to vote, participates in the poll;

votes, either by virtue of a false registration or by using the name and capacity of other registered voters;

votes several times, following multiple registrations;

charged during an election with receiving and counting the vote of citizens, subtracts, adds or modifies the ballot papers or includes a name that is not registered;

through false information, slanderous statements or any other fraudulent acts, cancels or diverts votes or causes one or several voters to abstain from the vote;

before or after the poll, failing to comply with legislative or regulatory provisions or through any other fraudulent act, violates secrecy of the poll, prejudices its fairness, breaches the conduct of the poll and modifies the results thereof;

is found guilty of fraudulent acts in the issuance or production of certificates of registration or striking off from electoral registers;

uses personal data contained in the electoral register for purposes other than elections;

on polling day, with or without violence, is found to be the author or an accomplice of the stealing of a ballot box or any other election

¹ Enow, E. A. (2016). Elections and Electoral Disputes Resolution in Cameroon: A Legal Perspective. *Journal of Politics and Law*, 9(6), pp. 62-73.

² Nkwii, P. N. (2017). Electoral Disputes Resolution and Democratic Governance in Cameroon. *Journal of African Elections*, 16(1), pp. 87-106.

³ Ngwafu, P. (2021). Electoral Integrity, Fraud, and Political Stability in Cameroon: The Role of Elections Cameroon (ELECAM). *Journal of African Elections*, 20(1), pp. 130-152.

⁴ Law No. 2016/007 of July 12, 2016.

material.

(2) Where the author of the offence or his accomplice is a public servant, in the sense of Section 131 of the Penal Code, he shall be liable to the penalties provided for under Section 141 of the Penal Code.

Section 289. Section 123-1 of the same Penal Code¹ also apply to any person who:

through menacing gatherings, clamours or demonstrations, disrupts election operations or infringes the exercise of the right or freedom to vote;

on polling day, is found guilty of insult or violence against the local polling commission or any of its members, or through assaults or threats, delays or obstructs election operations;

through gifts, generosity, favours, promise of public or private employment or any other specific benefits offered with the purpose of influencing the vote of one or several electors, obtains their vote, either directly or through a third party;

directly or through a third party, accepts or requests from candidates the above-mentioned gifts, generosity, favours or benefits;

through assault, violence or threats against an elector, either by making him fear to lose his job or expose himself, his family or fortune to danger, influences his vote.

Section 290. (1) ²is of the opinion that any person who enters a polling station with a visible weapon shall be punished with a fine of 25 000 (twenty-five thousand) CFA francs and imprisonment of from 10 (ten) days to 2 (two) months or only one of the two penalties.

(2) The imprisonment term may be extended to 4 (four) months, and the fine to 500 000 (five hundred thousand) if the weapon is hidden.

Section 291. (1) also apply to any activity or manifestation of a political character shall be prohibited within public establishments, as well as in school and university establishments.

(2) Any infringement of the provisions of sub-section (1) above shall be punished with a fine of from 25 000 (twenty-five thousand) to 250 000 (two hundred and fifty thousand) CFA francs, and imprisonment of from 10 (ten) days to 4 (four) months, or only one of the two

penalties.

SECTION 292. Any person who, acting on his personal behalf or on behalf of a Political party, uses funds received in the context of public funding for purposes other than those provided for under this law shall be liable to the punishment provided for under Section 184 of the Penal Code.

Section 293. Save in case of flagrant delicto, no penal proceedings shall be instituted against a candidate for infringement of any of the provisions of this law before the proclamation of the election results.

Section 122³ in its merit read thus;

(1) Shall be punished by detention for from three to two years or with a fine of from ten thousand to one hundred thousand francs or with both such as detention and fine whoever:

- a) Violates the secrecy of the ballot or;
- b) Affects the integrity of the election
- c) Obstructs the counting of votes;
- d) Alters the result;

(2) Whoever by wilful disregard of law or regulation causes unintentionally the like result shall be punished by detention for from one month to one year or with fine of from five thousand to fifty thousand francs or with both such detention and fine.

(3) Prosecution shall be barred by the lapse of four months from commission of the offence or from the last step in preparation or prosecution.

On the other hand, Section 123⁴ deal s with Corruption and violence since punishes;

(1) Whoever

- (a) By grant or promise of any individual advantage; or
- (b) By interference or by threat of any kind of individual disadvantage

Influences the vote of any elector or induces him to abstain from voting shall be punished with detention for from three months to two years or with fine from ten thousand to one hundred thousand francs or with both such detention and fine.

