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The Human Right to a Healthy Environment in Cameroon: An Environmental Constitutionalism Perspective

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ABSTRACT

Environmental constitutionalism, though a concept in its nascent development, is of great importance in uniting international human rights law, environmental law, and constitutional law. Environmental constitutionalism illustrates the recognition that environmental rights constitute proper subjects for protection within the constitutional context. These are rights that the government of Cameroon seeks to facilitate its protection with and are found in the 1996 Constitution of the Republic of Cameroon. Despite the thin relationship connecting the 1996 Cameroon Constitution to the environment in Cameroon, the inclusion of this right in the constitution indicates the government's duty to protect the human right to a healthy environment. But because of apparent challenges, the government's performance and satisfactoriness of its constitutional environmental duties, along with adequate procedural environmental rights are highly contested. This Article describes the environmental provisions of the 1996 Cameroon Constitution regarding the human right to a healthy environment, identifies challenges that make effective environmental protection unlikely, and recommends solutions for positive environmental outcomes in Cameroon.

INTRODUCTION

Almost half a century ago, the idea of human rights to a healthy environment had received slight awareness,[1] probably because it was still at its nascent development. No one could have anticipated the emergence of an era of analytical and descriptive focus on the evolving concept of environmental constitutionalism until the Stockholm Declaration of the United Nations Conference on the Human Environment[2] (the Stockholm Declaration). Principle 1 of the Stockholm Declaration provides that "[m]an has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations."[3] As human subsistence is secured only within the biophysical environment, it has been anticipated that every element of human rights is affected by dreadful environmental conditions.[4] Since the convening of the Stockholm Conference of the Human Environment in 1968, awareness about deteriorating human rights resulting from adverse environmental conditions was brought to light.[5] It is common knowledge today that the rights to life,[6] privacy and family life,[7] health,[8] appropriate working conditions[9] with

1 *See* DAVID R. BOYD, THE ENVIRONMENTAL RIGHTS REVOLUTION: A GLOBAL STUDY OF CONSTITUTIONS, HUMAN RIGHTS, AND THE ENVIRONMENT (2012) [hereinafter BOYD, REVOLUTION].

2 U.N. Conference on the Human Environment, Declaration of the United Nations Conference on the Human Environment, U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972) [hereinafter Stockholm Declaration].

3 *Id*. at 4.

4 *See* John H. Knox, Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, Addressed to the Human Rights Council on Its Twenty-Second Session Pursuant to Council Resolution 19/10, ¶ 19, U.N. Doc. A/HRC/22/43 (Dec. 24, 2012) [hereinafter Report of the Independent Expert].

5 *See* G.A. Res. 2398 (XXIII), Problems of the Human Environment (Dec. 3, 1968).

6 *See* Sumudu Atapattu, *The Right to a Healthy Life or the Right to Die Polluted?: The Emergence of a Human Right to a Healthy Environment Under International Law*, 16 TUL. ENVTL. L.J. 65, 69 (2002).

7 *Id.* at 102–03.

8 *See* World Health Org. Comm'n on Health and Env't, Report of the Panel on Food and Agriculture, 1–2, WHO Doc. WHO/EHE/92.2 (1992).

9 Dinah Shelton, *Human Rights, Environmental Rights, and the Right to Environment*, 28 STAN. J. INT'L L. 103, 112 (1991).

sufficient standard of living,[10] property,[11] and culture[12] may seriously be affected by environmental degradation. Presently, climate change, pollution from toxic chemicals and hazardous substances, ozone depletion, biodiversity loss, and transboundary movement of hazardous substances are presented as separate but connected occurrences of the overwhelming effects of the activities of humans on the environment.[13] These occurrences are currently addressed within nations' constitutions.[14] As a result, "[t]he constant is that environmental constitutionalism exists in just about every nook and cranny on the globe, with growing significance."[15] The thought of a human right to the environment is now dominating law and policy discourses; its prevalence and sensitive status have coined it as "the only game in town" for the protection of the environment.[16] While the idea has gathered pace within national constitutions, it is still looming at the margins of regional and global human rights agreements and has yet to take off. The African Charter on Human and Peoples' Rights[17] (the Banjul Charter) and the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights,[18] are two regional human rights agreements that expressly recognize human rights to a healthy and satisfactory environment. Additionally, the Revised African Convention on the Conservation of Nature and Natural

10 *Id.*

11 *See* Durwood Zaelke, *Foreword* to DINAH SHELTON ET AL., LINKING HUMAN RIGHTS AND THE ENVIRONMENT xiv (Romina Picolotti & Jorge Daniel Taillant eds., Univ. of Arizona Press 2003).

12 *See generally* Shelton, *supra* note 9.

13 *See generally* Report of the Independent Expert, *supra* note 4.

14 *See generally* BOYD, REVOLUTION, *supra* note 1.

15 JAMES R. MAY & ERIN DALY, GLOBAL ENVIRONMENTAL CONSTITUTIONALISM 4 (2015).

16 *See, e.g.*, Ben Golder, *Theorising Human Rights*, *in* THE OXFORD HANDBOOK OF INTERNATIONAL LEGAL THEORY (Anne Orford & Florian Hoffmann eds., 2014).

17 African Charter on Human and People's Rights, June 27, 1981, O.A.U. Doc. CAB/LEG/67/3/Rev. 5, 1520 U.N.T.S. 217 (1982) [hereinafter Banjul Charter]. Article 24 of the Banjul Charter provides that "[a]ll peoples shall have the right to a general satisfactory environment favourable to their development." *Id.* at 250. The Republic of Cameroon signed this Charter on July 23, 1987 and ratified it on June 20, 1989.

18 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador," Nov. 17, 1988, O.A.S.T.S. 69, reprinted in 28 I.L.M. 161 (1989). Article 11 of the American Convention equally provides that "1. Everyone shall have the right to live in a healthy environment and to have access to basic public services. 2. The States Parties shall promote the protection, preservation and improvement of the environment."

Resources[19] (the 2003 Convention) generally provides that developmental and environmental needs should be sustainably, fairly, and equitably met.[20] The Charter of Fundamental Rights of the European Union,[21] along with the Treaty on European Union,[22] which are binding on all European Union (EU) member states, are remarkable examples that suggest a movement toward "global constitutionalism" where environmental protections or rights are operated on a global scale, albeit within the ambit of national constitutions and EU policies domestically.[23] Global human rights standards somehow recognize the right to a healthy environment. For example, the International Covenant on Economic, Social and Cultural Rights[24] recognizes the right to a healthy environment, though it links its full enjoyment to other economic, social, and cultural rights.[25] Likewise, international jurisprudence has described the right to a healthy environment as "a vital part of contemporary human rights doctrine," entitling it "a *sine qua non* for numerous human rights."[26]

International law plays an imperative role in ascertaining norms and offering hope for human rights violations. But as the utmost and strongest body of laws within countries, the constitution delineates the obligations of the nation and controls government powers.[27] The eagerness as well as the basis for environmental protection has

19 Organization of African Unity, African Convention on the Conservation of Nature and Natural Resources, Sept. 15, 1968, reprinted in 1001 U.N.T.S. 3 (1976) (revised 2003, adopted Mar. 7, 2017) [hereinafter 2003 Convention].

20 *Id.* at art. III, § 3.

21 European Union, Charter of Fundamental Rights of the European Union, Oct. 26, 2012, 2012/C 326/02. Article 37 provides that "the improvement of the quality of the environment must be integrated into the policies of the Union." *Id.* at 326/403.

22 European Union, Consolidated Version of the Treaty on European Union, art. 3, § 3, Dec. 13, 2007, 2008/C 115/13.

23 Antje Wiener et al., *Global Constitutionalism: Human Rights, Democracy and the Rule of Law*, 1 GLOBAL CONSTITUTIONALISM 1, 4–6 (2012).

24 G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights (Dec. 16, 1966) (entered into force Jan. 3, 1976) [hereinafter ICESCR].

25 *Id.* at art. 12, § 2(b) (stating "improvement of all aspects of environmental and industrial hygiene").

26 Case Concerning the Gabčíkovoikovo-Nagymaros Project (Hung./Slovk.), Judgment, 1997 I.C.J. Rep. 7, 91 (separate opinion by Weeramantry, V.P.) https://www.icj-cij.org/files/case-related/92/092-19970925-JUD-01-03-EN.pdf.

