

Governance of Associations and Non-Governmental Organizations in Cameroon: Need for a More Robust Regulatory and Compliance Framework

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Abstract

This article analyses the various statutes governing associations and non-governmental organizations in Cameroon. The procedure for formation, registration and overall functioning of associations as well as that relating to change of status from an association to a non-governmental organization were discussed. The study reveals that the extant laws governing associations and non-governmental organizations have inadequate governance-enhancing provisions. The law does not provide specific governance structures that associations and non-governmental organizations must have or can adopt. It does not equally stipulate what should be contained in the constitutions of these entities. There are no requirements to file annual returns, no compliance framework with sanctions for default to comply and no regulatory agency that controls the activities of these entities. Leaving these institutions in the hands of the Ministry of Territorial Administration has resulted in them operating as if the sector is not regulated.

Keywords: Associations, non-governmental organizations, governance, Cameroon

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Introduction

Many non-governmental and not-for-profit organizations exist in Cameroon. These include both those whose members are wholly Cameroonians and those wholly owned by aliens. Majority of these organizations are community-based entities whose membership comprises of people who live in or hail from a particular geographical circumscription, have a common ancestry or a common religious orientation or background.

The operation of non-governmental and not-for-profit organizations has its root in the notion of freedom of association, which has been accorded statutory recognition in the 1996 Constitution of the Republic of Cameroon, as amended in 2008¹. The constitution equally recognizes the freedom of worship, which is intricately linked to the freedom of association. The constitution equally stipulates that the state shall be secular. This means that the state shall not prefer or side with one religion against the other or it shall remain neutral in religious matters. Also, freedom of association in Cameroon is regulated by Law N° 90/053 of 19 December, 1990 as amended and supplemented by Law N° 2020/009 of 20 July 2020 on Freedom of Association in Cameroon. it is also enshrined in various international conventions such as the Universal Declaration of Human Rights (UDHR)², the International Covenant on Civil and Political Rights (ICCPR)³, the African Charter on Human and Peoples' Rights⁴, the European Convention on Human Rights⁵, United Nations Declaration on the

¹ See the Preamble of Law N° 2008/001 of 14 April 2008 to amend and supplement some provisions of Law N° 96/06 of 18 January 1996 on the Constitution of the Republic of Cameroon.

² Universal Declaration of Human Rights (UDHR), arts 18 and 20.

³ International Covenant on Civil and Political Rights (ICCPR), arts 18 and 21.

⁴ African Charter on Human and Peoples' Rights, arts 8 and 10.

⁵ European Convention on Human Rights, art 9.

Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief¹, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights², the International Labor Organization (ILO) Convention 87 and ILO 111.

Generally, not-for-profit organizations in Cameroon, are not regulated by very elaborate laws. There is equally no regulatory agency saddled with the responsibility to regulate the operations of the organizations. Due to the inadequacy in regulation, self-regulation has become the order of the day. There is also no code of corporate governance introduced by any association or federation of not-for-profit organizations to regulate their members inter se.

The methodology employed is the doctrinal research method. This article canvasses the thesis that the existing laws regulating Associations and NGOs in Cameroon, are inadequate to ensure the effective governance of these organizations for the benefit of all stakeholders.

The Legal and Institutional Framework Regulating Associations and Non-Governmental Organizations in Cameroon

Law N° 90/053 of 19 December, 1990 as Amended and Supplemented by Law N° 2020/009 of 20 July 2020 on Freedom of Association in Cameroon

The above laws govern the registration and management of associations in Cameroon. Unlike the situation in some countries like Nigeria, where all corporate bodies, be they limited liability companies and non-for-profit organizations are registered with the Corporate Affairs Commission³, in Cameroon, non-for-profit organizations are not registered in the Trade and Personal Property Credit Registry⁴ where companies are registered. Rather, all non-governmental and not-for-profit organizations are registered first as Associations⁵, in the Office of the Senior Divisional Officer of the place where the Association's Head Office will be situate.

Associations can gain legal existence via one of two modes to wit:

- The declaration approach for Associations of Cameroonian origin and;
- The authorization approach for foreign associations and religious congregations.

We shall discuss the above modes of acquisition of legal existence seriatim.

¹ United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief, arts 1 and 2.

² Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights, arts 3 and 5.

³ In Nigeria, corporate bodies, be they joint stock companies or not-for-profit organizations, are registered with the Corporate Affairs Commission (CAC), an institution created under the Companies and Allied Matter Act as amended in 2020 and are required to file reports and update the Commission on progress they make, the challenges they face amongst others. The CAC also ensures that registered entities compliance with various legal and regulatory requirements. Establishments that fail to comply with any legal or regulatory requirement are sanctioned with the penalties stipulated by law.

⁴ The Trade and Personal Property Credit Registry (TPPCR) is the registry where joint stock companies are registered in Cameroon and OHADA Member States. OHADA is the popular French acronym for the Organization for Harmonization of Business Law in Africa. OHADA is a Uniform legislative system that went operational on 17th October, 1993 following the signing of a treaty at Port –Louis, Mauritius by 14 African states to wit: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Federal Islamic Republic of the Comoros, Ivory Coast, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Niger, Senegal and Togo. Its aim is to promote economic integration and development by creating a secure legal framework for the conduct of business in Africa. In order to achieve this aim, it has enacted a number of laws, known as Uniform Acts, on the various aspects of business law including commercial and company laws, insolvency, securities and arbitration. As a result of the creation of OHADA, these African countries have entered a rapid era of harmonization. See generally, Boris Martor and others, *Business Law in Africa: OHADA and the Harmonization Process* (London: GMB Publishers, 2002).

