

CAMEROON: WHEN A SIMPLE LAW (ELECTORAL CODE) TRAMPLES ON THE CONSTITUTION AND MURDERS DEMOCRACY

Introduction: When a Law Tramples on the Constitution and Murders Democracy

What a legal scandal! What an institutional tragedy! In a country that claims to be a republic, where the Constitution is supposed to be the supreme norm, how can we tolerate that a mere electoral law tramples on the very foundations of the rule of law? How can we accept that an ordinary text, adopted by a submissive parliamentary majority, stands above the sovereign will of the people, inscribed in black and white in the Constitution? What is happening in Cameroon is of extreme gravity. It is a silent tragedy that is suffocating democracy through administrative procedures, political lock-ins, and legal pretence.

Far from being a neutral tool for regulating the democratic process, Cameroon's Electoral Code has become an instrument of exclusion, power seizure, and marginalisation of alternative political forces. It denies pluralism, distorts electoral competition, and imposes unconstitutional conditions for accessing the highest office of the land. It is no longer just flawed: it is toxic. And as long as this law remains in its current form, no election can be deemed free, fair, or legitimate. It is time to sound the alarm. It is time to face this legal monstrosity. It is time to say enough.

1. Cameroon's Electoral Code: A Controversial Law

Adopted in 2012, the Cameroonian Electoral Code is the legal instrument governing the organisation and conduct of elections in Cameroon: presidential, legislative, municipal, senatorial, and regional. It sets the rules of the political game, determines who can run for office, how elections are organised, and under what conditions results are validated. In theory, this text should ensure fairness, transparency, and inclusivity in elections. Yet since its adoption, the Electoral Code has been at the heart of numerous criticisms. Several opposition parties, civil society organisations and international partners view it as a biased instrument tailor-made to benefit the ruling regime, to the detriment of true democracy.

It is essential to recall that the Electoral Code is not a supreme norm: it is an ordinary law adopted by Parliament, and therefore subordinate to the Constitution of Cameroon, which is the State's fundamental norm. Yet several provisions of this Code clearly contradict certain constitutional principles, particularly those relating to equality of citizens, political pluralism, and the prohibition of binding mandates. This contradiction between the Electoral Code and the Constitution fuels a deep debate on the legitimacy and legality of certain electoral practices. For over a decade, many voices—both in Cameroon and abroad—have been calling for a thorough revision of this outdated text, which in many respects is incompatible with the demands of a modern democracy.

2. When a Law Violates the Constitution

In any democracy founded on the rule of law, there exists a hierarchy of norms. This means that not all legal rules are equal: at the top stands the Constitution, which is the fundamental law of the State. All other norms—ordinary laws, decrees, orders, circulars—must conform to it. An ordinary law like the Electoral Code, even if passed by Parliament, can under no circumstances contradict the Constitution. When

a conflict arises between a law and the Constitution, the latter always prevails. In legal terms, the law is then considered unconstitutional, meaning it contravenes the Republic's fundamental principles and must be disregarded.

A fundamental principle of constitutional law is that any legislative provision contrary to the Constitution is deemed never to have existed. This is known as the retroactive effect of unconstitutionality. In other words, when a law violates the Constitution, it is legally null and void, even if it has not yet been formally repealed. This rule aims to protect the republican order and to prevent a lower-ranking text from destroying the balance of powers or excessively restricting fundamental freedoms. In the case of Cameroon, certain provisions of the Electoral Code—particularly those relating to the nomination of presidential candidates—appear to cross this red line. This will be demonstrated in the following section.

A Classic Example of Legal Norms: Kelsen's Pyramid (Adapted to the Case of Cameroon):

- **Constitution**
→ Supreme norm. All laws and regulations must comply with it.
- **Duly Ratified International Treaties and Agreements**
→ Take precedence over national law if properly ratified (Article 45 of the Constitution of Cameroon).
- **Ordinary** **Laws**
→ Adopted by Parliament. Must conform to the Constitution.
- **Ordinances**
→ Issued by the President in certain cases, often subject to parliamentary ratification.

- **Decrees**
 - Issued by the executive (notably the President or Prime Minister), specifying the application of laws.
- **Orders**
 - Issued by ministers, governors, or senior and divisional officers. to organise the implementation of laws and regulations.
- **Circulars** / **Internal** **Notes**
 - Tools for interpretation or internal organisation with no binding normative value.

3. Article 121 of the Electoral Code: A Clearly Unconstitutional Provision

Article 121 of Cameroon’s Electoral Code establishes two paths to presidential candidacy: either through nomination by a political party, or as an independent candidate, provided one obtains sponsorship from at least 300 personalities drawn from the country’s ten regions. These sponsors—30 per region—must be institutional figures such as MPs, regional or municipal councillors, or first-class traditional chiefs. On paper, this requirement appears intended to ensure national reach and a degree of representativeness. In reality, however, this provision creates a discriminatory barrier to political participation, especially for parties which, for strategic or political reasons, lack elected officials at these levels—such as the MRC since 2020.