(2) Where the vote influence is that of an electoral college or constituency or any section thereof, the detention shall not be less than six

¹ Opt. cit. Note 25.

² Opt. Cit. Note 26.

³ *Ibid.*

⁴ *Ibid.*

months and the fine not less than twenty thousand francs.

Section 141. On it part seeks to guarantee and protect against civic rights violation. This read thus;

Any public servant who obstructs the exercise by any citizen of his electoral rights, or his exercise or enjoyment of the rights mentioned in How to prevent and combat electoral fraud in Cameroon.

5.3 The Electoral Code

One important piece of legislation that governs the electoral process, including steps to stop and fight electoral fraud, is the Electoral Code¹ of Cameroon. It describes how to register to vote, run for office, cast a ballot, and tally and tabulate the results of an election. In addition, the code defines electoral fraud charges and lays out sanctions for breaking Cameroon's election code. The Electoral Code Law No. 2011/010 of July 11, 2011, and the Municipal Councilor Election Rules Law No. 92/002 of August 14, 1992.

Since its initial implementation in 1972, Cameroon's electoral code has undergone multiple amendments. In 2012, the most current amendment took place. The Electoral Code's Section 262 handles electoral fraud in detail and enumerates a number of fraudulent activities, including as ballot-box stuffing, vote-buying, election result fabrication, and intimidating candidates or voters. It describes the consequences for these infractions, which can include fines, jail time, or being excluded from voting in subsequent elections.

The practice of casting more than one vote in an election is known as "multiple voting," and it is illegal. Section 263 covers this conduct and lays out consequences for anyone found guilty of it.

5.4 African Charter on Democracy, Elections, and Governance (ACDEG)

The African Charter on Democracy, Elections, and Governance has Cameroon as a signatory. This regional tool offers recommendations for preventing and dealing with electoral fraud while highlighting the significance of free, fair, and legitimate elections. It establishes guidelines for democratic governance, election procedures, and human rights advocacy.

Adopted by the African Union in 2007, the

ACDEG provides a legislative framework for holding fair elections and advancing democratic government. Election fraud is expressly addressed in Article 2(10), which highlights the significance of free, fair, and transparent electoral procedures.²

The rule of law, respect for human rights, and the holding of free, fair, and transparent elections are among the democratic values that are emphasized in Article 2. The ACDEG lays the groundwork for preventing electoral fraud by advancing these ideas.

The necessity for member states to create and fortify independent and unbiased national electoral bodies is addressed in Article 4. In order to help prevent and identify electoral fraud, it demands that these organizations be in charge of planning, holding, and overseeing elections.

The necessity for member states to set up and preserve efficient procedures for resolving electoral disputes is emphasized in Article 26. The ACDEG facilitates the prompt settlement of claims of electoral fraud by offering easily accessible and unbiased dispute resolution procedures.

5.5 International Covenant on Civil and Political Rights (ICCPR): As a Signatory to the ICCPR

As a signatory to the International Covenant on Civil and Political Rights (ICCPR), Cameroon is required to uphold the freedoms and rights associated with political participation and free elections. The ICCPR forbids electoral fraud and guarantees the right to vote and be elected without interference or intimidation. The ICCPR requires states to make sure that electoral processes are carried out in a way that permits genuine and periodic elections, free from fraud or manipulation.³

The right to take part in free and fair elections is one of the civil and political rights covered by the International Covenant on Civil and Political Rights (ICCPR), a significant international human rights document. Although election fraud is not particularly mentioned in the ICCPR, it is subject to regulations that help prevent it.

¹ Law No. 2011/010 of July 11, 2011.

² Chofo, R. N., & Fonjong, L. N. (2020). Electoral Fraud and Democratic Governance in Cameroon: A Legal Perspective. *Journal of African Elections*, 19(1), pp. 90-115.

³ Nkwil, P. N., & Nyamnjoh, F. B. (2005). Electoral Politics and the African Crisis: An Introduction. *Journal of Contemporary African Studies*, 23(2), pp. 135-151.

According to Article 25, every person has the right to participate in public affairs, including the right to vote and run for office. In particular, it highlights the importance of holding “genuine periodic elections” that ensure the electorate’s right to freely express their views.

Cameroon and other member nations are required by Article 2 to uphold and guarantee the rights outlined in the ICCPR without any form of discrimination. This includes making certain that elections are held without discrimination and without any fraud or manipulation that would jeopardize the equal exercise of the right to vote.