27 *See* Michael H. Allen, *Globalization and Peremptory Norms in International Law: From Westphalian to Global Constitutionalism?*, 41 INT'L POL. 341, 342 (2004).

gradually evoked and sustained the attention of legislators.[28] The constant is that environmental protection has been afforded inclusion in almost every national constitution.[29] In Africa, for example, the right to a healthy environment is found within thirty-six[30] national constitutions. Only the constitutions of seven African countries[31] are silent on general environmental issues; however, they do have "legal patterns"[32] highlighting environmental protection. The right to a healthy environment is similarly recognized within national constitutions of other regions.[33] In Cameroon, the right to a healthy environment is now connected with its constitution and protected in the Preamble to the 1996 Constitution of the Republic of Cameroon (the 1996 Cameroon Constitution).[34] Consequently, the recognition of environmental rights within the 1996 Cameroon Constitution means environmental protection is steadily gaining support within national legal and policy circles. The current constitutional pattern of Cameroon is typical of various legal pluralisms transmitted from diverse colonial pasts.[35] This pattern has been blended with the urge to embrace a mixture of Western constitutional ideologies through accession to

28 Seen from the unprecedented level on inclusion of environmental provisions within national constitutions. *See generally* David R. Boyd, *Constitutions, Human Rights, and the Environment: National Approaches*, *in* RESEARCH HANDBOOK ON HUMAN RIGHTS AND THE ENVIRONMENT, 170–99 (Anna Grear & Louis J. Kotzé eds., 2015) [hereinafter Boyd, *Constitutions*].

29 "More than three quarters of the world's national constitutions (150 out of 193 members of the United Nations)" currently contain clear references to environmental rights and responsibilities. *Id.* at 172.

30 These nations are Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo (Brazzaville), Congo (Democratic Republic of the), Côte d'Ivoire, Egypt, Ethiopia, Gabon, Guinea, Kenya, Madagascar, Malawi, Mali, Mauritania, Morocco, Mozambique, Niger, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Somalia, South Africa, South Sudan, Sudan, Togo, Tunisia, Uganda, and Zimbabwe. *See* CONSTITUTE PROJECT, https://www.constituteproject.org (last visited Mar. 21, 2019).

31 These are the constitutions of Botswana, Djibouti, Guinea-Bissau, Liberia, Libya, Mauritius, and Sierra Leone. *Id.*

32 Boyd, *Constitutions*, *supra* note 28, at 181–82.

33 *Id.* at 179.

34 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 16, 1996, pmbl.

35 Cameroon has a blend of civil law, common law (inherited respectively from France and England during the colonial era), and customary law mixed systems. For a distribution of United Nations member states according to legal systems, see *JuriGlobe – World Legal Systems*, U. of Ottawa, http://www.juriglobe.ca/eng (last visited Mar. 21, 2019) [hereinafter *JuriGlobe*].

international treaties.[36] As such, the concept of constitutional environmental rights protection in Cameroon is managed by an array of legal orders with common characteristics. This is mostly done within national legislation and policies consistent with the 2003 Convention—a convention acclaimed as the "youngest and the most modern amongst the oldest environmental Conventions."[37] Within these complex interactions, constitutional environmental rights are given due consideration with regard to the government's environmental duties, substantive environmental rights, procedural environmental rights, individual rights, and diverse environmental provisions.[38] This Article studies the inclusion of environmental provisions regarding the right to a healthy environment within the 1996 Cameroon Constitution. It identifies the extent to which other environmental regulations and policies have been derived and enforced through ensuing constitutional provisions. It concludes by identifying, as well as proffering, solutions to challenges that may hinder extraordinary advances regarding positive environmental outcomes in Cameroon.

I
CONCEPTS OF THE CONSTITUTION, CONSTITUTIONALISM, AND ENVIRONMENTAL CONSTITUTIONALISM

Since "[e]very constitution is the result of years and sometimes generations of customs, traditions, and social structures that are anything but homogenous,"[39] it is unlikely to be able to restrain a constitution's meaning to follow a precise definitional path. Varied concepts may surround the term *constitution*, but its definitions and

36 The constitution gives the President of the Republic the power to negotiate and ratify treaties and international agreements, which override national laws, once they are duly approved and ratified, provided the other party implements the said treaty or agreement. CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 16, 1996, § 43, 45.

37 Mohamed A. Mekouar, *La Convention Africaine: Petite Histoire d'une Grande Rénovation*, 34(1) ENVTL. POL'Y & L. 43, 43 (2004) (quotation translated by author).

38 "A review of the 150 constitutions that incorporate environmental protection reveals that there are five main categories of provisions . . . ." Boyd, *Constitutions*, *supra* note 28, at 175. There is, however, no common method to outline this categorization of constitutional environmental provisions. Boyd discusses in greater details these five categories as the "government's duty to protect [that] environment; substantive rights to environmental quality; procedural environmental rights; individual responsibility to protect the environment; and a miscellaneous 'catch-all' category of diverse provisions." *See* Boyd, *Constitutions*, *supra* note 28, at 175.

39 MAY & DALY, *supra* note 15, at 9–10.

functions within this research will suggest two things. First, based on its commonly accepted organizational and legitimizing character, a constitution as a higher law within a country, establishes, guides, construes, transforms, and implements fundamental rules.[40] However, through this moderate and superficial definition, it may fail to make elaborate expressions of the most unique principles governing a country and its public. It is therefore understood as a constitution in a "thin" sense.[41] A second meaning of a constitution pertains to its representational and substantial character, describing a constitution as rules full of value and legitimizing characteristics;[42] and since constitutions "express the deepest, most cherished values of a society,"[43] they are imbued with the potential to legitimize, increase respect, and ensure legality.[44] As a judge once said, a "constitution is the mirror of a nation's soul,"[45] representing an expression of those profound ideals that connect a government and its people. This is what is understood as a constitution in a "thick" sense.[46] Consequently, thick constitutions are identified as constitutional in substance since they afford protective guarantees.[47] By establishing a higher order through which legality can be ensured frequently through checks and balances,[48] thick constitutions are therefore contemporary to constitutionalism. Constitutions are subsequently evaluated based on the term constitutionalism, and both concepts of a constitution and constitutionalism have concurrently been described as "evaluative-descriptive terms"[49] in assessing what they are or ought to be. Because not all legal systems are similar and not all national constitutions have

40 Daniel Bodansky, *Is There an International Environmental Constitution?*, 16 IND. J. GLOBAL LEGAL STUD. 565, 569–70 (2009); *see also* EIKE ALBRECHT & BENJAMIN KÜCHENHOFF, STAATSRECHT: LEHRBUCH 14 (3rd ed. 2015).

41 *See* Allen, *supra* note 27, at 342.

42 Gerald L. Neuman, *Human Rights and Constitutional Rights: Harmony and Dissonance*, 55 STAN. L. REV. 1863, 1866 (2003).

43 BOYD, REVOLUTION, *supra* note 1, at 4.

44 *See* Anne Peters, *The Constitutionalist Reconstruction of International Law*: *Pros and Cons*, 5–6 (NCCR Int'l Trade Working Paper No. 2006/01, 2006).

45 Frank I. Michelman, The Constitution, Social Rights, and Liberal Political Justification, 1 Int'l J. Const. L. 13, 13 (2003) (quoting State v. Acheson 1991 (2) SA 805, 805 (Nm)).

46 *See generally* Giovanni Satiori, *Constitutionalism: A Preliminary Discussion*, 56 AM. POL. SCI. REV. 853 (1962).

47 *Id.* at 855.

48 Wiener et al., *supra* note 23, at 2.

49 Anne Peters & Klaus Armingeon, *Introduction—Global Constitutionalism from an Interdisciplinary Perspective*, 16 IND. J. GLOBAL LEGAL STUD. 385, 387 (2009).

acquired those "favorable emotive properties"[50] needed to guarantee constitutionalism, it is very likely to find thick and thin constitutions existing mutually. This is often the case of constitutions of undemocratic regimes where constitutional provisions are often only of symbolic or normative value with unsatisfactory observance of democratic practices, adherence to good governance, and requirements of human rights protection.[51] Human rights are regarded as ethical demands, and their functioning can be guaranteed only at an entirely juridical level[52]—the constitution—since the right to a healthy environment encompasses identical preferences of protection within national constitutions.

Environmental constitutionalism surfaced from the irrefutable claim that previous, "ordinary," and predominant laws addressing pollution and conservation[53] could not provide exclusive protection to the environment—a position corroborated by the coming of the Anthropocene.[54] The Anthropocene stresses an anthropogenic change, emphasizing a fast movement of the Earth into a critically, less predictable, non-stationary, less harmonious, and unstable state caused by humans.[55] To a certain extent, and depending on the national constitution, environmental constitutionalism is a new concept, with the earliest insertion found in the Italian Constitution of 1948.[56] Prior to the formal recognition of the right to a healthy environment in the Stockholm Declaration, environmental protection was included in sixty national constitutions.[57] Since the Stockholm Declaration, the idea has

50 Satiori, *supra* note 46, at 855.

51 In some countries, the constitutional environmental protection is expressed as "Directive Principles of State Policy" but with subsequent constitutional provisions precluding enforceability. *See, e.g.*, The Constitution of the Republic of Gambia 1997, ch. XX, art. 211. Such Directive Principles have been slated as "worthless platitudes because of their inherently emasculated constitutional status." D. Olowu, *Human Rights and the Avoidance of Domestic Implementation: The Phenomenon of Non-Justiciable Constitutional Guarantees*, 69 SASK. L. REV. 39, 42 (2006).

52 Amartya Sen, *Elements of a Theory of Human Rights*, 32 PHIL. & PUB. AFF. 315, 319 (2004).

53 *See generally* Louis J. Kotzé, *Rethinking Global Environmental Law and Governance in the Anthropocene*, 33 J. ENERGY & NAT. RESOURCE L. 121 (2014).