⁵This is however, with the exception of political parties, trade unions, sports associations, non-governmental organizations and cultural associations which shall be governed by separate instruments as stipulated in section 5(4) (new) of Law N° 2020/009 of 20 July 2020 to Amend and Supplement some Provisions of Law N° 90/053 of 19 December 1990 Relating to Freedom of Association.

Acquisition of Legal Existence by Declaration

For an Association to gain legal existence via declaration, the founders and promoters are required to submit the following documents in the office of the Senior Divisional Officer of the place where the Association's Head Office will be situated:

- 1) A stamped Declaration of an Association addressed to the Senior Divisional Officer;
- 2) Two duly stamped and signed copies of the Constitution of the Association;
- 3) Certified copies of the National Identity Cards of all the members;
- 4) Two duly certified copies of the list of the executive bureau of the association, indicating the names of the members of the bureau, their residence, addresses, profession, position held in the executive bureau, their National Identity Card numbers and signatures;
- 5) Minutes of the constituent assembly and;
- 6) An authorization from the competent ministerial department for activities requiring prior authorization from the competent ministerial department.

If the completed application is reviewed and the objectives are approved by the Senior Divisional Officer, an Acknowledgement of Receipt will be issued by the Senior Divisional Officer, authorizing the applicants to operate the association in strict respect of the regulations in force and the objectives for which the association was created¹.

It is important to mention here that the law merely talks about the members developing a constitution that will govern the association. However, the law did not state any mandatory information that must be contained in the constitution. The members are therefore left to decipher what to include in the constitution as well as the governance structure of the organization. Usually, the Constitution contains essential information such as the name of the Association and its acronym; the head office; area of jurisdiction (territorial coverage); the objectives, which constitute the material competence of the Association; the organization and functioning of the Association, setting out the management organs, principal officers and their functions; sources of income; the procedure for alteration of the Constitution; membership and dissolution of the Association. In practice, most Associations have two governance organs; the members in general meeting and the Board of Directors. These two organs are given different powers depending on the objectives of the association. However, the law does not make it mandatory for the founders to create two governance organs. It has been adopted by many organizations as a best practice, at their own discretion.

Acquiring Legal Existence by Authorization

Associations that are required to acquire legal existence via the authorization regime are foreign associations seeking to operate in Cameroon and religious congregations². An authorization is a permission granted to a person by the competent administrative authority to carry out specified activities in Cameroon³. The fields of operation are usually health, human rights, law and development. Only the Minister of Territorial Administration and the President of the Republic can authorize the operation of this genre of associations.

Section 15 of the 1990 law on Freedom of Association defines foreign associations as groups having the characteristics of an association which have their registered offices abroad or which, having their headquarters in Cameroon, are managed in fact by foreigners or in which more than half of the members are foreigners. Foreign associations are precluded from carrying out any activities within the territorial circumscription of Cameroon without the prior authorization of the Minister in charge of Territorial Administration, following the reasoned recommendation of the Minister in charge of External Relations⁴. Foreign associations are required to deposit their applications for authorization at the Ministry of External Relations. The application shall be deposited either by the founders or by representatives of the foreign association. It shall specify the activities the associations desires to undertake or implement, their desired operational base in Cameroon, the names, occupations and addresses of those directly responsible for the running of the association's business amongst

¹ Law N° 90/053 of 19 December, 1990 as amended and supplemented by Law N° 99/11 of 20 July, 1999 on Freedom of Association and Non-Governmental Organizations in Cameroon, s 7(1).

² Law N° 99/11 of 20 July 1999 to amend and supplement certain provisions of Law N° 90/053 of 19 December 1990 relating to Freedom of Association in Cameroon, s 15.

⁴ Law N° 99/11 of 20 July 1999 to amend and supplement certain provisions of Law N° 90/053 of 19 December 1990 relating to Freedom of Association in Cameroon, s 16.

others. Foreign associations seeking to operate different establishments must seek and obtain separate authorizations for every establishment. They cannot capitalize on one authorization granted them to implement other activities or create sub-establishments under it. Applications for operation of separate establishments shall equally be filed at the Ministry of External Relations. The positive opinion of the Minister of External Relations is required for the Minister of Territorial Administration to grant authorization for the creation of other sub-establishments¹. Authorizations may be granted on temporary basis or subject to periodic renewal. Authorizations may equally be granted subject to the fulfillment of certain conditions by the applicant. The authorization so granted can be withdrawn at any time. Foreign associations whose authorizations have been withdrawn or whose request for authorization was not granted, must cease operation of activities immediately they are notified of the decision withdrawing or refusing their authorization. They must also liquidate their assets within three (03) months from the date of notification of the decision revoking their authorization or refusal of grant of authorization². The foreign associations whose authorizations are withdrawn are precluded from instituting actions against the State of Cameroon to claim damages³. Foreign associations that have not sought and obtained authorization are void. They shall be deemed to operate illegally no matter the object or nature of the activities they seek to implement⁴.

