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Human Rights in Cameroon: A New Framework for the National Commission for Human Rights and Freedom

Sylvanus Bisong Effiom *

1. Introduction

Human rights discourse is a relatively recent phenomenon in Cameroon. This may be partly due to the fact that this issue was seen as an international rather than a domestic issue, at least until the political upheaval of the 1990s. While the establishment of the National Commission of Human Rights and Freedom – known in French as the *Commission National des Droits de l'Homme et des Libertés* (CNDHL) – was expected to bring significant changes to this state of affairs, it ended up posing new challenges. There is a considerable risk that – at least among the general public – rights will be seen as limited to civil and political ones, thus neglecting the whole range of other regional and international human rights treaties to which Cameroon is a party¹. The main contention of this article is that – while all rights are interdependent and indivisible – it is economic, social and cultural ones that affect the lives of the vast majority of Cameroonians and that, if taken fully on board by the CNDHL, the promotion of socio-economic rights could bring about a revolutionary attitude to human rights.

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¹ These International and Regional Human Rights Instruments include the International Covenant on Civil and Political Rights (ICCPR) of 1966; the International Covenant on Economic, Social and Cultural Rights (ICESC) of 1966, the Convention on the Rights of the Child of 1989, the Convention on the Rights of Persons with Disabilities of 2007, and the African Charter on Human and Peoples' Rights of 1986.

In making the case for the promotion of social and economic rights as agents of change, this article will draw extensively on the role and significance of the CNDHL as the main institution charged with the safeguards and the promotion of human rights in Cameroon². In this respect, the main question posed by this contribution is in what way the evolving situation of human rights in Cameroon engages the legal and institutional accountability of the CNDHL and whether the Commission have the capacity to become amenable to the just claims being made in the name of social and economic rights. Section I provides a theoretical framework for considering the promotion of human rights in Cameroon, by examining the differing conceptions of human rights in the context of the obligation of the state to protect and fulfil human rights. The Section highlights the synergy that should exist and be developed between the pursuit of political rights and social and economic rights, in order to secure the full and equal enjoyment of human rights by all Cameroonians.

Section II sets out the case for economic and social rights as a catalyst for change and considers the extent to which these rights are granted and protected by the Constitution of Cameroon. In Section III, the focus is more specifically on the enforcement and promotional activities of the CNDHL. In addition, the question is whether the creation of the Commission represents an attempt towards a more participatory approach to economic development and societal change at a national level. Section IV deals with some theoretical issues around the concept of “mainstreaming” of human rights in governmental decision-making as a mechanism for the effective promotion and protection of social and economic rights. The Section builds on the relationship between equality and broader human rights standards and suggests that the CNDHL could draw inspiration from Northern Ireland and Great Britain where the institutional arrangements have driven the Constitutional and statutory agenda on equality mainstreaming.

² The CNDHL was established in 2004 through Law No. 2004/016 of 22 July 2004. The Commission replaced the National Committee of Human Rights and Liberty – known in French as the *Comité National des Droits de l’Homme et des Libertés* – which was created by a Presidential Decree in 1990. See Art. 2 which defines the competence of the Commission.

2. Section I

2.1. *The Interdependence and Indivisibility of Human Rights*

The most important instrument in the modern human rights regimes is probably the Universal Declaration of Human Rights which was issued in 1948 after the Second World War. This important document asserts that “all human beings are born free and equal in dignity and rights”³ and describes the recognition of the “inherent dignity” and the “equal and inalienable rights of all members of the human family” as the “foundation of freedom, justice and peace in the world”⁴. These “equal and inalienable” rights inhere in us by virtue of our very humanity and are inextricably linked to the inherent dignity of the human person”. In other words, rights can never be “given”.

However, a distinction has traditionally been made at the international level between civil and political rights on the one hand, and social, economic and cultural rights on the other⁵. Within the United Nations framework, the former are protected by the 1996 International Covenant on Civil and Political Rights (ICCPR) while the latter are protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR). These instruments require national governments to confer and safeguard the relevant rights on a universal basis that is they are obliged to grant them to all citizens without discrimination. Civil and political rights include the right to life⁶, to be free from torture and inhuman or degrading treatment⁷, to liberty and security of person⁸, to associate freely with others⁹, and to vote and take part in the political life of one’s country¹⁰. They also include the right to be free from discrimination¹¹.

³ Universal Declaration of Human Rights 1948 Art. 1.