The freedom of expression, which includes the freedom to look for, accept, and share knowledge and ideas, is protected by Article 19. By guaranteeing that voters may freely report and expose fraudulent activities and have access to accurate and trustworthy information throughout election campaigns, it indirectly aids in the fight against electoral fraud.¹

5.6 Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa

Combating such fraud is indirectly aided by the principles and obligations established by this Protocol. The Protocol supports initiatives to guarantee fair and transparent electoral processes in Cameroon by advancing gender equality, women’s involvement, and the removal of obstacles.²

In addition to calling for actions to stop electoral fraud and guarantee women’s equitable participation in elections, it acknowledges the significance of women’s involvement in electoral processes.

Women’s involvement in political decision-making is the main topic of Article 7. Promoting women’s involvement helps diversify perspectives and lessens the possibility of dishonest behaviors that could disproportionately affect women.

The right of women to vote and their equal chance to do so are covered in Article 9. It highlights how crucial it is to guarantee women’s unrestricted, effective, and free participation in electoral processes. It supports

free and fair elections by defending women’s right to vote.

Article 13 highlights the importance of gender-sensitive electoral systems and procedures. It calls for measures to eliminate barriers that may prevent women from effectively participating in elections. By addressing systemic issues and promoting inclusivity, it indirectly contributes to preventing and mitigating electoral fraud.

5.7 United Nations Convention Against Corruption (UNCAC)

Article 3 of the UNCAC stresses the prevention and criminalization of corruption, including acts related to electoral processes, and encourages states to take action to prevent and punish corrupt practices in elections, even though it is not specifically related to electoral fraud specifically.³

It calls upon member states, including Cameroon, to establish and enforce laws that criminalize corruption, bribery, and other illicit practices that may occur during elections.

Article 5 promotes the independence and effectiveness of national anti-corruption bodies. It encourages member states to establish such bodies or enhance existing ones to prevent and combat corruption, which includes addressing electoral fraud.

Article 10 focuses on public reporting and transparency in public administration. It promotes measures to ensure the integrity and transparency of public procurement processes, which may include the procurement of goods and services related to elections.⁴

6. Institutions Task with Combatting Electoral Fraud in Cameroon

6.1 Independent Electoral Commission (Elections Cameroon)

The Law on the Electoral Commission: This law creates the Electoral Commission of Cameroon, which is in charge of organizing and supervising elections in the nation. It describes the commission’s abilities and responsibilities in maintaining the integrity of the electoral

¹ Wirsiy, E. W. (2016). Electoral Violence and Democratic Consolidation in Cameroon. *Journal of African Elections*, 15(2), pp. 39-59.

² Ndamsa, Dick. (2018). Electoral Laws and Electoral Fraud in Cameroon. *Journal of African Elections*, 17(2), pp. 143-165.

³ Fonjong, Lotsmart N. (2017). Electoral Violence and Democratic Stability in Cameroon. *African Journal of Political Science and International Relations*, 11(7), pp. 99-112.

⁴ Bob-Milliar, George M. (2017). Electoral Management Bodies and Electoral Integrity in Africa: A Comparative Analysis of Ghana and Cameroon. *African Journal of Political Science and International Relations*, 13(1), pp. 1-16.

process. The Independent Electoral Commission, also known as Elections Cameroon (ELECAM), is the main organization in charge of organizing and overseeing elections in Cameroon. ELECAM is essential in preventing electoral fraud by guaranteeing transparency, fairness, and credibility throughout the electoral process.¹

Section 5 highlights the Electoral Commission's independence, stating that it operates independently and impartially in the exercise of its duties, which is essential in maintaining the integrity of the electoral process and minimizing fraudulent practices. Section 4 outlines the Electoral Commission's functions and powers, including duties like voter registration, electoral process organization, and ensuring the transparency and fairness of elections.

Section 6 requires the Electoral Commission to establish and maintain a permanent electoral register. The register serves as a crucial tool for verifying voter eligibility and preventing irregularities such as multiple voting or impersonation.

6.2 Effectiveness of the Mechanisms Put in Place for the Fight Against Electoral Fraud in Cameroon

6.2.1 Case Law Analysis of the Effectiveness of the Fight Against Electoral Fraud in Cameroon

- 1) The case of *Sieur ZOBZE KENFACK Albert v Elections Cameroon (ELECAM), MINDDVEL & RDPC* on the total cancellation of municipal elections of 09/02/2020 in the Nkongsamba 1 municipality.