54 *Id.*

55 *Id.* at 128–29.

56 Art. 117, ¶ 2(s) Costituzione [Cost.] (It.).

57 Boyd, *Constitutions*, *supra* note 28, at 172.

widely been included in ninety national constitutions.[58] Despite the newness of the concept, it has no unanimous authoritative definition or coherent scholarly discourse. Scholars have approached it from varying perceptions, some deeply and some superficially. Environmental constitutionalism has been denoted as the "constitutionalization of environmental protection" away from "the constitutionalization of environmental law,"[59] a "transformative process"[60] afforded constitutional environmental protection, and a "confluence of constitutional law, international law, human rights, and environmental law."[61] Again, others seem to employ a one-dimensional approach to the concept by underscoring the obvious requirement, yet falling short of offering a comprehensive explanation of environmental constitutionalism.[62] The concept of environmental constitutionalism is currently undergoing a process of conceptual clarity. The already promising development of the concept points in one direction: "while no nation has yet achieved the holy grail of ecological sustainability, . . . constitutional protection of the environment can be a powerful and potentially transformative step toward that elusive goal,"[63] and almost all countries of the world are purposely reorganizing their constitutions to attempt reaching that goal.

II
THE 1996 CAMEROON CONSTITUTION AND THE HUMAN RIGHT TO A HEALTHY ENVIRONMENT

A study of the provisions of the 1996 Cameroon Constitution dealing with the protection of the human right to a healthy environment will reveal that Cameroon has a thin constitution. The protection of the environment is expressly provided in the Preamble to the 1996 Cameroon Constitution. It provides that "every person shall have a right to a healthy environment. The protection of the environment shall be the duty of every citizen. The State shall ensure the *protection and*

58 *Id.*

59 DOUGLAS A. KYSAR, REGULATING FROM NOWHERE: ENVIRONMENTAL LAW AND THE SEARCH FOR OBJECTIVITY 231 (Yale University Press 2010).

60 BOYD, REVOLUTION, *supra* note 1, at 117–18.

61 MAY & DALY, *supra* note 15, at 3.

62 Brian J. Gareau, *Global Environmental Constitutionalism*, 40 B.C. ENVTL. AFF. L. Rev. 403, 408 (2013).

63 Boyd, REVOLUTION, *supra* note 1, at 3.

improvement of the environment."[64] Preambles frequently serve ceremonial-symbolic or interpretive roles.[65] However, depending on a particular constitution and its substantive provisions, preambles can be legally binding.[66] In determining the substantive character of preambles, the notion of "constitutional law" is often distinguished from that of a "constitution."[67] For example, when preambles contain "fundamental political decisions," which "constitute the fundamental prerequisite of all subsequent norms,"[68] they can be used substantively. A few examples to support this can be found in the preambles to the constitutions of France,[69] India,[70] and Turkey.[71] The question of the status of a preamble as a substantive constitutional provision is overwhelming to explore and too broad for analysis in this Article. The first section of the Preamble to the 1996 Cameroon Constitution indicates that it is merely a ceremonial-symbolic or interpretive preamble—referring to historical narratives, supreme goals, and national identity.[72] The second section represents those deep-seated requisites of all succeeding norms within the 1996 Cameroon Constitution.[73] Therefore, the Preamble to the 1996 Cameroon Constitution should be considered as guaranteeing material rights within the 1996 Cameroon Constitution. While only the Preamble of the 1996 Cameroon Constitution provides for the right to a healthy environment, laws enacted by the President of the Republic through

64 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 16, 1996, pmbl., ¶ 26 (emphasis added).

65 *See generally* Liav Orgad, *The Preamble in Constitutional Interpretation*, 8 INT'L J. CONST. L. 714 (2010).

66 *See* CARL SCHMITT, CONSTITUTIONAL THEORY 77–79 (Jeffrey Seitzer ed. & trans., 2008).

67 *Id.*

68 *Id.*

69 THE RECORDS OF THE FEDERAL CONVENTION OF 1787 651 (Max Farrand ed., vol. II, 1937).

70 *See* Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India).

71 TÜRKIYE CUMHURIYETI ANAYASASI [CONSTITUTION] Apr. 16, 2017, art. 176 (Turk.).

72 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 16, 1996, pmbl., ¶ 1. It states, "We, the people of Cameroon, Proud of our linguistic and cultural diversity, an enriching feature of our national identity, but profoundly aware of the imperative need to further consolidate our unity, solemnly declare that we constitute one and the same Nation bound by the same destiny, and assert our firm determination to build the Cameroonian Fatherland on the basis of the ideals of fraternity, justice and progress . . . ." *Id.*

73 *Id*. ¶¶ 4–30.

Parliament[74] are now entrenched within the judicial landscape of Cameroon. Most of the categories of environmental provisions applicable in Cameroon are impliedly incorporated through the hierarchy and application of international environmental agreements. Apart from statutes, Cameroon has both civil law and common law mixed systems.[75] Unlike the civil law system applied in the French section of Cameroon, the common law system applied within the English regions permits the doctrine of binding precedent, where judge-made law becomes binding on lower courts or courts of the same standing.[76] However, there is much to be demonstrated if Cameroon courts will resort to law-making through interpretation and enforcement of constitutional environmental provisions.[77] This is probably because of a dearth of judge-made law in Cameroon.[78] Moreover, the Civil Law system in Cameroon requires a judge to rely on codes which are syllogized to the facts at hand. This is far from a creative interpretation of the law, because the judge can only become a "faithful agent of the statutory law."[79] It could also be because the entire judiciary is enormously conservative and the notion of judicial review of the actions of the administration is unusual.[80] Constitutional environmental rights within the 1996 Cameroon Constitution are identified and listed as the government's environmental duties,

74 *Id.* § 8(5).

75 For a classification of legal systems, see *JuriGlobe*, *supra* note 35.

76 From independence to today, the English common law, the doctrines of equity and statutes of general application which were in force in England on January 1, 1900, are applied in Cameroon. This was made possible by Section 11 of the Southern Cameroon's High Court Law of 1958.

77 Terence Onang Egute, Modern Law and Local Tradition in Forest Heritage Conservation in Cameroon: The Case of Korup 1, 58 (Nov. 26, 2012) (unpublished Ph.D. dissertation, Brandenburg University of Technology Cottbus–Senftenberg, Germany), https://opus4.kobv.de/opus4-btu/frontdoor/index/index/docId/2656 [hereinafter Egute].

78 It is not easy to find decided cases because there is no system for reporting these cases. A *Cameroon Common Law Report: Quarterly Law Report* was initiated in 1997, but there have been no subsequent editions to date. Reliance, however, could be made on the original documents, which are handwritten, though they are not always available to the general public.

79 *See generally* MITCHEL DE S.-O.-L'E. LASSER, JUDICIAL DELIBERATIONS: A COMPARATIVE ANALYSIS OF TRANSPARENCY AND LEGITIMACY 37 (2004).

80 The President of the Republic is accorded excessive powers to enact laws, CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 16, 1996, § 8(5), to legislate by way of ordinances for a limited period and for given purposes, *id.* § 28(1), and to guarantee the independence of the judiciary as well as to appoint judges, *id.* § 37(3). This is equally weakening the notion of the separation of powers.

substantive environmental rights, procedural environmental rights, individual rights, and diverse environmental provisions.

A. Government's Environmental Duties

The duty of the government to protect the right to a healthy environment is expressed only in the third line of Paragraph 25 of the Preamble to the 1996 Cameroon Constitution.[81] It provides that "The State shall ensure the protection and improvement of the environment." Besides the 1996 Cameroon Constitution, the government's environmental duties that reference the right to a healthy environment—incorporated through international treaties—can be identified in the following treaties to which Cameroon is a State Party: Protocol Additional to the Geneva Conventions of 12 August 1949;[82] International Covenant on Economic, Social and Cultural Rights;[83] Montreal Protocol on Substances that Deplete the Ozone Layer;[84] Convention on Biological Diversity;[85] United Nations Framework Convention on Climate Change;[86] and the Convention on Persistent Organic Pollutants.[87]

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81 *Id*. at pmbl., ¶ 25.

82 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 3 (entered into force Dec. 7, 1978). Under Article 55, protection of the natural environment includes "prohibition of the use of methods or means of warfare . . . expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population . . . ." Cameroon acceded to this Protocol on Mar. 16, 1984.

83 International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR]. *See* art. 12, § 2(b). Cameroon acceded to this Covenant on June 27, 1984.

84 Montreal Protocol on Substances that Deplete the Ozone Layer, Sept. 16, 1987, 1522 U.N.T.S. 3 (entered into force Jan. 1, 1989) [hereinafter Montreal Protocol]. Cameroon ratified the Montreal Protocol on Aug. 30, 1989.

85 Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79 (entered into force Dec. 29, 1993) [hereinafter Convention on Biological Diversity]. See article 8(g) on regulation and management of modified biotechnology organisms and their associated risks to human health. Cameroon ratified the Convention on Biological Diversity on Jan. 17, 1995.