⁴ *Ibid.*

⁵ At the European level, Civil and Political Rights are protected by the 1950 European Convention on Human Rights (ECHR) while social, cultural and economic rights are protected by the Charter of Fundamental Rights of the European Union issued in 1961. The African Charter on Human and Peoples’ Rights of 1986 does not make any distinction between civil and political rights and between economic, social and cultural rights.

⁶ ICCPR Art. 6.

⁷ ICCPR Art. 7.

⁸ ICCPR Art. 9.

⁹ ICCPR Art. 22. See also Art 23, concerning family rights; Art. 24, concerning the protection of children; and Art. 17, concerning privacy.

¹⁰ ICCPR Art. 25.

¹¹ ICCPR Art. 26.

Economic, social and cultural rights include the right to education¹², to work¹³, to health¹⁴, and to an adequate standard of living¹⁵. Obviously these rights apply to everyone but they have particular relevance to marginalised and disadvantaged groups, including women and persons with a disability who have less access to adequate housing, to health care services and to employment.

The indivisibility and interdependence of rights, as encapsulated in the Universal Declaration of Human Rights were seriously undermined by the distinction between civil and political rights on the one hand and social and economic rights on the other. This distinction at the international level resonates with the political antagonism of the Cold War era during which the discourse of rights was itself used as a weapon in the political posturing between the West and the former Soviet Union. The West emphasised the importance of civil and political rights laid down in the ICCPR, while the communist Soviet Union actively supported the ICESCR and referred to rampant unemployment, lack of universal healthcare among others not only as forms of abuse of human rights in the capitalist world but also as symptomatic of the failings of the capitalist economic system. This legacy of Cold War rhetoric did not only contribute to the general perception that human rights are primarily about civil and political rights but also played a major role in stalling the debate of social and economic rights.

However, the demarcation between civil and political rights and between socio-economic rights has come under increasing strain in international human rights law¹⁶. First, there is an increasing recognition that political and civil rights might have social or economic implications¹⁷. This is most exemplified in the context of the provisions of the United Nation Convention on the Rights of Persons with a Disability (CRPD)¹⁸, where

¹² ICESCR Art. 13.

¹³ ICESCR Art. 6.

¹⁴ ICESCR Art. 6.

¹⁵ ICESCR Art. 11.

¹⁶ For example, the African Charter on Human And Peoples' Rights of 1986 does not make any distinction between civil and political rights and between economic, social and cultural rights.

¹⁷ See generally, R. Avison, *On the Relationship between Civil and Political Rights and Economic and Social Rights*, in M. Coicaud, M.W. Doyle, and AM Gardner (eds.), *The Globalization of Human Rights*, UN University Press, Tokyo, 2003).

¹⁸ The CRPD was adopted on 13 December 2006 and was opened for signature on 30 March 2007. The Convention and the Optional Protocol entered into force on 3 May 2008.

the right to liberty has been reconceptualised and interpreted in such a way to confer a right to a person with a disability to maximize his personal mobility and to impose a positive obligation on the State to fulfill this right through the provision of assistive aids and training in mobility skills¹⁹. Similarly, the right to freedom of expression and opinion is interpreted in such a way as to impose an obligation on national governments to accept and facilitate the use of sign languages, Braille and other alternative modes and formats of communication by persons with a disability²⁰.

Second, a core right implicated in the domain of both political and civil rights, as well as social and economic rights represents a form of equality and non-discrimination. However, the ideal of equality and non-discrimination is important not only because it constitutes an important bridge between political rights and social and economic rights in conceptual terms. Its relevance also lies in the fact that also it has a particular relevance in the domain of social and economic rights. In fact, it is the equality perspective that gives added meaning to the infringement of other social rights such as the right to health care, the right to education, and the right to work. In other words, it is not so much these rights that are at stake in isolation but the securing of their equal effective enjoyment to all. Identifying equality as the controlling benchmark in the protection and promotion of human rights has the practical effect of placing on the state a legal and moral duty to find optimal policy solutions to achieve it²¹.

2.2. Human Rights and the Obligations of the State

In order to situate the role of the CNDHL as an institutional mechanism by the State to ensure the protection and promotion of human rights, it may be useful to examine briefly some of the conceptual understandings of human rights in the context of what is generally referred to as the

¹⁹ UNCRPD Art. 20.

²⁰ UNCRPD Art. 21. For a comprehensive analysis of the provisions of the CRPD, see generally A. Lawson, *Disability and Equality Law in Britain: the Role of Reasonable Adjustment*, Hart Publishing, Oregon, 2008.