As a control measure, the Senior Divisional Officer has been empowered to request, at any time, from officials of associations operating within his area of jurisdiction, information relating to its headquarters, object, the nationality of its members, board members amongst others. The officials of these associations are enjoined to furnish the Senior Divisional Officer with the information within fifteen (15) days sequel to the request.

Section 20 of the law has imposed penalties on individuals who operate a foreign association without authorization. Section 20(1) punishes such individuals with imprisonment of 15 days to 06 months, and fine of 100,000 to 1,000,000 Francs, or with both imprisonment and fine.

Religious congregations on the other hand are equally required to seek and obtain authorization before commencing activities⁵. Section 22 of the law governing associations has defined a religious congregation in two ways to wit:

- Any group of natural persons or corporate body whose vocation is divine worship;
- Any group of persons living in a community in accordance with a religious doctrine⁶.

Section 24 stipulating the component authority to authorize the creation of a religious congregation provides thus: 'authorization of a religious congregation or congregational establishment shall be granted by a decree of the President of the Republic upon the reasoned recommendation of the Minister in charge of Territorial Administration'.

It follows from the above-cited section 24 that only the President of the Republic can authorize the creation of religious congregations in Cameroon. Religious congregations are corporate bodies whose vocation is divine worship. The authorization is granted to a particular denomination with a specified name. There seem to be a gap in the law, which permit us to raise a question here: are religious congregations or congregational establishments authorized by law to sublet their authorization to other individuals intending to operate in the same field of activity? The answer is in the negative. This is because the law did not preview any possibility of the grantee of the authorization sub-letting it to other individuals or corporate bodies seeking to establish and operate religious congregations or religious establishments. No section of the law permits that to be done. Regrettably, in practice, many religious bodies have emerged in Cameroon, setting up churches with different names and yet claiming to operate under the authorization granted to a certain religious congregation. During our field investigation, we contacted 75 churches that claimed to be operating under the authorization granted to different denominations but not bearing the name of the denomination authorized by the state. They revealed that they pay colossal sums to the grantees of the authorization. This illegal practice of subletting authorizations has resulted in the

¹Ibid.

²Law N° 99/11 of 20 July 1999 to amend and supplement certain provisions of Law N° 90/053 Of 19 December 1990 relating to Freedom of Association in Cameroon, s 17.

³Ibid.

⁴Law N° 99/11 of 20 July 1999 to amend and supplement certain provisions of Law N° 90/053 Of 19 December 1990 relating to Freedom of Association in Cameroon, s 19.

⁵ Law N° 99/11 of 20 July 1999 to amend and supplement certain provisions of Law N° 90/053 Of 19 December 1990 relating to Freedom of Association in Cameroon, s 23.

⁶ Law N° 99/11 of 20 July 1999 to amend and supplement certain provisions of Law N° 90/053 Of 19 December 1990 relating to Freedom of Association in Cameroon, s 22.

proliferation of churches, some whose existence and governance frameworks are not known to state officials. During our field investigation in the Ministry of Territorial Administration we were informed that per their records, only approximately 50 religious congregations have been authorized in Cameroon, which includes both the Islamic, Bahai, Protestant, Catholic and allied faith-based entities. However, in reality, 500 churches operate in Cameroon, implying that more than 450 of such churches are operating illegally. It is important to mention here that the issue of proliferation is more practiced by the Christians¹. The Islamic faith has not, for the time being, experienced the issue of proliferation in the number of mosques, operated by different vision bearers. It is against this backdrop that the state has routinely embarked on the expedition of closing churches operating illegally in the country². However, these sporadic closures have not yielded the fruit of eliminating the operation of unlicensed churches in the country³, but rather we observe sporadic creation or reopening.

It is submitted that the government should take the requisite to ensure only duly authorized religious congregations can operate within its territorial circumscription. The governance structure of religious congregations shall be freely determined by the founders and set out in the Constitution of the establishment.

Law N° 99/014 of 22 December 1999 Regulating Change of Status from an Association to a Non-Governmental Organization

When an Association has operated for at least three (3) years, it can apply for change of status to a Non-Governmental Organization (NGO)⁴. The registration of NGOs is regulated by Law N° 99/014 of 22 December 1999 regulating the registration and operation of NGOs in Cameroon.

Pursuant to section 2 of the 1999 law governing NGOs, an such an organization shall be either a declared association or a foreign association authorized to operate in Cameroon, to facilitate the accomplishment of missions of general interest. The general interest missions of an NGO must be in tandem with those defined by public authorities. These include legal, economic, social, cultural, health, sports, education, humanitarian affairs, environmental or human rights protection⁵. A natural person or corporate body may set up an NGO⁶.

The representatives of an Association seeking to change status to an NGO shall compile the following documents:

- An application for change of status from an Association to an NGO, which shall be duly stamped at the official rate;
- A copy of the declaration receipt or authorization as the case may be;
- Evaluation report for the three (03) previous years of activities and the program of activities;
- The minutes of the extraordinary general assembly serving as the constituent meeting of the NGO;
- Four (04) copies of the Articles of Association/Constitution of the NGO;
- The name, goals and headquarters as well as the names, occupations and places of residence of those responsible for the management of the NGO⁷.

¹ International Centre for Law and Religion Studies, 'In Cameroon, new churches sprout, many illegally' <<https://www.iclrs.org/blurb/in-cameroon-new-churches-sprout-many-illegally/>> accessed 13 August 2024.