86 United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107 [hereinafter UNFCCC]. See article 4 § 1(f) regarding effective environmental legislation [*found in the Preamble*] and consideration of environmental impact assessments within government policies and actions, with a view to minimizing adverse effects on public health and quality of the environment. Cameroon acceded to the UNFCCC on Jan. 17, 1995.

87 Stockholm Convention on Persistent Organic Pollutants, May 22, 2001, 2256 U.N.T.S. 119. Cameroon acceded to this Convention on Aug. 17, 2009.

Laws enacted at the national level include Law No. 94/01 of January 20, 1994, to lay down Forestry, Wildlife and Fishery Regulations. Section 16(2) specifies that "the initiation of any development project that is likely to perturb a forest or aquatic environment shall be subject to a prior study of the environmental hazard."[88] In addition, Law No. 96/12 of August 5, 1996, Relating to Environmental Management (the 1996 Law on the Environment) and its decree, No. 2004/0577/PM of February 23, 2004, lay down the conditions for carrying out Environmental Impact Assessments (EIA). Section 17 of the 1996 Law on the Environment makes EIA mandatory for any project "which may, through its dimension, nature or impact, endanger the physical environment or quality of life of the population."[89] Also, Decree No 2013/0171/PM of February 14, 2013, lays down rules for conducting environmental and social impact studies.

B. Substantive Environmental Rights

Substantive environment rights are contained only in the first line of paragraph 25 of the Preamble to the 1996 Cameroon Constitution. It provides that "every person shall have a right to a healthy environment."[90] With regard to treaty provisions duly incorporated by Article 45 of the 1996 Cameroon Constitution,[91] Article 24 of the Banjul Charter provides that "all peoples shall have the right to a general satisfactory environment favourable to their development."[92] Yet, what this means exactly is unclear since the Banjul Charter itself fails to explicitly describe the terms "environment" and "satisfactory"—opening a floodgate of wider and sometimes narrower interpretations contesting the very existence of this right.[93] Moreover, the fact that a satisfactory environment within Article 24 of the Banjul Charter is connected to the idea of development risks the negativity that may be associated with balancing the right to a healthy environment

88 Law No. 94/01 of 20 January 1994 to lay down Forestry, Wildlife and Fishery Regulations, § 16 (2).

89 Law No. 96/12 of 5 August 1996 Framework Law on Environmental Management § 17 (author translated) [hereinafter Law on the Environment].

90 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 16, 1996, pmbl., ¶ 25.

91 *Id.* § 45 (providing that "duly approved or ratified treaties and international agreements shall, following the publication, override national laws, provided the other party implements the said treaty or agreement.")

92 Banjul Charter, *supra* note 17, at art. 24.

93 M. Anderson, *Human Rights Approaches to Environmental Protection: An Overview*, *in* HUMAN RIGHTS APPROACHES TO ENVIRONMENTAL PROTECTION 15 (A. Boyle & M. Anderson eds., 1996).

with the right to development. This is almost certainly due to the existence of a contentious relationship, often described as a "causative and corrective"[94] relationship, connecting the environment and development. For example, environmental problems may culminate from development-related activities, while development-related actions may be used to address environmental problems.[95] Despite this ambiguity, inserting the right to a satisfactory environment in Article 24 of the Banjul Charter indicates how *justiciable* this right is and the African Commission on Human and Peoples' Rights (the African Commission) has decided in favor of this.[96] However, the justiciability of this right was considered only in association with other rights protected under the Banjul Charter.[97]

C. Procedural Environmental Rights

Procedural environmental rights involve the application of a broad range of participatory rights as provided for by the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention).[98] Although emphasis here is placed on procedural environmental rights, material environmental rights are also extremely important. With the implementation of the Aarhus Convention, citizens and nongovernment organizations (NGOs) were given the procedural rights of public participation[99] and access to both environmental information[100] and justice[101] in environmental matters. This permitted citizens, and above all NGOs, effective participation in a plethora of decision-making processes that had the likelihood of violating

94 T. MALUWA, INTERNATIONAL LAW IN POST-COLONIAL AFRICA 332 (Kluwer Law 1999).

95 *Id.* at 307–28.

96 Afr. Comm'n on Human & Peoples' Rights, *Social and Economic Rights Action Center and Center for Economic and Social Rights*/*Nigeria*, Communication No. 155/96. ¶¶ 13–27 (2001) [hereinafter Afr. Comm'n on Human & Peoples' Rights].

97 *See* Banjul Charter, *supra* note 17, at arts. 2, 4, 14, 16, § 1.

98 United Nations Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matter, Jun. 25, 1998, 2161 U.N.T.S. 447.

99 *Id.* at arts. 6–8.

100 *Id.* at arts. 4–5.

101 *Id.* at art. 9.

environmental human rights.[102] The Aarhus Convention is, however, within the framework of the United Nations Economic Commission for Europe.[103] Consequently, Cameroon is not a State Party to the Aarhus Convention.[104] Besides treaties, procedural environmental rights are equally articulated in important soft law instruments. For example, Principle 10 of the "Rio Declaration on Environment and Development"[105] (the Rio Declaration), adopted by 178 nations at Rio de Janeiro in 1992, lays general emphases on public access to information, participation in decision-making, as well as access to justice, and recommended these as indispensable principles related to environmental governance.

1. Access to Environmental Information

The 1996 Cameroon Constitution has no provision for access to environmental information. However, the supremacy of international treaties provides for the incorporation of significant international human rights provisions related to access to environmental information.[106] General international treaties related to access to information applicable to Cameroon include the International Covenant on Civil and Political Rights[107] and the African Charter on

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102 *See* Aarhus Convention art. 2 § 5 (providing that "'the public concerned' means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest."); *see also id.* at art. 10, § 5 (permitting non-governmental organizations the right to participate as an observer at a meeting of the parties unless there is an objection from at least one third of the parties present in the meeting).

103 *See* U.N. Econ. Comm'n for Eur., Report of the Third Meeting of the Parties: Decision III/8 on Strategic Plan 2009–2014, Annex ¶ 6, U.N. Doc.ECE/MP.PP/2008/2/Add.16 (Sept. 26, 2008), Annex ¶ 7 (b); *see id.* at art. 19, § 2 (stating that a non-UNECE country, though a "member of the United Nations may accede to the Convention [*only*] upon approval by the Meeting of the Parties.") (emphasis added).

104 United Nations Treaty Collection, *Status of Treaties*, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-13&chapter=27&lang=en (last visited Mar. 21, 2019).

105 U.N. Conference on Environment and Development, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26/Rev.1 (Vol. I), annex I (Aug. 12, 1992).

106 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan.18, 1996, art. 45.

107 International Covenant on Civil and Political Rights, art. 19, § 2, June 27, 1984, 999 U.N.T.S. 171 (stating that "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.") [hereinafter International Covenant on Civil and Political Rights].

Human and Peoples' Rights.[108] Relevant to information on environmental matters, Article 24 of the Banjul Charter has been extensively interpreted by the African Commission to include the duty of the country to observe the threatened environment. This involves environmental and social impact studies, as well as a provision giving information to populations exposed to hazardous substances and activities.[109] Access to information on environmental matters is specifically provided for by the 2003 Convention. The 2003 Convention provides that the State's parties shall "adopt legislative and regulatory measures necessary to ensure timely and appropriate . . . dissemination of environmental information [and] access of the public to environmental information."[110] Reference should also be made to the Convention on Biological Diversity[111] and its Cartagena Protocol.[112]

Access to information, often through EIA, is also provided for by national laws through Section 17 of the 1996 Law on the Environment and Decree No. 2013/0171/PM of February 14, 2013, which sets regulations for conducting environmental and social impact studies. For example, Section 17 of the 1996 Law on the Environment makes EIA compulsory for a project that may through its dimension, nature, or impact, endanger the physical environment or quality of life of the population. In addition, Decree No. 2013/0171/PM prescribes stakeholder consultation as well as public hearings on development projects with possible impacts on the environment.

2. Public Participation in Decision-Making

The 1996 Cameroon Constitution does not make specific provisions for public participation in decision-making.[113] It barely offers a general democratic approach. It provides that "[t]he authorities responsible for the management of the State shall derive their powers from the people

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108 *See* Afr. Comm'n on Human & Peoples' Rights, *supra* note 96.

109 *Id.*

110 2003 Convention, *supra* note 19, at art. 16, § 1(a)–(b).

111 Convention on Biological Diversity, *supra* note 85, at art. 13–14 (introducing appropriate environmental impact assessment procedures and inclusion of public participation in such procedures of projects with significant adverse effects on biological diversity).

112 Cartagena Protocol on Biosafety to the Convention on Biological Diversity, art. 23, Jan. 29, 2000, 2226 U.N.T.S. 208 [hereinafter Cartagena Protocol].