This sponsorship mechanism amounts to a disguised form of an *imperative mandate*, which is explicitly prohibited by Article 15, paragraph 3 of the Cameroonian Constitution. It effectively places MPs and local officials in the role of gatekeepers or censors of candidacy rights, whereas they are supposed to represent the entire

Nation and act free from partisan constraint. By requiring an independent candidate to be “*put forward*” by a body of elected officials, the Electoral Code creates a form of political and institutional dependency that contradicts the republican spirit of freedom of candidacy. This requirement arbitrarily restricts the exercise of political rights, undermines equality among citizens, and calls into question the fundamental principles of universality and free participation in elections, as enshrined in the Constitution and in international instruments ratified by Cameroon.

4. A Locked Democracy: Consequences for Pluralism and Electoral Competition

By restricting access to presidential candidacy to those who already benefit from a network of elected or institutional figures, Article 121 of the Electoral Code effectively locks the political system. It implies that only parties represented in the institutions or enjoying the goodwill of local elites can aspire to the highest office. This logic runs counter to the very essence of democracy, which is based on free, fair and open competition among all political forces. It hinders the emergence of new voices, reinforces the reproduction of those already in power, and empties the principle of citizen equality before universal suffrage of all meaning.

For a party like the MRC, which chose in 2020 to boycott local elections in protest against a flawed electoral environment, this provision now acts as a legalised form of reprisal. It turns a legitimate political choice—boycott—into a de facto exclusion from future electoral processes. This is an authoritarian drift, cloaked in legal form, that weakens pluralism, tramples on popular sovereignty and undermines the very credibility of elections. A law should never be used as a tool of exclusion or political sanction. As long as this provision remains in force, Cameroon cannot claim to organise elections that are truly inclusive and democratic.

5. The Urgent Need for Reform of Cameroon's Electoral Code

Faced with these glaring contradictions with the Constitution, it is imperative to undertake a thorough revision of Cameroon's Electoral Code. This reform must not be cosmetic or dictated by short-term political calculations. It must be founded on the requirements of legal consistency, democratic justice, and strict respect for the Constitution. Cameroon cannot continue to adopt electoral laws that exclude, restrict, or suffocate legitimate political expression. Pluralism is not a luxury; it is a cornerstone of any democracy worthy of the name. A true rule-of-law state cannot allow an ordinary law to openly violate the supreme law.

It is therefore urgent that the relevant institutions, especially the National Assembly, assume their responsibilities and correct these deviations. Civil society, political parties, intellectuals and citizens must also raise their voices to demand a consensual, inclusive and constitutional reform of the Electoral Code. This reform is the prerequisite for any credible, transparent, and peaceful election. Without it, future elections will be nothing but a charade of democracy, pre-approving results already known. Cameroon deserves better than a flawed electoral system. It is time to restore the rule of law to its rightful place—at the service of the people, not of power preservation.

Conclusion – 20 Questions to Awaken Consciences

1. How can an ordinary law take precedence over the Constitution in a so-called state governed by the rule of law?
2. Is Cameroon's Electoral Code above the Constitution?

3. Why do we tolerate that an ordinary text contradicts the nation's supreme legal norm?
4. Can Cameroon still be called a Republic if its electoral laws violate its Constitution?
5. Is it democratic to exclude a political party from the presidential race simply because it has no elected officials?
6. Since when is electoral legitimacy measured by the number of local mandates?
7. Is universal suffrage still real if certain citizens cannot freely stand as candidates?
8. How can one demand 300 institutional sponsors in a country where institutions are politicised?
9. What remains of a citizen's right to run freely without disguised political obstacles?
10. If the *imperative mandate* is unconstitutional, why impose a partisan filter on candidacies?
11. Can we still speak of political pluralism under such conditions?
12. Is this electoral lockdown a technical oversight or a deliberate effort to neutralise the opposition?
13. Is every legalised party in Cameroon normally entitled to field a presidential candidate—or not?
14. Is the MRC legally recognised or not? If so, why restrict its electoral rights?
15. Can a presidential election be credible if not all potential candidates can stand?
16. Who stands to benefit from maintaining the Electoral Code in its current form?
17. Why do institutions—especially the Constitutional Council—remain silent?
18. Where are the guardians of democracy when the Constitution is being trampled upon?

19. Is the National Assembly still a representation of the people or merely an extension of executive power?

20. What is a democracy worth without debate, fairness, or the possibility of change?

21. How long will the Cameroonian people accept being held hostage by a law that betrays the republican spirit?

Mohamed Fomagha

Cameroonian Citizen