² Brenda Ngassa 'Gov't Hunts Illegal Churches' Cameroon Tribune 12 August 2013 Edition <http://ct2015.cameroon-tribune.cm/index.php?option=com_content&view=article&id=75230:govt-hunts-illegal-churches&catid=4:societe&Itemid=3> accessed 07 August 2024. See also Moki Edwin K, 'Christian Pastors in Cameroon Decry Crackdown' Voice of America 13 August 2013 Edition <<https://www.voanews.com/a/pressure-on-christian-churches-in-cameroon/1728774.html>> accessed 07 August 2024. See also Ngala Killian, 'In Cameroon, new churches sprout, many illegally' 1 June 2012 <<https://www.pcusa.org/news/2012/6/1/cameroon-new-churches-sprout-many-illegally/>> accessed 08 August 2024.

³ Jeremy Webber 'Cameroon Orders Military to Close 100 Churches in Major Cities' 19 August 2013 <<https://www.christianitytoday.com/news/2013/august/cameroon-orders-military-to-close-100-churches-in-major-cit.html>> accessed 08 August 2024.

⁴ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 4(1).

⁵ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 3.

⁶ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 2(1).

⁷ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 4(2).

A complete file comprising the above documents shall be deposited at the Governor's Office in the Region where the Association's head office is found¹. A receipt shall be issued to the depositor, bearing the file's registration number and date of deposit. The Governor is required under section 6(3) to transmit the file to the Commission in charge of Technical Study of Applications and Monitoring of NGOs within fifteen (15) days after deposition of the file in his office.

The Commission in charge of Technical Study of Applications and Monitoring of NGOs has 30 days from the date of receipt of the file forwarded to it by the Governor, to evaluate the file, make an opinion and forward its reasoned opinion in the form of a recommendation, to the Minister in charge of Territorial Administration². If the opinion of the Commission is favorable, the Minister in charge of Territorial Administration shall proceed to grant the approval for change of status to an NGO. However, the Minister in charge of Territorial Administration is required to respond to the application forwarded by the Governor within seventy-five (75) days, failing which he shall be deemed to have granted the request by default, where a letter of refusal is not sent to the applicant within the stipulated timeframe³. Approval can be granted for a period of five (05) years renewable⁴. The renewal can equally be done automatically⁵. The authorization accorded to an NGO is meant to be used exclusively by the NGO. The authorization is not transferrable. It cannot be sublet or franchised to another person or organization⁶. Duly authorized NGOs shall have a legal personality enabling it to sue and be sued. It shall equally be eligible to hire and maintain personnel⁷.

In terms of administration and management, the law has not imposed any governance structure that an NGO must adopt. It implies therefore that NGOs shall freely determine their governance structure. Usually, the governance of an NGO is the same governance structure contained in the Constitution of the NGO at the time it was registering as an Association. To ensure that individuals with impeccable character are at the helm of the management of NGOs, the legislators have stipulated in section 16 of the law governing NGOs that any individual sentenced to an imprisonment term for acts contrary to morality and integrity, especially theft, misappropriation of public funds, swindling, breach of trust, forgery, use of forged documents or immorality, shall not be competent to serve as a manager, director, administrator or auditor of an NGO. The same restriction applies to persons having directly or indirectly any interest in any company or enterprise doing business or intending to do business with an NGO.

The Minister of Territorial administration must be informed of any changes in the administration and management of an NGO within 02 months following the said changes. It follows therefore that where a manager, director or administrator is substituted either due to death, resignation, and retirement or dismissal from office due to misconduct, the Minister in charge of Territorial Administration must be informed of the said changes within 02 months. The Minister must equally be informed of any alterations in the Articles of Association or Constitution of an NGO⁸.

Upon authorization, an NGO is permitted to manage funds contributed by its members, receive donations, funding, legacies amongst others from national and international bodies, within the framework of its activities, subject to the prior authorization of the Minister in charge of Territorial Administration when it concerns receiving real estate donations and legacies⁹.

Since NGOs can be funded by both its members, national and international funding agencies, the law has equally imposed on them the requirement to keep accounts on the one hand and be audited on the other hand. Their annual progress and audit reports shall be forwarded to the Minister in charge of Territorial Administration within sixty (60) days following the closing of accounts. However, NGOs are exempted from certain taxes as stated in the General Tax Code¹⁰.

¹ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 6 (1).

² Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 8.

³ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 9.

⁴ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 10.

⁵ Ibid.

⁶ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 11.

⁷ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 17.

⁸ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 14.

⁹ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 17.

¹⁰ Law N° 99/014 of 22 December 1999 Regulating the Registration and Operation of NGOs in Cameroon, s 18.

Gaps in Legal and Compliance Framework

Absence of a Register for Associations and NGOs

There is no general register for Associations and NGOs in Cameroon. The different Divisional Offices maintain different registers for Associations registered within their jurisdiction. Also, the Ministry of Territorial Administration maintains a register of NGOs approved by the Ministry. The absence of a special registry for registration of Associations and NGOs makes it challenging for the authenticity of the registration of not-for-profit organizations to be verified upon payment of a search fee.