113 *See* CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan.18, 1996, art. 2, § 2.

through election by direct or indirect universal suffrage, unless otherwise provided for in this Constitution."[114]

With regard to international treaties to which Cameroon is a party, the following provide for the right of the public to participate in decision-making: International Covenant on Civil and Political Rights;[115] Convention on Biological Diversity[116] and its Cartagena Protocol;[117] United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;[118] Stockholm Convention on Persistent Organic Pollutants; and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.[119] Public participation in decision-making on environmental matters is specifically provided for by the 2003 Convention. It provides that States parties shall "adopt legislative and regulatory measures necessary to ensure timely and appropriate . . . participation of the public in decision-making with a potentially significant environmental impact."[120] Consequently, Decree No. 2013/0171/PM of February 14, 2013, ensures public participation in health and environmental matters by setting regulations for conducting environmental and social impact studies, which inter alia, prescribes stakeholder consultation and public hearing on development projects with potential impacts on the environment. Equally, Section 17 of the 1996 Law on the Environment is a legislative measure necessary to ensure that the public timely and appropriately participates in the EIA process. The public can also participate in decision-making through representation from non-governmental organizations.[121]

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114 *Id.*

115 *See* International Covenant on Civil and Political Rights, *supra* note 107, at art. 25.

116 *See* Convention on Biological Diversity, *supra* note 85, at art. 14, § a.

117 *See* Cartagena Protocol, *supra* note 112, at art. 23.

118 United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, art. 19, Oct. 14, 1994, 1954 U.N.T.S. 3 (ratifying this convention on May 29, 1997, by Cameroon).

119 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, art. 14, § 1(b), Sept. 10, 1998, 2244 U.N.T.S. 337 (entered into force Feb. 24, 2004) (Cameroon acceded to this convention on Feb. 24, 2004).

120 2003 Convention, *supra* note 19, art. 16, § 1(c).

121 Law on the Environment, *supra* note 89, at art. 8, § 2.

3. Access to Justice

The 1996 Cameroon Constitution makes a general democratic approach for access to justice only in its preamble. The preamble provides that "[t]he law shall ensure the right of every person to a fair hearing before the courts[.]"[122] Reliance should be made, however, on "[d]uly approved or ratified treaties and international agreements"[123] by virtue of the 1996 Cameroon Constitution. The hierarchy of treaties also gives right-holders access to international review procedures.[124] Generally, Article 7 of the Banjul Charter guarantees the right of each individual to have his cause heard by competent national organs. Access to justice on environmental matters is specifically provided for by the 2003 Convention. It provides that the parties shall "adopt legislative and regulatory measures necessary to ensure timely and appropriate . . . (d) access to justice in matters related to protection of environment and natural resources."[125] This has been applied at the national level through Section 8(2) of the 1996 Law on the Environment. This law gives associations and grassroots communities supporting environmental protection the *locus standi* to represent plaintiffs regarding breach of environmental rights, thereby empowering citizens to access justice.[126] Section 17 of the 1996 Law Relating to Environmental Management, inter alia, permits citizens to be represented in environmental advisory bodies and consultation mechanisms within an EIA process.[127] Citizens are also able to access the courts by virtue of Article 11 of Decree No. 2005/0577/PM of February 23, 2005, in situations where they reasonably believe a development project may destroy the environment. In such cases, an EIA involving public participation through consultations and public hearings becomes mandatory.[128] These should be commended as forms of good environmental governance that reflect the EIA objectives of

122 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, pmbl.

123 *Id.* at art. 45.

124 *Id.* at art. 47, § 2.

125 2003 Convention, *supra* note 19, at art. 16, § 1(d).

126 Law on the Environment, *supra* note 89, art. 8, § 2.

127 Egute, *supra* note 77, at 57.

128 *See generally* N°2005/0577/PM (2005), https://www.business-humanrights.org/sites/default/files/media/ndian-cameroon-court-ruling-27-feb-2012.pdf.

international agreements such as Principle 17 of the Rio Declaration and the Convention on Biological Diversity.[129]

D. Individual and Diverse Environmental Provisions

Individual environmental duty regarding the right to a healthy environment is enshrined only in the second line of Paragraph 21 of the Preamble to the 1996 Cameroon Constitution. It provides that "[t]he protection of the environment shall be the duty of every citizen."[130] This duty applies to all persons, legal and natural, and includes the duty of every person to protect the environment from man-made damage.[131]

Diverse environmental provisions relate to all-inclusive environmental provisions.[132] These include general constitutional provisions related to significant proclamations about the importance of protecting the environment, restraint on the use of private property with the aim of protecting the environment, and identification of the right to hygiene and clean water. [133] The 1996 Cameroon Constitution provides for freedom of ownership, enjoyment, and dispossession of property.[134] However, the 1996 Cameroon Constitution restricts this right of ownership if it is exercised in violation of public interest.[135] The 1996 Cameroon Constitution does not provide a definition of "public interest," but it generally indicates a broad spectrum of considerations, of which environmental concerns area part. Perhaps property rights are lightly included in the 1996 Cameroon Constitution because they are governed by other laws and regulations in force.[136]

E. Transposition and Application of Treaties in Cameroon

The transposition of international treaties is made applicable in Cameroon by virtue of the Preamble to the 1996 Cameroon Constitution, which makes reference to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of United Nations, and the African Charter on Human and Peoples'

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129 Convention on Biological Diversity, art. 14, § 1(a), June 5, 1992, 1760 U.N.T.S. 79.

130 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, pmbl.

131 *See id.* (stating "all persons shall have equal rights and obligations").

132 *See generally* R. Wolfrum and R. Grote (eds.), G.H. Flanz (ed. emeritus), *Constitutions of the Countries of the World* (Oceana Law 2014).

133 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, pmbl.

134 *Id.*

135 *Id.*

136 *See generally* Fixing the Land Tenure, N°74-1 (1974) (governing land law and property rights in Cameroon to establish rules governing land tenure).

Rights.[137] The President of the Republic negotiates and ratifies treaties and international agreements[138] that are subject to review from the Constitutional Council.[139] Bills for ratification are also proposed by Parliament if they fall within the designated legislative competence.[140] Once ratified, "[d]uly approved or ratified treaties and international agreements shall, following their publication, override national laws, provided the other party implements the said treaty or agreement."[141] In Cameroon, laws are published in the Official Gazette of the Republic in English and French,[142] which are the two official languages of Cameroon,[143] and deposited at the regional delegation of the National Archives.

In an age of burgeoning environmental constitutionalism, one would have expected the wide adoption of environmental rights-related treaties by Cameroon to signify an expressive thrust towards protecting the human right to a healthy environment through the Constitution. An illustration of a thick constitution in Africa would be the 1996 Constitution of the Republic of South Africa, representing a move into constitutional democracy from a previously oppressive regime.[144] This is a scenario regularly depicted "as a symbolic marker of a great transition in the political life of a nation."[145] But comparing the 1996 Cameroon Constitution with the Constitution of South Africa will be an excessively assertive endeavor, given the degree of value-driven premium that both exert on democratic processes within these respective countries. It is worth mentioning that other national constitutions, without observable constitutional influence on environmental rights, sometimes integrate basic procedural rights connecting extensive issues incorporating environmental rights.[146] For example, the creation of the office of an ombudsman with specific authority to investigate violations of environmental rights is provided

137 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan 18, 1996, pmbl.

138 *Id.* at art. 43.

139 *Id.* at art. 44, 47.

140 *Id.* at art. 26.

141 *Id.* at art. 45.

142 CONSTITUTION OF THE REPUBLIC OF CAMEROON June 2, 1972, art. 31, § 3.

143 *Id.* at art. 1, § 3.

144 Bruce Ackerman, *The Rise of World Constitutionalism*, 83 VA. L. REV. 771, 783 (1997).

145 *Id.* at 778.

146 THE CONSTITUTION OF THE REPUBLIC OF NAMIBIA Feb. 9, 1990, art. 91.

for in the Constitution of Namibia.[147] In Cameroon, there is the existence of the National Commission on Human Rights and Freedoms, though not provided for by the constitution.[148] But constitutionally articulating this will, by and large, reinforces its authority. Although treaties surpass national laws,[149] the insufficient and indefinable nature of a human right to a healthy environment within the 1996 Cameroon Constitution is an indication that the human right to a healthy environment currently receives permeable protection.

III
ENFORCEABILITY OF THE HUMAN RIGHT TO A HEALTHY ENVIRONMENT AND THE 1996 CONSTITUTION

Enforceability ensures accountability when the government does not work toward the realization of rights.[150] There is no provision in the 1996 Cameroon Constitution on enforceability of constitutional environmental rights. Nonetheless, it has been remarked that "even though most constitutions now contain provisions guaranteeing some set of social and economic rights, again it is rare that the particular way they are written in the text is the critical or determining factor in how cases are resolved."[151] Within national policies and through external collaboration with global environmental authorities, such as the United Nations Environment Programme and the International Union for Conservation of Nature, environmental protection is attended to in order to improve Cameroon's environmental agenda and to promote coherent implementation of environmental principles within the United Nations system. The judiciary in Cameroon is equally equipped to interpret the law and resort to appropriate jurisprudence—both substantive and procedural law—as well as general principles of law enshrined in treaties and international agreements ratified by Cameroon.[152] It should be noted that even in the absence of treaties, the

147 *Id.*

148 The National Commission on Human Rights and Freedoms was created by L. No. 2004/016 of 22 July 2004, as a transformation of the National Committee on Human Rights and Freedoms (created by Decree No. 90/1459 of Nov. 8, 1990).