²¹ For a comprehensive discussion of equality in the European Union in the context of disability, see G. Quinn, *The European Social Charter and EU Anti-discrimination Law in the field of Disability: Two Gravitational Fields with One Common Purpose* in G. de Burca, B. de Witte (eds.) *Social Rights in Europe*, OUP 2005, Oxford, pp. 279-304.

negative and positive obligations of the State. This may be important in establishing any systematic correlation between categories of human rights and ways of fulfilling them. The distinction between negative and positive duties mirrors the traditional distinction between civil and political rights, which are negative duties of restraint, which prevent governments from interfering with individual freedom; and socio-economic rights, which are positive rights, casting positive duties on the state to act against want or need²².

Generally, there are three main objections to the “positive rights” interpretations of human rights. The first is that human rights are primarily about liberty, particularly freedom from arbitrary or unjustified *state* action. This traditional paradigm of human rights is premised on a particular view of the relationship between the State and the individual. On this view, the function of human rights is to protect the individual against interference by the State in his or her individual liberty. Protection by the state against want or need is assigned to the realm of policy, and socio-economic rights to the realms of aspiration. The second objection to the reading of positive rights is more pragmatic and it is premised on the fact that, unlike civil and political rights, social and economic rights potentially have considerable resource implications and are therefore not appropriate for judicial resolution. The third major objection to the positive rights interpretation is an institutional one. The thrust of this objection is that, beyond the issue of resources, courts are simply not the right places to be making positive rights decisions which have structural implications. In other words, there are important institutional difficulties in the courts’ involvement in the adjudication of social and economic rights, particularly with regard to such issues as remedy, fact-finding and representation²³.

The traditional concept of human rights which limits the role of the State to one of avoiding harm caused by its own actions is a narrow and restrictive one which fails to capture the recent developments in comparative Constitutional and human rights law. Human rights are not just about liberty and freedom from arbitrary or unjustified state action. They are also primarily about liberty and freedom from poverty,

²² S. Fredman, *Human Rights Transformed: Positive Duties and Positive Rights*, in *Public Law*, 2006, pp. 498-520.

²³ For a critical analysis of these points, see generally C. McCrudden, *Mainstreaming Human Rights*, in C. Harvey (ed.) *Human Rights in the Community: Rights as Agents of Change*, Hart Publishing, Oxford & Portland, Oregon, 2005, pp. 9-28.

substantive equality, distributive justice and human dignity²⁴.

Furthermore, the traditional paradigm of human rights ignores both the value of social interaction and the ways in which breaches of rights operate in a collective and institutional way. This is particularly true of gender and disability inequality, which affects individuals as a result of their group membership and where inequality is frequently a consequence of institutional arrangements for which the State may not be directly responsible²⁵. Moreover, the focus by the traditional paradigm on restraint assumes that the State is a potential threat to freedom, rather than a potential force for enhancing freedom through the provision of social goods.

It is now established that the state has a positive duty to promote and to fulfill human rights and that human rights have a fundamental role to play in the fight against underdevelopment and poverty²⁶. Of particular significance in this context is the typology developed by Sue according to whom there are three somewhat different but interrelated obligations on the state that may arise in the human rights context: the duty to respect human rights; the duty to *protect* human rights; and the duty to fulfill human rights²⁷.

The typology has a strong institutional element to it that encompasses both the negative as well as the positive duties of the state. The obligation to *respect* human rights requires that states refrain from infringing a human right directly through its own actions, while the obligation to *protect human rights* places the state under a duty to prevent a right from being infringed by non-state actors. On its part, the obligation on the state to fulfill human rights requires states to facilitate access to these rights, or to provide these rights directly through the use of state power. However, what is crucial here is the recognition that both the freedom from state interference and the freedom from poverty and deprivation are inextricably intertwined. This point was aptly put by President Roosevelt in 1941, when he stated that “True individual freedom cannot exist

²⁴ A. McColgan, *Principles of Equality and Protection from Discrimination in International Human Rights Law*, 2003, in *European Human Rights Law Review* pp. 1-13.

²⁵ S. Fredman, *Changing the Norm: Positive Duties in Equal Treatment Legislation*, in *Maastricht Journal of European and Comparative Law*, 12, 2005, pp. 1-27.

²⁶ T. Pogge, *World Poverty and Human Rights, Cosmopolitan Responsibilities and Reforms*, Cambridge, Polity Press, 2002.