Governance Lapses in Existing Legislation

Cameroon law does not contain elaborate provisions for the governance of not-for-profit organizations. Section 9 of the Law on Freedom of Associations simply provides that “Associations shall be administered freely in compliance with their constitution and the laws in force”. The law has left the members to freely administer associations and also determine the form and content of their constitution. The law does not outline the mandatory information to be contained in the constitution of not-for-profit organizations such as the minimum and maximum number of members, the management organs, the composition of the board of directors, term of office of the board members, the different committees that the board should have, gender diversity in the board, professional diversity of the board, duties of the board, powers of the board, powers of the members in general meeting, meetings of the board and members, the material competence of each type of meeting, requirement to file monthly, quarterly or annual reports, audit, information disclosure to state agencies on sources of funding, amongst others.

Even the GICAM¹ Code of Good Corporate Governance 2023, does not apply to non-governmental and not-for-profit organizations operating in Cameroon. This is clearly stated in page 1 of the section of the GICAM Code containing Principles of Good Governance for All Companies and page 3 of the same Code dealing with Precepts and Practices of Good Corporate Governance for Large Companies. These sections make it unequivocally clear that the Code is intended to apply to companies in Cameroon, especially companies that fall in the following categories:

- Publicly traded companies, listed companies and multinational companies;
- Large non-publicly traded companies;
- Regulated companies; and
- State-owned companies.

It is clear that non-governmental and not-for-profit organizations are excluded from the Code’s application. It is important to highlight the fact that GICAM is just an Employer’s Association and its directives or codes apply only to members of the said Association. It is not Cameroon’s Parliament that can make laws that are binding on all and sundry. It is not also a regulatory agency of the State of Cameroon for not-for-profit organizations. To the best of the author’s knowledge, there is yet no Code of Corporate Governance for Non-Governmental and not-for-profit Organizations in Cameroon, just like there is yet no Collective Convention for the same sector. Until a Code of Corporate Governance is developed by the State of Cameroon or any of her authorized agency for not-for-profit organizations, they shall continue to operate and respect solely Law N° 90/053 of 19 December, 1990 as amended and supplemented by Law N° 2020/009 of 20 July 2020 on Freedom of Association in Cameroon, alongside international best practices that the organizations deem apposite for their specific operational contexts and organizational structures.

By contrast, section 827 the Nigerian Companies and Allied Matters 2020², has set out the mandatory information to be contained in the Constitution of any Association. It provides inter alia that:

The constitution of the association shall in addition to any other matter-

- (a) state the name or title of the association which shall not conflict with that of a company, or with a business name or trade mark registered in Nigeria;
- (b) the aims and objects of association; and
- (c) provisions, in respect of the following-

¹ GICAM is the acronym for Groupement Inter-Patronal du Cameroun. This means Cameroon Employers Association in English.

² The Companies And Allied Matters Act shall be hereinafter referred to by the acronym CAMA.

- (i) appointment, powers, duties, tenure of office and replacement of trustees;
- (ii) use and custody of the common seal;
- (iii) meetings of the association;
- (iv) the number of members of the governing body, if any, the procedure for the appointment and removal, and their powers; and
- (v) where subscriptions and other contributions are to be collected, the procedure for disbursement of the funds of the association, the keeping of accounts and the auditing of such accounts.

It follows therefore that if the constitution of an association does not contain the mandatory information mentioned above, it shall be, to the extent of such inconsistency void. The CAC always reviews the constitution submitted by the founders and trustees to ensure that all mandatory information required by section 827 of CAMA, has been stated. NGOs, like other corporate entities, are required to file annual returns at the CAC¹. Under section 848 of CAMA 2020, the annual returns to be filed by the trustees of an association shall disclose the following:

- (a) The name of the association;
- (b) The names, addresses and occupations of the trustees;
- (c) The members of the council or governing body;
- (d) Particulars of any land held by the association during the year; and
- (e) Any changes in the constitution of the association during the preceding year.

In terms of the time frame to file annual returns, section 848(1) provides that they shall be filed not earlier than 30th June or alter than 31st December each year (except the year in which it was incorporated). It shall be accompanied by the audited statement of account of the association in tandem with section 846 of CAMA. Section 847 of CAMA also enjoins associations to their accounting records for a period of 6 years following the date on which they were made. Finally, every association must submit a bi-annual statement of account to the CAC in a manner specified by the regulations². Failure to file the bi-annual statement, each trustee of the association shall be liable to pay a penalty every day during which the default continues in such amount as the Commission shall specify in its regulations³.

Also, in Nigeria, through the Financial Reporting Council⁴, in 2016 developed a Code of Corporate Governance for Not-for-Profit Organizations. This code had the objective of addressing the governance challenges that had plagued not-for-profit organizations over the years. Amongst others, the code prescribed that the maximum duration a founder or Chief Executive Officer can lead a not-for-profit organization (including religious congregations) is twenty (20) years. Churches were also required under that code to pay taxes for the income they receive. This resulted in widespread discontent amongst General Overseers of many churches who had perpetuated themselves in office. They argued that the state, through the Financial Reporting Council, was interfering with the internal affairs of not-for-profit organizations. Based on the protests, the application of the code was suspended. However, the it has been modified and will be coming into force soon.

In Mauritius, the Registration of Associations Act 1979, has elaborate governance-enhancing provisions. Part II of the Act makes it mandatory that a Register of Associations be created where details about all registered associations are set out⁵. It equally outlined the procedure for registration of associations, grounds for refusal of registration, consequences of a refusal and the status of associations sequel to their registration⁶. Part III titled 'Rules of Associations' sets out the mandatory information to be contained in the Constitution of Associations, circumstances under which a minor can be a member of an Association, rules relating to amendment of the

¹ See CAMA 2020, s 370.