149 CONSTITUTION OF THE REPUBLIC OF CAMEROON June 2, 1972, art. 45.

150 *See generally* EDITH BROWN WEISS, IN FAIRNESS TO FUTURE GENERATIONS: INTERNATIONAL LAW, COMMON PATRIMONY, AND INTERGENERATIONAL EQUITY 50–58 (Transnational Publishers 1989).

151 DAVID M. BEATTY, THE ULTIMATE RULE OF LAW 137 (Oxford University Press 2004).

152 For extensive literature on the subject of judge-made law, see C. ALLEN, LAW IN THE MAKING 147 (Clarendon Press 1930).

right to a fair trial has always been an accepted right in Cameroon.[153] In the absence of enforceability provisions within the 1996 Cameroon Constitution, the government of Cameroon may escape its responsibility to protect the human right to a healthy environment. But the government should be commended for resorting to a plethora of environmental action plans and for its ability not to rely on conceptual constitutional conclusions regarding the enforceability of constitutional environmental provisions.

IV
CHALLENGES TO THE ENFORCEABILITY OF CONSTITUTIONAL ENVIRONMENTAL PROVISIONS

The preceding developments may be somewhat remarkable, but the crucial test of palpable evidence of environmental constitutionalism in Cameroon is whether it has contributed to enhanced protection of the human right to a healthy environment. There is still much to be desired with regard to linking constitutional environmental protection and actual performance. This is attributable to the following challenges: the existence of enforcement gaps, encumbered access to international enforcement mechanisms, preference for and leverage of soft law over hard law, concurrent application of hard law and soft law human rights standards, and internal limitation from the 1996 Cameroon Constitution.

A. Existence of Enforcement Gaps

The 2003 Convention entrusts national parties to allocate a national institution and, where appropriate, a coordinating machinery to take care of every subject under the Convention,[154] along with focal points to provide information relating to subject matters under the Convention.[155] The 2003 Convention tackles various environment and development issues within the jurisdiction of several government ministries. In Cameroon, this is done through the Interministerial Committee, which includes: Ministries of Environment; Nature Protection and Sustainable Development; Forestry and Wildlife; Economy, Planning and Regional Development; Water Resources and

153 *SOCAR v. Ets Ngowoue* (1977) S.C. No. 23/CC (Cameroon).

154 2003 Convention, *supra* note 19, at art. 21.

155 *Id.* at art. 29, § 2(c).

Energy; Industry, Mines and Technological Development; Public Works; and Public Health, and Territorial Administration and Decentralisation.[156] To integrate environmental actions into their various plans and budgets and to compel the various action plans within these ministries to conform to each other may prove onerously bureaucratic. This may lead to overlapping and ineffectual responsibilities and may ultimately ward off potential partners regarding capacity building, as well as the provision of technological and financial resources. The focal points allocated by national parties are the major determinants of what is included in national reports to the Conference of Parties.[157] Moreover, the final national reports are concluded by authorities of the concerned government ministries that make up the focal points.[158] The reports may therefore be unreliable since they are unable to undergo public scrutiny.[159]

B. Encumbered Access to International Enforceability Mechanisms

Access to justice at the level of international review procedures, like the United Nations mechanisms, may be costly for individuals whose rights have been violated at the municipal level.[160] This situation is similar at the African Commission, which though a quasi-judicial organ, is ready to receive communications from national parties, individuals, and NGOs who may act on behalf of affected communities. It should be born in mind that Article 55(1) of the Banjul Charter, relating to communications from national parties, has been interpreted as equally including communications from non-parties.[161] At the level of the African Commission, decisions are likely fraught by the non-

156 Decree No. 2001/718/PM of Sept. 3, 2001 (creating the Interministerial Committee for the Environment).

157 INT'L UNION FOR CONSERVATION OF NATURE & NAT. RES., AN INTRODUCTION TO THE AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES 21 (Lalaina Ravelomanantsoa, trans., 2nd ed. 2006).

158 *Id.*

159 *See id.*

160 Costs include attorney fees, cost of traveling or appearance at the court, and cost sustained from time wastage or loss of economic activity while traveling abroad. *See generally* Phillip I. Blumberg, *Asserting Human Rights Against Multinational Corporations Under United States Law: Conceptual and Procedural Problems*, 50 AM. J. COMP. L. 493, 506 (2002).

161 *See* Chidi Anselm Odinkalu & Camilla Christensen, *The African Commission on Human and Peoples' Rights: The Development of Its Non-State Communication Procedures*, 20 HUM. RTS. Q. 235, 238 (1998).

binding nature of decisions by the Commission itself.[162] There is, therefore, an improbability of the likelihood of any form of remedy as well as the lack of any regular action on the Commission's decisions.[163] This unquestionably corroborates assertion that "[a]ctors often resort to soft law in the absence of well-defined institutions and precedents, or because of the sheer complexity of the issues."[164] Complaints relating to compensation for loss of livelihoods sustained by ecosystem resources, community health and safety, waste management, and impacts on indigenous communities along the Chad-Cameroon Pipeline Project substantiate complex scenarios where citizens have resorted to the World Bank's Compliance Advisor Ombudsman (CAO) for remedy.[165]

C. Preference For and Leverage of Soft Law over Hard Law

The emergence of *real-politiking*, the actual needs of international life, and the demands of reality have indicated that international legal subjectivity may no more be an exclusive reserve for countries.[166] This is particularly relevant to the area of corporate social responsibility with regard to corporations and International Financial Institutions (IFIs).[167] Corporations and IFIs have realized the need to offer a framework where environmental and social concerns within their area of operation can be addressed. The result has been the creation of soft law mechanisms, notably the World Bank's CAO.[168] In most cases

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162 Frans Viljoen & Lirette Louw, *State Compliance with the Recommendations of the African Commission on Human and Peoples' Rights, 1994-2004*, 101 AM. J. INT'L L. 1, 2 (2007).

163 *Id.* at 7.

164 Raimo Väyrynen, *Sovereignty, Globalization and Transnational Social Movements*, 1 INT'L REL. ASIA-PAC. 227, 234 (2001).

165 *Cameroon/Chad-Cameroon Pipeline-02/Cameroon*, THE OFFICE OF THE COMPLIANCE ADVISOR (Dec. 7, 2018), http://www.cao-ombudsman.org/cases/case_detail.aspx?id=168.

166 *See generally* Reparation for Injuries Suffered in the Service of the U.N., Advisory Opinion, 1949 I.C.J. 174 (Apr. 11, 1949).

167 *Id.*

168 Established in 1999, the Compliance Advisor Ombudsman supports the International Finance Corporation and Multilateral Investment Guarantee Agency, both private sector arms of the World Bank. It specifically investigates complaints from project-affected communities. Its objective is to improve social and environmental performances within projects sponsored by the World Bank. COMPLIANCE ADVISOR OMBUDSMAN, http://www.cao-ombudsman.org (last visited Mar. 23, 2019).

related to the CAO, the sheer complexity in accessing international enforceability mechanisms, and most importantly, the fact that the Operational Policies of the World Bank are tailored to evaluate the environmental and social aspects of the World Bank's sponsored projects, have persuaded actors to prefer soft law.[169] This is one of the main reasons why the CAO has entertained complaints regarding community health and safety, waste management, loss of livelihoods sustained by ecosystem resources, and impacts on indigenous communities alongside the Chad-Cameroon Pipeline Project.[170] The CAO is an archetype of soft law mechanism in the protection of human rights, and, especially, environmental rights. The World Bank's operational standards involving EIA, considered as a pillar policy, call for a reassessment of all aspects that touch the environment, such as air, water, and land,[171] within its development projects. At the level of the CAO, the right to a healthy environment is actionable only as a collective right,[172] whereas the right is a substantive individual right within the 1996 Cameroon Constitution. Moreover, the legal, political, and economic reach of the World Bank is at serious variance to most domestic jurisdictions and regulatory regimes.[173] It becomes extremely difficult for the World Bank to become a regulatory target, such as compelling the World Bank to honor its undertakings, when poor countries resort to the World Bank to develop their natural resources.[174] Moreover, unilateral or multilateral regulation by a nation or group of nations of the conduct of the World Bank may deter its investment and

169 *See generally* S. Salbu, *True Codes Versus Voluntary Codes of Ethics in International Markets: Towards the Preservation of Colloquy in Emerging Global Communities*, 15 U. PA. J. INT'L BUS. L. 327 (1994).

170 *See Cameroon/Chad-Cameroon Pipeline-02/Cameroon*, *supra* note 165.

171 World Bank, *OP 4.01 - Environmental Assessment*, WORLD BANK POLICIES & PROCEDURES (revised Apr. 2013), https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b0822f7384.pdf.

172 *See* B. Okinna Okere, *The Protection of Human Rights in Africa and the African Charter on Human and Peoples' Rights: A Comparative Analysis with the European and American Systems*, 6 HUM. RTS. Q. 148 (1984).