²⁷ H. Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy*, Princeton, Princeton University Press, 1996.

without economic security and independence”²⁸. In the same vein, Sen has underscored the point that civil and political rights are essential for the achievement of true freedom from poverty and underdevelopment by demonstrating that countries with accountable leadership do not suffer famine because their leaders know that if they are to remain in power, they must take action to protect the population²⁹.

3. Section II

3.1. The Distinctiveness of Social and Economic Rights as Agents of Change

While it is now settled that all rights offer the potential to act as agents for change, it is the contention of this article that it is the promotion and protection of socio-economic rights – alongside, not in contradistinction to civil and political rights – that has the potential to act as a particularly effective force for change in Cameroon. First, economic, social and cultural rights are likely to be particularly important in effecting social change in Cameroon simply because they involve the vast majority of Cameroonians, in comparison to civil and political rights. Over 80% of Cameroonians are living in poverty today and the poverty gap is increasing as many people are without adequate housing, health care or food. While no one can dispute that civil and political rights could be prerequisites to securing effective economic and social rights, it is arguable that they touch the lives of fewer Cameroonians directly. Most Cameroonians live their lives without the risk of being arrested, detained or even tortured by the authorities because of their political engagement. Indeed, even in highly despotic societies, often relatively few people are made to suffer so as to ensure the compliance of the vast majority. Thus, while the protection and promotion of civil and political rights are vital to Cameroon’s thriving democracy, improvements in this area alone are unlikely to affect large numbers of Cameroonians as directly as would dramatic improvements in measures aimed at addressing poverty, malnutrition, unemployment and access to proper health care facilities.

²⁸ 11th Annual Message To Congress, (11 January 1944), in J. Israel, ed., *The State of the Union Messages of the Presidents*, Chelsea House Publishers, New York, 1966, Vol. 1.3, p. 2881, cited in H. Steiner, P. Alston, *International Human Rights in Context*, OUP, 2000, p. 243.

²⁹ A. Sen, *Freedoms and Needs*, *The New Republic*, 10 and 17 January 1994, pp. 31, 32, cited in *International Human Rights in Context*, *Ibid.*

Second, the very fact that economic, social and cultural rights are the “poor relation” in the human rights discourse in Cameroon can be turned to advantage by both the CNDHL and all those working for change in this domain. Civil and political liberties have ancient roots in political struggle and are therefore deeply entrenched in the consciousness of those fighting for political change in Cameroon. The particular challenge posed in Cameroon in the context of social and economic rights is the fact that very little is still known about these rights. One reason for this state of affairs may be that, even though the U.N. Committee on Economic, Social and Cultural Rights has been granted jurisdiction to scrutinize the government’s implementation of economic, social and cultural rights, the sessions of the Committee, although public, are rarely reported in the Cameroon media, which means that there is little accountability of the government on economic, social and cultural rights and very little national dialogue on the promotion and protection of these rights. A consequence of this is that social and economic rights do not enjoy the same level of societal protection and support as civil and political rights. However, it is plausible to argue that, as with earlier civil and political struggles, the very assertion of social and economic rights will effect a change in the thinking of Cameroonians about the power arrangements in society. As demonstrated below, the promotional activities of the CNDHL through education, campaigning and mainstreaming directed at changing this reality can empower most Cameroonians who will most benefit from a wider respect of social and economic rights.

Third, it is fair to consider the promotion and securing of economic, social and cultural rights as a civilizing factor that could immeasurably enhance the quality of democratic life in Cameroon. The debate around human rights in Cameroon has often been characterised as being too legalistic, and of particular interest to lawyers and the “elites” of society. A focus on socio-economic rights would not merely involve more people in the debate of rights; it is likely also to engage a qualitatively different support base. Human rights campaigns for improved education, health care or even for employment opportunities for the millions of unemployed young people in Cameroon are likely to attract not only more people, but a much wider and more diverse constituency of interest. Furthermore, a focus on socio-economic rights could play a pivotal role in keeping space in the democratic process open for vulnerable groups such as women and persons with disabilities by regulating and limiting the kind of choices that the government makes with regard to the

electoral process³⁰. Such a focus could ensure, for example, that women are provided the support they need to participate in the electoral process while polling stations are made accessible to persons with a disability. A major failure of our democratic process is the discrimination against vulnerable and marginalized groups in society resulting in the denial of their civil and political rights. If left unchecked, such an impulse toward exclusion and discrimination will lead to a total closure of the political and civil space for these groups of citizens and ultimately to the implosion of the political order³¹.