² CAMA 2020, s 845(1).

³ CAMA 2020, s 845(2).

⁴ The Financial Reporting Council (FRC) is an agency of the Federal Government of Nigeria created by the Financial Report Council Act 2011.

⁵ Registration of Associations Act, s 4.

⁶ Registration of Associations Act, s 5, 6 and 7.

Constitution amongst others¹. Part V titled ‘Administrative Provisions’ addresses applications of funds received by associations², records and accounts³, audit⁴, meetings⁵, annual return⁶, register of members and allied records⁷, officers and the need for officers to provide security when they are managing the association’s funds⁸. Section 11 of the Mauritian Associations Act 1979 stipulates that the information that must be contained in the constitution of associations in the Schedule to the Act. These include:

- The name of the association;
- The objects of the association;
- The mode of admission, rejection and removal of the members, the keeping of an up-to-date register of the members;
- The mode of holding meetings, the right and mode of voting at such meetings;
- The appointment and removal of officers;
- The investment of any funds, the keeping of full and accurate accounts by the treasurer and the audit of such accounts;
- The accounting period of the association, which shall be 12 months;
- The furnishing of security by officers responsible for the collection and management of money on behalf of the association;
- The fines and forfeitures which may be imposed on any member of the association;
- The inspection of the books of the association by any person having an interest in the funds of the association;
- Where any financial benefits are payable to any members, the circumstances of which those benefits are to be paid and the amounts of those benefits;
- Where any remuneration is payable to an officer, the amount of the remuneration;
- The number of requisitionists, being not less than one tenth of the members, who may require the holding of a general meeting of the association; and
- The audit of the accounts of the association to be carried out at least once a year.

It is clear from the foregone, that the Mauritian Associations Act 1979, has high level governance-enhancing provisions than the laws governing Associations and NGOs in Cameroon. Mauritius also has a Registry of Associations where all records about Associations that have registered and are operating in the country are kept. Those records can be consulted by any interested person, during working hours. Associations submit their annual return to the Associations Registry as their regulatory agency. Changes in members and officers administering the association are also submitted to the Associations Registry for filing. Associations that fail to comply with their reporting and allied obligations despite the written request of the Registrar of Associations for them to do so within 21 days, may have their registrations cancelled⁹. The Act equally enjoins associations to have an Association’s Secretary, who is an official with specified qualifications and has the responsibility to file the relevant returns for the association. Management Companies also perform the role of Company or Association Secretary in Mauritius.

Associations and NGOs are corporate entities that can sue and be sued after registration. As corporate entities they deserve sound corporate governance mechanisms to ensure that they are managed in the interest of all the members and other stakeholders. Unfortunately, in Cameroon, although corporate governance is considered an important issue, it is simply subsumed under the National Good Governance Programme. Unlike in England, where corporate governance is consistently addressed at the national level as reflected by the numerous corporate

¹ Registration of Associations Act, s 11.

² Registration of Associations Act, s 19.

³ Registration of Associations Act, s 20.

⁴ Registration of Associations Act, s 21.

⁵ Registration of Associations Act, s 22.

⁶ Registration of Associations Act, s 23.

⁷ Registration of Associations Act, s 24.

⁸ Registration of Associations Act, s 25 and 26.

⁹ Registration of Associations Act 1979, s 15.

governance committees created and put to work¹, in Cameroon, there is little or no serious discourse on good corporate governance at the national level and even in Cameroon's parliament.

Corporate governance basically refers to the processes to be followed in order to deal with agency issues in corporations². By agency issues, we mean the undesirable results that emanate from the corporate necessity to act through natural persons. These issues revolve around certain relational arrangements such as separation of power and relationship between stakeholders including the management, board of directors, shareholders, employees, customers and the larger society. Corporate governance also entails the application of best management practices, compliance with laws and adherence to standards for effective management, distribution of wealth and discharge of thorough responsibility for sustainable development of all stakeholders. From this perspective, corporate governance seeks to create social responsibility, ensure accountability in management, protect and promote shareholders' interests, develop an efficient organizational structure/culture, aid in the achievement of social and economic goals, improve social cohesion, and minimize wastages and corruption.

The Organization for Economic Cooperation and Development³ has opined that good corporate governance helps to build an environment of trust, transparency and accountability, necessary for fostering long-term investment, financial stability, and business integrity, thereby supporting stronger growth and more inclusive societies⁴.

Agency (owner-management conflict) issues⁵ are one of the oldest and persistent issues that retard owner-management relationship in corporations. The use of independent external audit of financial statements as a way of checking the activities of managers was seen as the solution to agency problems that existed in corporations. However, the auditing of financial statements by independent and external auditors has fallen short of the expectation and demands of most, if not all, the stakeholders involved in the affairs of corporations all over the world⁵. Despite the audit of financial statements on a yearly basis by external auditors who often give opinions of satisfactoriness on management activities, there seems to be substantial management misdeeds which are hardly identified or reported by auditors. This was the case with the collapse of many corporate giants like Enron, Barrow Claws, Polly Peck, Toshiba, Mirrow Group Newspapers amongst others, which auditors certified were a going concern in various audit opinions, but later collapsed in the most unprecedented way, leaving many stakeholders in distress.