173 In addition to being the main developmental institution in the world, the World Bank Group, through the International Development Association, has been able to singularly pull more resources than the United Nations system as a whole. *See* HELGE OLE BERGESEN & LEIV LUNDE, DINOSAURS OR DYNAMOS?: THE UNITED NATIONS AND THE WORLD BANK AT THE TURN OF THE CENTURY 161–62, 198, 213 (1999).

174 For an analysis on the leverage of the World Bank on borrowing countries, see Jonathan Cahn, *Challenging the New Imperial Authority: The World Bank and the Democratization of Development*, 6 HARV. HUM. RTS. J. 159 (1993). *See also* Biplab Dasgupta, *Structural Adjustment, Global Trade, and the New Political Economy of Development*, 3 SCI. TECH. & SOC. 399 (1998).

can place a country's development potentials in jeopardy.[175] As a result, such wielding influence of soft law standards of the World Bank over the authority of democratically elected governments may mean people largely affected by the World Bank's policies will never benefit fully from the enjoyment of their environmental rights.

D. Concurrent Application of Hard Law and Soft Law Human Rights Standards

Cameroon greatly depends on loans from the World Bank to realize its development projects.[176] Consequently, Cameroon extensively relies on environmental compliance conditions within the World Bank Operational Manual.[177] However, the policies and monitoring mechanisms of the World Bank are not openly connected to the international system of human rights protection.[178] Within environmentally sensitive development projects, such as the World Bank-sponsored Chad-Cameroon Pipeline Project and the Lom Pangar Hydropower Project in Cameroon,[179] the World Bank standards are applied. Equally, Cameroon absolutely complies with the provisions of international human rights standards within international treaties, to which Cameroon is a party. Yet both standards convey different interpretations. For example, Operational Directive 4.20 of the World Bank Operational Manual makes use of the terms "consultation" and "meaningful consultation" for consent to be achieved, while international standards talk of "free and informed consent," "effective, meaningful or informed participation," and "good faith

175 Dasgupta, *supra* note 174.

176 According to World Bank classification, Cameroon is currently among the 75 poorest countries eligible for concessional finance under the World Bank's International Development Association. For Cameroon's profile, see WORLD BANK, *Borrowing Countries*, INT'L DEV. ASS'N, http://ida.worldbank.org/about/borrowing-countries (last visited Mar. 23, 2019).

177 *See generally* WORLD BANK, *OP 4.00 - Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects* (Mar. 2005), http://siteresources.worldbank.org/OPSMANUAL/Resources/OP4.00andTableA1.pdf (documents for borrowers).

178 *See* Fergus Mackay, *Universal Rights or a Universe unto Itself? Indigenous Peoples' Human Rights and the World Bank's Draft Operational Policy 4.10 on Indigenous Peoples*, 17 AM. U. INT'L L. REV. 527, 608–09 (2002).

179 *See* WORLD BANK, *Projects & Operations: CM - Lom Pangar Hydropower Proj. (FY12)*, http://projects.worldbank.org/P114077/cm-lom-pangar-hydropower-proj-fy12?lang=en (last visited Feb. 18, 2019).

consultation."[180] Soft law standards may have normative values, yet they are highly contested to be applied parallel to hard law standards because of their level of formation and application.[181] When economic or developmental considerations governed by soft-law principles are weighed in favor of important constitutional and international environmental law provisions, there is an apparent conclusion that constitutional environmental rights are either excessively too vague to be realized or too trivial to deserve the protection accessible within hard law mechanisms.[182]

E. Internal Limitation from the 1996 Cameroon Constitution

The enforceability of constitutional environmental rights is implicitly limited by the 1996 Cameroon Constitution itself.[183] Excessive judicial activism afforded to the President of the Republic to enact laws,[184] to make laws—though in limited cases and for given purposes[185]—and to guarantee the independence of the judiciary[186] is weakening democracy by reallocating statutes and judge-made-law from legislators and judges to politicians. The assertion of the existence of an independent judiciary and the separation of powers is convincing in theory, although inconclusive of practical evidence of a strong democracy in Cameroon.[187] It remains an oddity of the judiciary to decide on the basis of fairness with regard to judicial review of government actions.[188] Excessive judicial activism afforded to the

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180 Mackay, *supra* note 178.

181 *See, e.g.*, Pierre-Marie Dupuy, *Soft Law and the International Law of the Environment*, 12 MICH. J. INT'L L. 420 (1991); C. M. Chinkin, *The Challenge of Soft Law: Development and Change in International Law*, 38 INT'L & COMP. L.Q. 850, 866 (1989); Prosper Weil, *Towards Relative Normativity in International Law?*, 77 AM. J. INT'L L. 413, 441 (1983); Oscar Schachter, *The Twilight Existence of Non-Binding International Agreements*, 71 AM. J. INT'L L. 296, 304 (1977).

182 This happens when Cameroon consents to the use of Operational Directive 4.20 of the World Bank Operational Manual such as validating consent as well as conferring legal status on indigenous peoples, which do not comply with international human rights norms, with regard to extensive development projects such as the Chad-Cameroon Pipeline Project. For substandard requirements validating consent, see Mackay, *supra* note 178.

183 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, at art. 8, § 5, art. 28, § 1, art. 37, § 3.

184 *Id.* at art. 8, § 5.

185 *Id.* at art. 28, § 1.

186 *Id.* at art. 37, § 3.

187 *See generally* C. M. Fombad, *Some Perspectives on the Prospects for Judicial Independence in Post-1990 African Constitutions*, 16 DENNING L.J. 17, 22 (2001).

188 *Id.*

President of the Republic to enact laws,[189] to make laws—though in limited cases and for given purposes[190]—and to guarantee the independence of the judiciary[191]is weakening democracy by reallocating statutes and judge-made-law from legislators and judges to politicians. The assertion of the existence of an independent judiciary and the separation of powers is convincing in theory, although inconclusive of practical evidence of a strong democracy in Cameroon.[192] It remains an oddity of the judiciary to decide on the basis of fairness with regard to judicial review of government actions.[193] Though lower courts are ever more willing to uphold the representative capacity of associations and grassroots communities,[194] the right to a healthy environment remains a constitutional right and the hope of its protection remains unsure before the Constitutional Court in Cameroon.[195] Activating the jurisdiction of the Constitutional Court is an explicit reserve of the President of the Republic, the President of the National Assembly, or by one-third of the members of the National Assembly.[196] There is little to be desired about decentralization in Cameroon, although Cameroon is described as a "decentralized unitary State."[197] Regional and local authorities are constitutionally empowered to exercise authority on issues of regional and local interests,[198] but this is a distant reality.[199]

The above challenges have given constitutional environmental rights minimal impact in Cameroon. If conceivable solutions are not considered, the constitutional right to a healthy environment and possibly other constitutionally protected rights would become

189 *See* CONSTITUTION OF THE REPUBLIC OF CAMEROON art. 8, § 5.

190 *Id.* at art. 28, § 1.

191 *Id.* at art. 37, § 3.

192 *See generally* C. M. Fombad, *Some Perspectives on the Prospects for Judicial Independence in Post-1990 African Constitutions*, 16 DENNING L.J. 17, 22 (2001–2003).

193 *Id.*

194 *See* Foundation for Environment (FEDEV) v. China Road & Bridge Corp., CFIB/004M/09 unreported (2009).

195 *See* Carl Bruch et al., *Constitutional Environmental Law: Giving Force to Fundamental Principles in Africa*, 26 COLUM. J. ENVTL. L. 131, 139 (2001).

196 CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, art. 18, § 3(b).

197 *Id.* art. 1, § 2.

198 *Id.* art. 55, § 2.

199 *See* Phil René Oyono, *One Step Forward, Two Steps Back? Paradoxes of Natural Resources Management Decentralisation in Cameroon*, 42 J. MOD. AFR. STUD. 91, 92–93 (2004).

worthless expressions because of their intrinsically weakened legal status.

V
RECOMMENDATIONS

How does the government of Cameroon confront the challenge of affording enhanced protection to constitutional environmental rights to a healthy environment? It is hoped that the following recommendations will complement the significant aspirations undertaken by the country of Cameroon, despite the thin relationships connecting human rights and a healthy environment in the 1996 Cameroon Constitution.

A. Stronger Environmental Laws

The starting point should be the 1996 Cameroon Constitution. The right to a healthy environment should be given added value directly from the 1996 Cameroon Constitution. Clear and precise rights, and especially procedural rights, will mean constitutional environmental rights will gain unencumbered access and protection.[200] Substantive inclusion of these rights in the constitution will avert any probable weakening of laws, increase enforcement, and increase implementation.[201] The Cameroonian legislators should be aware of what it means to enact ecologically proactive legislation. If the contents of the Preamble to the 1996 Cameroon Constitution contain those deep-seated prerequisites of all ensuing norms, they should at least be incorporated as substantive provisions in the constitution for clarity and reliability. Actions and interactions committed to protecting human rights and the environment are often hampered by situating their points of departure from the actions of the President of the Republic.[202] This top-down structure not only assumes an excessive overlook of duties by legislators but it equally creates a situation of nonfeasance (on the part of the legislative) and misfeasance (on the part of the executive).[203] Legislators should absolutely appropriate to themselves the right to

200 WEISS, *supra* note 150, at 44–45.

201 *Id.*

202 *See* Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, 1949 I.C.J. 17 (Apr. 11, 1946).