3.2. The Constitutional Protection of Social and Economic Rights in Cameroon

It is now acknowledged that economic, social and cultural rights are fundamental human rights which must be secured and promoted by the state, albeit progressively, and within its available resources³². In other words, the promotion and protection of social rights is both a legal and Constitutional responsibility of the State³³. However, very little has been done to entrench social rights into the Constitutional and legal fabric of Cameroon. This may be due not only to the fact that the protection of social rights sometime involve the deployment of major resources but also that they are rarely self-contained. In fact, there appears to be some uncertainty on how such a right should be interpreted and applied by the judiciary and other bodies. Human rights standards in the civil and political realm are reasonably well established internationally. The securing of economic and social right is far from being defined at the international level, still less interpreted or applied universally.

³⁰ G Quinn, *The Human Rights of People with Disabilities Under the EU Law* in P. Alston, M. Bustelo, et. al. (eds), *The EU and Human Rights*, OUP, Oxford, 1999, p. 281.

³¹ See generally, G. Quinn, *The European Social Charter and EU Anti-discrimination Law in the Field of Disability: Two Gravitational Fields with One Common Purpose* in G. de Burca, B. de Witte (eds.), *Social Rights in Europe*, OUP, Oxford 2005, pp. 279-304.

³² See Art. 2(1) of the ICESCR and General Comment No. 3 “The nature of states parties’ obligations, adopted by the Committee on Economic, Social and Cultural Rights at its fifth session in 1990 (UN Doc E/1991/23). Also, note that the CRPD makes provision for economic, social and cultural rights but not civil and political rights to be implemented on a progressive basis; see generally, CRPD Art. 4(2). This reflects the conventional view that the effective implementation of economic and social rights is likely to require the investment of resources to a much greater extent than is the implementation of political and civil rights.

³³ G. Van Bueren, *Including the Excluded: the Case for an Economic, Social and Cultural Human Rights Act*, in *Public Law*, 2002, pp. 456-472.

The existence of a general principle of equal treatment in Cameroon is recognised by Art. 1(2) of the Constitution which provides that “the State shall ensure the equality of all citizens before the law”³⁴. This Constitutional approach to equality and non-discrimination is based on a self-standing principle of general application which does not provide any specific limitation on the circumstances in which it is applicable or the grounds on which the difference of treatment is challengeable³⁵. However, non-discrimination is often tied to some more specific context and this fact is recognised by the Constitution – albeit in the context of sex discrimination – which further provides that “the State shall guarantee all citizens of either sex the rights and freedom set forth in the Preamble”. The use in the Constitution of the wording “without discrimination” in relation to the responsibility of the State to ensure the wellbeing of the citizens implies that the core right engaged in the domain of social and economic rights is that of equality and non-discrimination. It is significant that the Preamble of the Constitution acknowledges the right of all Cameroonians to work³⁶. For the moment, however, the right to work seems to be the only social right expressly referred to in the Preamble of the Constitution. This is not surprising because economic contribution through employment appears to be the only genuinely valued contribution in our societies. Though the Preamble of the Constitution does not expressly refer to such other social rights as the right to adequate housing, education and health, it is plausible to conclude that these rights are similarly protected by the constitutional commitment “to ensure the well-being of every citizen without Discrimination”³⁷.

³⁴ The Constitution of Cameroon, passed by Law No. 96-06 of 18 January 1996 to amend the Constitution of 2 June 1972. Many written Constitutions contain express statements guaranteeing the right to equality in some form or other. Examples include the Equal Protection Clause contained in the 14th Amendment of the US Constitution, Article 40.1 of the Irish Constitution and Section 15 of the Canadian Charter of Rights and Freedoms, 1982.

³⁵ McCrudden refers to such Constitutional provisions of equality and non-discrimination as “equality as rationality”; see C. McCrudden, H. Kountouros, Human Rights and European Community Law, in H. Meenan (ed.) *Equality Law in an Enlarged European Union: Understanding the Article 13 Directives*, Cambridge University Press, Cambridge, 2010, p. 73.

³⁶ The Preamble provides that “every person shall have the right and the obligation to work”.

³⁷ Preamble of the Constitution of the Republic of Cameroon, *op. cit.* This is reinforced by the provision in the Preamble that “The State shall provide all its citizens with the conditions necessary for their development”.