The case for wide-ranging corporate governance structures in corporations has been further strengthened in the 21st century due to globalization and growth of corporations into multinationals. Some of the challenges of leadership and co-ordination in large organizations which are globally localized will be reduced if these organizations have policies and procedures which are clearly spelt out in governance frameworks, rather than top executives being physically present in all locations for the purpose of coordination and control⁶.

Because of the absence of an elaborate governance framework in the laws governing not-for-profit organizations, the founders have managed the establishments in a manner inconsistent with the basic corporate governance principles of fairness, equity, transparency and accountability, which are at the heart of the concept of corporate governance. Our field investigation revealed that most founders hijack the management of not-for-profit organizations, perpetuate themselves in office, unilaterally appoint and dismiss members of the board of directors without the consent of the members, amongst other vices. In most organizations, the board of directors

¹For example, the Cadbury, Greenbury and Turnbull committees which have in the past produced guidelines which have been today harmonized to form the U.K Combined Code on Corporate Governance 2003.

² Inyang Uboho, 'Whistleblowing as a Corporate Governance Mechanism: A Comparative Analysis of Employee-Whistleblower Protection in The United Kingdom and Nigeria' (2020) *SSRN*, <<https://dx.doi.org/10.2139/ssrn.3547899>> accessed 20 April 2021.

³ Which shall hereinafter be referred to by its acronym as OECD.

⁴ OECD <<http://www.oecd-library.org/content/publication/9781848597129-en>> accessed 14 June 2021'.

⁵ Enu Louis 'The Role of Auditors in Promoting Good Corporate Governance in Cameroon' (LLM Thesis, University of Buea, 2012).

⁶ Eaton Tim and Akers Michael, 'Whistleblowing and Good Governance: Policies for Universities, Government Entities and Nonprofit Organizations' (2007) 77 (6) *The CPA Journal*, 66-77.

exist as a matter of formality. The board's oversight function is almost inexistent. In some cases, the founders do not make provision for a board of directors in the constitution. Consequently, the organization operates with the President or Executive Director as the principal administrator of the organization. Some constitutions do not make provision for audit and the intervention of external auditors where need be. These lapses exist because the law has not imposed information that must be contained in the constitution of Associations and other not-for-profit organizations.

Reporting

There are no special rules enjoining Associations and NGOs to report the contributions and funds they receive to designated agencies of the state. This has made NGOs a suitable route for perpetrators of money laundering. This is more so given that on the 23rd of June, 2023, the Financial Action Task Force (FATF) in Paris, placed Cameroon on the 'grey list' of countries with lamentable gaps in anti-financial crimes defenses, after reviewing the Mutual Evaluation Report (MER) of the Inter-governmental Agency against Money Laundering in Central Africa (GABAC) submitted in October 2022¹. There is great suspicion that NGOs are being used to channel illegally acquired funds into Cameroon. Consequent upon the grey listing of Cameroon by the FATF, the country was requested to take apposite steps to put in place the functional institutional and regulatory frameworks to control the illicit flow of funds into the country. In response, the President of the Republic, His Excellency Paul Biya, passed Decree N° 2023/464 of 30th October 2023 to lay down the establishment, organization and functioning of the Coordination Committee on National Policies against Money Laundering, Terrorist Financing and Proliferation of Weapons of Mass Destruction. Placed under the authority of the Minister in charge of Finance, the Committee is saddled with the responsibility to formulate and coordinate nationwide implementation of policies and activities aimed at combating money laundering, terrorism financing and proliferation of weapons of mass destruction. Sequel to the creation of the Committee, several NGOs receiving funding from abroad have been summoned to appear before the General Delegation for National Security and the Ministry of Defense for investigation on the source and use of the funds they receive from funding agencies abroad, to ensure that the funds are not meant to sponsor terrorism, acquisition of weapons of mass destruction or the said organizations are being used to illegally move money from one country to another. The investigation was conducted at the behest of the National Agency for Financial Investigation (NAFI)², a state institution whose primary responsibility is monitor the flow of funds into and out of the country and report suspected transactions to the competent authorities for investigation and possible prosecution³. The accounts of most of these NGOs have been blocked whilst investigations are ongoing, with the attendant repercussion of some not being able to meet their project targets on time, due to inability to access funds to facilitate the implementation of project tasks whilst investigations are ongoing.

There are no statutory limits on the administrative expenses that a not-for-profit organization can incur in Cameroon. As an accounting practice, though not a statutory requirement, not-for-profit organizations report on the basis of fund accounting and receipts and expenditures, other than a balance sheet or statement of profit and loss.

Policies and Compliance Frameworks

The laws governing Associations and NGOs in Cameroon, have not made it mandatory for Associations and NGOs to develop and ensure compliance with certain policies that enhance corporate governance. These policies are meant to cover certain issues that the extant laws do not cover. Such policies include inter alia the following:

- Policy on conflict or duality of interest;

¹ Ameh Azah, 'Cameroon on FATF Grey List of Jurisdictions with Money Laundering Deficiencies: Appraisal of what will Turn the Table Around' < <https://www.linkedin.com/pulse/cameroon-fatf-grey-list-jurisdictions-anti-money-laundering/> > accessed 08 August 2024. See also AML UAE Compliance Made Easy, 'Cameroon, Croatia, Vietnam put on FATF Grey List June 2023' < <https://amluae.com/cameroon-croatia-vietnam-put-on-fatf-grey-list/> > accessed 08 August 2024. See also Kyle Brasseur, 'FATF Flags Cameroon, Croatia, Vietnam on AML/CFT Watchlist' < <https://www.complianceweek.com/anti-corruption/fatf-flags-cameroon-croatia-vietnam-on-aml/cft-watchlist/33243.article> > accessed 08 August 2024.