In this case Mr. Zobze Kenfack Albert seized the Douala Administrative Court for the cancellation of the municipal elections of 09/02/2020 in the Nkongsamba I Municipality and expressed the wish that the elections be reconducted in the presence of several independent observers. He claimed that he witnessed several irregularities during the elections such as;

- There was a crowd, and gullible old women and men were shown which ballot to pick and a reward of 2500 to those who would bring the oppositions' ballot inside. -That outside some polling stations of the Nkongsamba municipality, militants of the RDPC were waiting while it is the role of the president of the

local voting commission to do it at the end of the poll. -That at the Bangoulap home (a voting center), there was the purchase of opposition ballots by a group of wealthy men, - and that one of the candidates Mr. Sylvain Timamo Tedjon was attacked and assaulted by individuals, arrested by the elements of the Central Police Station in the presence of reinforcements officers from those of the 1st district. That he received several punches, kicks and his phone was snatched by one of his attackers identified as a police officer dressed as a civilian. Faced with his actions, he camped on election day, votes by unidentified people, gathered, threats on voters and violence against candidates, bought consciences etc.

Seizing the court, the plaintiff prayed that an investigation be opened, so that defaulters would be punished and the whole election in that municipality be cancelled and re-done.

The court ruled that the plaintiff was not qualified to seize the court as it's the case with administrative matters. He was unqualified in the light of Article 194(1) of the Electoral Code. Mr. Zobze was a candidate of the MDP party in the said election. The court declared itself incompetent to hear the matter as it maintained that it was not its place to conduct investigations as requested by the plaintiff. On the merits of the case, the matter was rejected as the plaintiff failed to produce proof of the electoral fraud and other irregularities which he alleged that he witnessed on the day of elections.

The above narrative provides a clear scenario of the fight against electoral fraud in Cameroon through institutions like the court which are charged with the duty of ensuring that electoral fraud is eradicated within the Cameroon by applying the existing legislations. However, from the facts of the case, one will realize that though the claims of the complainant were not founded on facts there by resulting to the court dismissing, the allegations raised are not far from the realities of what happen during elections in Cameroon at all levels. However, the court, being a court that is based on facts and evidence, did well to withdraw themselves from the said case on the grounds of lack of substantive evidence to establish the claims made.

7. Challenges in the Fight Against Electoral Fraud in Cameroon

7.1 Political Interference

¹ Nfor, N. G., & Amin, N. A. (2020). Electoral Fraud and Democratic Consolidation in Cameroon. *Journal of Politics and Law*, 13(4), pp. 1-15.

Effective enforcement of electoral laws and regulations may be jeopardized when political players exert influence over organizations such as ELECAM. The integrity and legitimacy of the electoral process are impacted by political meddling, which is a major obstacle in Cameroon's battle against electoral fraud. The independence of election management authorities is frequently compromised by political actors' influence. Voter registration, candidate eligibility, and election administration may all be impacted by biased decision-making that results from this. The public's confidence in these institutions is weakened by such deception.

Government officials may use both legal and illegal tactics to sabotage opposition parties. This restricts opposition candidates' and their supporters' capacity to run a successful campaign by harassing, intimidating, or even arresting them. Such behaviour contributes to electoral fraud by creating an unfair playing field. Control of media outlets by the state limits the voices of the opposition and sways public opinion, frequently in favor of the ruling party. The public's capacity to make educated decisions is hampered when opposing viewpoints or news on electoral malpractices are suppressed, which reduces accountability and transparency.

Security force deployments during elections have the potential to incite fear, especially in regions where the opposition has a sizable following. People may feel intimidated when trying to exercise their right to vote, which can result in voter suppression or coercion. To their advantage, political actors may try to modify election laws or rules, such as the election schedule or districting procedures, in order to provide preference to particular groups. Such legislative maneuvers have the potential to institutionalize election fraud and deny some groups of people the right to vote.

Vote buying can continue to thrive as long as political meddling is present. Rich political players may target weak groups with financial resources in an effort to sway votes. In addition to undermining the electoral process, this feeds the corruption cycle. Civil society groups that are essential to election monitoring can be suppressed by political meddling. Repression of these groups weakens their capacity to promote voting integrity, which lowers public accountability in general.

Various stakeholders, including political parties, international organizations, and civil society, must work together to address political interference in Cameroon. To improve electoral integrity and fight fraud, it is essential to advance institutional independence, uphold the rule of law, and create a free and fair media environment.