The enjoyment of the highest attainable standard of health has been affirmed in the World Health Organisation (WHO) Constitution in 1946 as one of the fundamental rights of every human being³⁸. Health was defined as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity³⁹. The definition of health in terms of social wellbeing by WHO is significant as it implies that factors enhancing and jeopardising the health of Cameroonians reach far beyond the availability or non-availability of medical care. At the individual level, access to employment and/or income-generation, housing, nutrition, and water and sanitation enhance individual health much more than medical interventions. At the community level, an important dimension to social wellbeing is the psychological integrity of the individual in terms of the relationship he or she has with other members of the community⁴⁰. The Preamble of the Constitution provides that Cameroon is a society founded on the ideals of “Fraternity, Justice and Progress.” Social inequality and discrimination are contrary to human dignity and corrosive of social solidarity⁴¹. Fundamentally, human rights are not merely about the intrinsic worth of each human being and their dignity; it is also about their equal inherent self-worth⁴². There is a growing trend by states towards the Constitutional protection of socio-economic rights which may serve as a blueprint for action by Cameroon. A leading example in this respect is South Africa, which enshrines in its 1996 Constitution the most comprehensive range of economic, social and cultural rights in the world. For example, Sections 26(1) and 27(1) of the South African Constitution *state* that everyone has the right of access to housing, health care services, sufficient food and water, and social security. These rights are, however, qualified by Sections 26(2) and 27(2), which provide: “The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights”. However, in

³⁸ For further information on the WHO Constitution, see generally www.who.int.

³⁹ *Ibid.*

⁴⁰ I. Doron, *Demographic, Social Change and Equality*, in H. Meenan (ed) *Equality Law in an Enlarged European Union: Understanding the Article 13 Directives*, Cambridge University Press, Cambridge, 2010.

⁴¹ M. Bell, *Walking in the Same Direction? The Contribution of the European Social Charter and the European Union to Combating Discrimination*, in G. de Burca, B.de Witte (eds.), *Social Rights in Europe*, OUP, Oxford, 2005.

⁴² G. Quinnand, T. Degener, *Human Rights and Disability: The Current use of United Nations Human Rights Instruments in the Context of Disability*, HR/PUB/02/1, United Nations, New York and Geneva, 2002.

the Certification of the Constitution Case, the South African Bill of Rights was challenged, *inter alia*, on the ground that it enshrined social and economic rights which were non-justiceable. The Constitutional Court adopted a cautious approach, holding that “at the very minimum socio-economic rights can be negatively protected from improper invasion”⁴³ and that the inclusion of economic, social and cultural rights in the Bill of Rights was therefore constitutional⁴⁴.

4. Section III

4.1. *The Role of the CNDHL in Promoting Social and Economic Rights*

Asserting that social and economic rights are fundamental rights is one thing. Making the extra assertion that these rights are one that can be and should be addressed at the level of the CNDHL is quite another. The main question posed in this respect is in what way does the promotion and protection of social rights in Cameroon engage the legal responsibility of the CNDHL? The role of the CNDHL to promote and protect Human Rights is acknowledged in Art. 1(2) of its enabling statute which stipulates that the Commission is an independent body charged with the promotion, evaluation and protection of human rights in Cameroon. The remit of the Commission has two dimensions; its general and specific functions. The general functions of the Commission include ensuring full and equal access to justice for all Cameroonians and the respect of “due process” in relation to the dispensation of justice. The Commission is also expected not only to ensure the respect of the human rights of persons in prison with regard to the conditions of their detention but also that there is freedom of press and communication and that the right of Cameroonians to associate freely is respected. The remit of the Commission also covers such areas as education, housing, health, work, environmental issues, private and family life. Finally, the Commission is expected not only to address issues of development generally but also to direct particular focus on ensuring the protection and promotion of the rights of children, women, persons with disabilities and the indigenous population who are the most disadvantaged in the society.

⁴³ Ex p. Chairperson of the Constitutional Assembly, in *Certification of the Constitution of the Republic of South Africa*, 1996, 4 S.A. C.C., par. 78.

⁴⁴ S. Fredman, *Providing Equality: Substantive Equality and the Positive Duty to Provide*, in *South African Journal on Human Rights* 21, 2005, pp. 163 – 190.

With regard to its specific functions, the Commission is empowered to:

- address and investigate all complaints of human rights violations, including those notified to it by NGOs throughout the national territory and using the resources of its regional offices;
- undertake visits to prisons and other detention centres in order to ensure that the conditions of detention comply with international standards;
- educate and promote public awareness on issues of human rights and freedom through the use of the media and promotional leaflets. The Commission is also expected to work closely with the relevant ministers in developing educational programs for the teaching of human rights;
- When requested, provide an opinion on all issues pertaining to human rights and freedom to the government and other stakeholders;
- develop and implement a national and realistic plan of action (PAN) for the promotion and protection of human rights in Cameroon.