² The National Agency for Financial Investigation (NAFI), is an agency of the State of Cameroon, created and governed by Decree N° 2005/187 of 31 May 2005 relating to the Creation, Organization and Functioning of the National Agency for Financial Investigation (NAFI).

³ Emergence Newspaper, 'Money Laundering: More than 200 Files Transmitted by NAFI to the Minister of Defense, Delegate General for National for National Security and the Director of External Research' 22 December 2022, 1.

- Anti-terrorism policy;
- Anti-money laundering policy
- Policy on sexual and allied harassments;
- Policy on whistleblowing and protection of whistleblowers;
- Policy safeguarding and protecting children and youths in the organization's activities;
- Policy on data protection;
- Policy on financial management;
- Policy on procurement, assets management and disposal;
- Policy on safeguarding of the environment amongst others.

If these policies are developed alongside their compliance toolkits and monitoring mechanisms, violations will be reported, recorded, investigated and conclusions drawn to assess the level of compliance with the policies and their impact on the organization's over all governance.

Given the limitations in the legal and regulatory framework in the existing laws, most funders require Associations and NGOs applying for grants to show proof of existence of the above policies before they can be awarded grants. In some cases, they insist that the Constitutions of some Associations and NGOs be amended to include some provisions that are more governance-enhancing. For instance, some funders insist on modification of the constitution to include board diversity, modification of the number of board members and may sometimes direct that a board of directors be created where the organization's governance structure did not make provision for the board of directors as the highest administrative organ of the Association or NGO. Organizations that have developed the above policies and are ensuring compliance by all and sundry with the said policies, are seen as establishments with a robust governance framework and consequently more suitable for funding than organizations without the above policies. Such organizations are perceived as weak on terms of governance and less suitable for funding.

Absence of an Autonomous Regulatory Agency and Compliance Framework

Cameroon, does not have an autonomous regulatory agency that controls the activities of Associations and NGOs. The absence of an autonomous regulatory agency has resulted in the following challenges:

- Inability to follow up the activities of Associations and NGOs operating in Cameroon to ensure that they are not acting ultra vires the activities they declared in their constitution.
- Associations and NGOs do not feel compelled to file annual returns or reports to any institution to which they are answerable.
- Associations and NGOs receive and manage funds without the oversight of any regulatory agency with which they could share information on the origin and use of funds to ensure they are not used for money laundering or as gateways to channel funds for acquisitions of arms and weapons of mass destruction.
- Grantees of licenses to operate religious congregations are subletting them at a fee like goods in an open market, with impunity, which is contrary to the regulations in force. If a regulatory agency was in existence, it could investigate the grantees concern, call them to order and if they continue to violate the law, recommend to the competent authority that their licenses be revoked. Also, the regulatory agency could organize a systematic crackdown on religious congregations operating illegally in the country.
- Associations and NGOs are being managed in total disrespect of the basic tenets of corporate governance prescribed by the OECD, to wit: equitable treatment of members, transparency, accountability, effective disclosure, ensuring the existence of an effective board of directors amongst others. Founders perpetuate themselves in office and there is no rotation of leadership between members as elementary corporate democracy warrants. Given that there is no regulatory agency, these governance weaknesses cannot be detected and addressed.
- It has retarded the possible development of a Code of Corporate Governance alongside a compliance framework with timelines, for Associations and NGOs in Cameroon, to respect.
- The Associations and NGOs sector appears like an unregulated sector where all that is required is declaring your association, obtaining the Acknowledgment of Receipt and thereafter one is not accountable to any institution unless summoned by competent authorities where circumstances so warrant.

Conclusion

It can be gleaned from the foregoing that the regulations governing Associations and NGOs in Cameroon, do not provide for robust corporate governance mechanisms such as the mandatory requirement to have a board of directors, board committees, qualification of board members, tenure of board members, performance review for board members, board meetings, meetings of members, audit, information disclosure, filing of annual returns and a robust compliance framework with sanctions for non-compliance with statutory requirements. Rather, section 9 of the 1990 Law on Freedom of Association provides that ‘Associations shall be administered freely in line with their constitution and the laws in force’. The legislators did not state the mandatory information to be contained in the constitutions of associations, a means through which governance aspects could have been set out in the law, and which founders would have been bound to incorporate in the constitutions of their organizations. Also, Cameroon, does not have a regulatory agency that controls or oversees the activities of Associations and NGOs. This has resulted in a situation where Associations and NGOs operate like unregulated establishments. The illegal subletting of licenses granted to religious establishments by the State to operate churches, which has resulted in the proliferation of churches, a species of association governed by the 1990 law on Freedom of Association as amended, was elaborated on alongside its consequences. The authors submit that the laws currently regulating Associations and NGOs be amended and the lapses identified in this paper be addressed; drawing inspiration from countries like Mauritius, Nigeria and others, with better regulatory and compliance frameworks that can ensure the proper management of the not-for-profit organizations that assist in various ways towards nation building.

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