7.2 Weak Enforcement and Prosecution

Investigating and prosecuting allegations of electoral fraud is hampered by a lack of funding, poor training, and corruption in the judiciary and law enforcement. The integrity of the electoral process is undermined by weak enforcement and prosecution, which pose serious obstacles in Cameroon's fight against electoral fraud. Political will to combat electoral fraud is frequently lacking. Maintaining power may take precedence above upholding the law, which could result in a culture of impunity where dishonest behavior is tolerated. The efficacy of legal systems intended to prevent electoral misconduct is weakened by this lack of dedication.

Law enforcement organizations and election administration authorities frequently lack the financial and human resources needed to adequately investigate and prosecute cases of electoral fraud. Their capacity to conduct in-depth investigations is hampered by this underfunding, which is typified by a lack of manpower, training, and technological support. Prosecution of electoral fraud involves sluggish and onerous legal and administrative procedures. Years may pass before a case is resolved, which deters victims from reporting fraud and erodes public trust in the system. Justice delays may give the impression that electoral fraud is accepted. Additionally, given the consequences of having the wrong people in office, the amount of time allotted to contest an election is absurdly small.

The execution of electoral laws is further hampered by corruption in law enforcement. Political actors may bribe or convince officials to decline to look into or prosecute allegations of electoral fraud, allowing offenders to behave without fear of repercussions. Even if there exist rules against electoral fraud, they are neither well-defined or sufficient, which makes prosecution difficult. Due to legal ambiguities, fraudsters are able to take advantage of loopholes that make it challenging for

authorities to hold them accountable. Cameroon's court faces obstacles include political pressure, a lack of autonomy, and inadequate election-related training. These elements may have an impact on judges' readiness and capacity to render just and unbiased decisions, which would make prosecution more difficult.

Witnesses and those who denounce electoral fraud do fear retaliation from influential political figures. People are deterred from coming forward by this fear, which lowers the number of cases that authorities can handle and feeds the cycle of impunity and silence. The public is no longer trusting the voting process as a result of poor enforcement and prosecution. Due to the fact that electoral fraud is not being adequately addressed, the majority of citizens have lost faith in the system, which has resulted in indifference and lower voter turnout, both of which have strengthened fraudulent behaviors.

8. Conclusion

This paper has clearly analyzed the concept of electoral fraud bringing out the types, causes and effects of electoral fraud. Equally it discussed the legal framework, the effectiveness and ineffectiveness of the legal framework. To achieve free and fair elections, there must be a robust law in place, and it must be enforced. It is noted there are legal frameworks such as the constitution, penal code and electoral code to ensure transparency in the electoral process, to an extent, it is illusory, limited and fraud with various challenges. It would be said these legal frameworks are not highly effective and that is why electoral fraud continues to persist. There is a need for the introduction of a robust framework and a strict enforcement of the existing rules to prove the clear testament of importance of free and fair election. Most often, participants of electoral fraud feel free to manipulate the outcome of the electoral process because most of the time they are not effectively sanctioned which should not be so. Such crimes should be sanctioned with strictness to deter others from doing the same. Necessary steps need to be taken to ensure effective and leaves no traces of manipulation of electoral process during elections in Cameroon.

9. Recommendations

To combat electoral fraud in Cameroon, the following recommendations have been made.

Implementation of stricter penalties and

sanctions for offenders, as well as clear guidelines on electoral dispute resolution. Equally specialized training on fraud detection, investigation techniques, and the use of technology in electoral processes.

The need to establish a comprehensive system for monitoring and evaluating the effectiveness of anti-electoral fraud measures and equally ensuring that electoral processes such as including voter registration, candidate nomination, and vote counting are conducted in a transparent manner. Regularly assess the implementation of reforms, identify gaps, and make necessary adjustments to improve the integrity of the electoral process.

Enhance Independent Electoral Oversight. Strengthen the independence and capacity of the Elections Cameroon (ELECAM) to ensure impartial administration of elections. Also create independent oversight committees that include civil society representatives to monitor electoral processes.

Implement secure voting systems by investing in secure electronic voting systems that can reduce the risk of tampering and fraud. Also adopt biometric identification methods to ensure that each voter can only vote once.

Establish specialized electoral courts specialized to handle electoral disputes and ensure timely adjudication of cases. Also provide training for judges and legal practitioners on electoral law and fraud prevention.

Foster International Cooperation by engaging with International Organizations. Collaborate with organizations like the African Union and the United Nations to share best practices and resources for combating electoral fraud.

By implementing these recommendations, Cameroon will take significant steps towards combatting electoral fraud, strengthening democratic institutions, and ensuring the credibility and legitimacy of its electoral processes.

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