Certain preliminary lessons could be drawn from this legal framework of the CNDHL with regard to its ability to promote and protect human rights in Cameroon. The first lesson is that the independence of the Commission is essential, so as to ensure relative isolation from political pressures. The independence of the CNDHL, like that of the judiciary, will help to ensure Cameroon's pluralistic democracy by checking and limiting the excesses of the executive. The UN Paris principles set out the desirable status and functions of human rights agencies⁴⁵. These include accountability to the directly elected legislature rather than to the executive. The CNDHL is a body created by Parliament and is supposed to be independent of the executive. The Commission's governing Board constitutes of a President, a vice president and 30 Commissioners selected from various state organs and professional bodies⁴⁶. However, the President and Vice President of the Commission are appointed directly by Presidential decree⁴⁷. This absence of direct accountability to Parliament with regard to the appointment of the key administrative officers of the Commission, coupled with the reality of executive control over resources⁴⁸ has the potential of leaving the Commission vulnerable to outside pressures and thus casts doubts on its claim as an independent

⁴⁵ United Nations, *Principles Relating to the Status of National Institutions*. United Nation General Assembly Resolution 48/134, December 1993.

⁴⁶ Art. 3 of law no 2004/016 of 22 July 2004.

⁴⁷ Art. 6 of law no 2004/016 of 22 July 2004.

⁴⁸ The Commission is currently funded as a part of the state budget and from donations from both local and international partners; see Art. 20 of law No. 2004/016 of 22 July 2004.

body. This situation may be altered if the appointment of the President of the Commission, including the commissioners is not only subject to parliamentary ratification but if the budget of the Commission should be set by Parliament. This would also be the case if the Commission should formally report to and be held to account by parliament.

However, the deficiencies in the independence of the CNDHL are compensated by the fact that the Commission has the powers to determine its own internal structure and operational arrangements, including powers to establish regional offices in all the ten regions of Cameroon. The decision to allow the CNDHL to determine its own structure and modus operandi makes sense as it is better than to have the law impose a potentially unworkable and artificially rigid structure which would leave the Commission incapable of responding to new challenges. A human rights commission cannot perform its role effectively if it does not reflect, or even relate to the lived experience of disadvantaged groups. The composition of the CNDHL and the skills and knowledge of its staff will have to reflect to some degree the diversity and experience of the various disadvantaged groups its work is intended to assist. However, the success or failure of the CNDHL will ultimately depend on how it uses the powers conferred by Parliament to achieve its aims, not on the shape of its internal design and structure.

Second, it is clear that the remit of the CNDHL is wide and covers both what would generally be considered as political and civil rights and economic, social and cultural rights. However, while the promotion and protection of political and civil rights should understandably be emblazoned on the agenda of the CNDHL, given the fact that the idea of creating a Human Rights Commission in Cameroon was borne out of response to the political upheavals of the 1990s, it is significant to note that, of recent the CNDHL has made some progress in the domain of economic and social rights. The active participation of the Commission in the drafting of laws on issues such as the payment of a minimum wage in Cameroon is certainly an expression of the Commission's determination to push forward its agenda on issues of socio-economic rights⁴⁹. In particular, the Commission was instrumental in ensuring not only that a participatory approach was adopted in the development of the strategic plan for the health sector 2001-2010 but also that the plan contained measures aimed at poverty alleviation. The Commission was also instrumental in pushing through the decision to increase salaries in the

⁴⁹ *Ibid.*

public sector⁵⁰ and the implementation of the minimum wage in the private sector⁵¹.

Third, it is significant that the CNDHL has as a part of its remit the promotion of the socio-economic development of Cameroonians. A focus on economic, social and cultural rights could be seen as a productive factor in the drive for economic and human development. Although the securing and promotion of economic, social and cultural rights have resource implications, an increased focus on these rights by the CNDHL may accelerate the pace of economic and human development and thus the wealth creating capacity of the country: the right to education is an investment in human capital; the right to work helps reduce the level of unemployment and the right to health ensures a more efficient workforce. While there may be reservations towards the adoption of a purely economic rationality for the promotion of human rights, it is difficult not to agree that it happens to be particularly powerful in the socio-economic contexts since these rights, if appropriately promoted and protected, would undoubtedly go a considerable way towards the elimination of the disease of underdevelopment; poverty, hunger, malnutrition, inaccessibility to adequate health care and thus improve the socio-economic circumstances of most Cameroonians, especially those who are the victim of exclusion, marginalization and neglect⁵².