203 *See* Decree N°2012/344 of 16 July 2012 on the ratification of the Treaty relating to the revision of the Treaty on the Harmonization of Business law in Africa (OHADA) (art. 1), signed in Quebec, Canada, on October 17, 2008 (where, for example, the President of the Republic ratified the OHADA treaty without going through parliament, and this process is unquestionably accepted by parliament).

legislate in critical cases concerning fundamental rights, guarantees, and obligations of citizens within the scope of their legislative capabilities.[204] These are very critical assignments to be left for consideration and resolution with the executive.[205] Moreover, the independence of the judiciary should not be guaranteed by the President of the Republic and judicial authorities should be allowed to review the acts of government executives without restraint. A judge should be guided by the law and his conscience. It is hard to visualize these ideas, given the political strata of Cameroon and the thin nature of its constitution. Ecological thinking by the legislators should involve more of visualization and enactment of laws that accommodate environmental rights and give equal value to every right, along with creating conditions for their realization. If the 1996 Cameroon Constitution cannot represent environmental rights in a detailed manner, at least these rights should be enclosed within other constitutional rights. Practical decentralization should be implemented whereby regional and local authorities should be given complete authority to exercise some of their constitutional authority on issues of regional and local interests,[206] such as monitoring pollution at the regional or local level. A qualification for appropriate engagement within a delicate topic, such as human rights and the environment within national constitutions, is a bottom-up critical engagement where various actors are openly and genuinely permitted to unite around common interests. It is only within such interactions and interconnectedness that the practices and experiences of the various actors can embody the spirit of the law and can expressly or tacitly define and protect the environment within a wider sociopolitical context offered by the 1996 Cameroon Constitution.

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204 *See generally* CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, art. 26, § 2(a) (providing, inter alia, that the following shall be reserved to the legislative power: 1(a) "[t]he fundamental rights, guarantees and obligations of the citizen" and 6(d)(5) "natural resources").

205 *See* CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, art. 28, § 1 ("However, with regard to the subjects listed in Article 26 (2) above, Parliament may empower the President of the Republic to legislate by way of ordinances for a limited period and for given purposes.").

206 *See* CONSTITUTION OF THE REPUBLIC OF CAMEROON Jan. 18, 1996, art. 55, § 2.

B. Establishing a Level Playing Ground

Although the right to a healthy environment and the right to development are often classified as third generation rights, all human rights are indivisible and interdependent.[207] Third generation rights are often protected only through the lenses of first and second generation rights, which themselves are not clearly protected within the 1996 Cameroon Constitution.[208] The government and its partners in development, most importantly the World Bank, should steer clear of giving preference to soft law over hard law standards in balancing the right to development and other categories of human rights above environmental rights. Soft law standards, and in particular those created by international organizations, are not bad in terms of content. Rather, the fragmentary and *ad hoc* manners in which they emerge entwine the discourse about how complex and fragmented international law can be.

It is not an easy endeavor to attempt an introduction of soft law into human rights discourse because, strictly speaking, soft law has customarily been the initiation of countries.[209] To hinge on to this analysis without looking at the potentials of soft law would mean any legal discussion about soft law in the context of human rights and the environment can only occur de lege ferenda.[210] Of course, the suppleness in applying soft law in every specific case within development projects often engages positive flexible conflict-solving processes, such as cooperation and dialogue, that may make informal arrangements easy, rather than reliance on strict application of international law principles, which may be unworkable.[211] Whatever their sources of origin, the nature of soft law engages issues that fall within the realm of public international law. Equally, it is unarguably more certain that an attempted unilateral or multilateral regulation of the performances of the World Bank by a nation or even group of

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207 *See generally* DANIEL J. WHELAN, INDIVISIBLE HUMAN RIGHTS: A HISTORY (Univ. of Pa. Press, 2011).

208 *Id.* (the concept of "Right" and its three generations).

209 Väyrynen, *supra* note 164.

210 *See* P. Weil, *Towards Relative Normativity in International Law?*, 77 AM. J. INT'L L. 413, 417–18 (1983).

211 Because of the transitional nature, they could permit dialogue, learning of lessons, and subsequent translation into legislation. This could create an *opinioiuris* regarding acceptable standard or behavior under international law. See, for instance, the relevance of the International Committee of the Red Cross toward the development of customary international law. *See, e.g.*, *26th International Conference 1995: Resolution 1*, INT'L COMMITTEE OF THE RED CROSS (Dec. 7, 1995), https://www.icrc.org/en/doc/resources/documents/resolution/26-international-conference-resolution-1-1995.htm.

nations can dissuade potential investments from the World Bank—without which development is impossible in some cases. However, within development projects and in addition to other technical assistance programs,[212] the World Bank is considered a pacesetter in environmental and social rights protection. Therefore, there should be an absolute necessity or compulsion to retreat from entering into agreements (soft laws) that are quick to respond to institutions, constructions, and positions that dictate human rights and environmental considerations. Both the World Bank and nations must eschew "*standard business practices*" and adopt critical approaches of integrating human rights and business within the same compartment. A proposition could be to "*judicialize*" the World Bank principles to complement the international system of human rights protection, especially where those principles have proven to be more practical than hard law mechanisms. This may be a blush at first sight, given the leverage of the World Bank over national authority. However, such a prospect will be a constructive development. Legality and effectiveness are not the same, but effectiveness can be used to foster legality.[213] Soft law agreements may only be concluded as a way of preparing the implementation of hard law or international human rights principles. If soft law mechanisms for access to justice arise out of necessity, they should at least extend their jurisdictional reach to the right to a healthy environment as a substantive individual right. Establishing a level playing field could signify a move toward creating a uniform platform for coordination between duty bearers and right-holders. Likewise, international human rights issues and the government's policies and actions will not be determined by the wielding influence of economic actors, like the World Bank.

C. Closure of Enforcement Gaps

It is the duty of the government to close any enforcement gap. In so doing, the government has to enact and implement policies to foster these rights within an enabling environment. Most, if not all, actions

212 Benedict Kingsbury, *Operational Policies of International Institutions as Part of the Law-Making Process: The World Bank and Indigenous Peoples*, *in* THE REALITY OF INTERNATIONAL LAW: ESSAYS IN HONOUR OF IAN BROWNLIE 323, 323 (Guy S. Goodwin-Gill & Stefan Talmon eds., 1999).

213 S. Piccioto, *Political Economy and International Law*, *in* PATHS TO INTERNATIONAL POLITICAL ECONOMY 175 (Susan Strange ed. 1984).

presently devoted to the performance of government environmental duties are originated and or coordinated at the level of the Interministerial Committee, which is simply a consultative structure.[214] This right could be better protected through a national institution, such as the office of an ombudsman. Courts in Cameroon may decide in favor of individuals and communities when rights are violated, but their independence is guaranteed by the executive. If the office of the ombudsman is created and given full responsibility to investigate against individual or collective claims of breaches of environmental rights without restraint, satisfactory results will mean accountability. There will equally be enhanced protection of environmental rights if these rights are not just inserted into laws but if their application is parallel to protection. This will also mean health and environmental rights of vulnerable communities, such as those along the Chad-Cameroon Pipeline Project and those of politically weak communities (like the pygmies who rely on ecosystem resources and the environment for survival), would be better protected.[215]

CONCLUSION

Cameroon cannot boast of a constitution in the thick sense, yet it recognizes the right to a healthy environment in the Preamble to its Constitution. If the 1996 Cameroon Constitution contains limited or no guarantees that the environment should be secured against perilous activities of the country, corporations, and private individuals, it is certainly because the idea of a human right to a healthy environment is relatively new in Cameroon. Quite a few national legislations exist in Cameroon to protect this right, but their implementation is unsatisfactory due to the presence of challenges. The right to a healthy environment has gained more recognition in a couple of international and regional treaties and other soft law agreements. These, however, represent desolate hope for communities who bear the brunt of a polluted biophysical environment because of encumbered access to justice and intertwined problems related to accessing international review mechanisms. If the government of Cameroon improves its

214 It is comprised of members of the various ministries concerned and its functions are limited to providing "reports and information" to the Conference of the Parties, through the secretariat. *See* 2003 Convention, *supra* note 19, art. 29.

215 See the Report of the Committee on Economic, Social and Cultural Rights for the Twentieth and Twenty-First Sessions, Consideration of Reports of States Parties: Cameroon, Apr. 26, 1999, through May 14, 1999, U.N. Doc. E/C.12/1999/11, ¶ 337 (Dec. 3, 1999).

environmental agenda for coherence with the principles of the United Nation's system, this will usher in stronger environmental laws. It will equally establish a level playing field for the equal recognition of all rights. The starting point is to expressly and inclusively guarantee the protection of the right to a healthy environment in the 1996 Cameroon Constitution.