4.2. Promoting Human Rights through Information, Education and Consultation

According to Art. 1(2) of Law No. 2004/016, the CNDHL is to achieve the promotion and protection of human rights in Cameroon through consultation, deliberations and evaluation. This clearly indicates the

⁵⁰ *Décret* No. 2008/099 of 7 mars 2008 which increased the salaries of Civil Servants and state agents by 15%.

⁵¹ *Décret* No. 2008/2115/PM of 24 June 2008. The decree is generally referred to by its French appellation *salaire minimum interprofessionnelle garanti* (SMIG) and increased the minimum wage from 23 514 Fcfa to 28 216FCFA.

⁵² For details on the Government's policies on poverty and other social issues, see generally Ministry of Planning, Programming and Regional Development, *Progress Report on the Implementation of the Poverty Reduction Strategy Paper as of 31 December 2005*, 2006. See also, IDA and IMF, *Annual Progress Report on the Poverty Reduction Strategy*, IDA and IMF Joint Staff Report, 2006.

adoption of a participatory approach to human rights. In this respect, the CNDHL could operate as a regulatory body for the array of Human Rights Organisations and Non-Governmental Organisations operating in Cameroon, developing their capabilities and providing them with space for deliberation to bring about change. The Commission has extended powers to consult, inform and to engage with ministers and various non-governmental organisations in setting objectives and measuring progress on human rights through its Plan of Action.

However, the potential of the CNDHL to engage with organisations and other stakeholders outside the public service has been disturbingly underdeveloped. A human rights culture is unlikely to evolve only from the public sector alone. Developing such a culture is a project that needs encouragement and commitment from both the public and private sectors. The CNDHL will need inspired and determined leadership, if it is to use its powers and resources effectively to engage with both the public and private sectors. It should be particularly effective in stimulating law reform in areas such as land rights, employment rights in the public and private sectors, the elimination of discrimination against marginalised groups such as children, women, persons with disabilities and indigenous peoples.

Within its remit, The CNDHL should also educate and promote public awareness on issues of human rights and freedom through the use of the media and promotional leaflets. The Commission is also expected to work closely with the relevant ministers in developing educational programs for the teaching of human rights. This confirms the primary role of the Commission as a promoter of societal change. A key objective of Human Rights Organisations is to change societal attitudes so as to eliminate discrimination. The Preamble of the Constitution provides that Cameroon is a society founded on the ideals of “Fraternity, Justice and Progress”. Fraternity is likely to prevail only where there is mutual respect between groups based on understanding and valuing of diversity and shared respect of equality and human rights. The CNDHL should also be able to serve as a single port of call for victims of discrimination, and for organisations seeking advice on how to avoid discriminatory acts or how to implement equality of opportunity policies.

The CNDHL has a general duty to encourage and support a society based on freedom from prejudice and discrimination. The ongoing debate on discrimination against homosexuals in Cameroon means that the Commission has new terrain on which to press for change. In the same vein, the commission would inevitably have to maintain a sufficiently strong focus on combating tribalism. In this respect, both the

promotional and enforcement aspects of the work of the commissions are important and need to be combined in a common strategy: the “carrot” of promotion becomes more attractive when the “stick” of enforcement is a real threat. However, striking the right balance between promotion and enforcement may prove difficult for the CNDHL but is not impossible.

4.3. Inquiry and Investigation

Art. 1(2) gives the CNDHL extensive powers to investigate and address all complaints of human rights violations in Cameroon. This enforcement power covers violations of both political and civil rights and social and economic rights. There are two types of investigation which may be carried out by the Commission. First, the Commission may act on complaints of human rights violations received from NGOs throughout the national territory, including individual-based complaints. It is important that the CNDHL should be able to provide support for those who suffer discrimination and other forms of human rights violations, especially given the absence of legal aid or alternative sources of support for individuals seeking legal redress. Supporting individual cases is now often seen as the primary role and the “bread and butter” work of the Human Rights Commissions⁵³. However, while procedures for individual complaints can lead the government and other private organisations to review their practices, what we should not lose sight of is the fact that the CNDHL is a state-funded body charged with the specific task of promoting and protecting human rights. It is not a representative body, and while independent in how it performs its functions, the Commission is ultimately appointed by and accountable to the government for how it spends public funds, not to the NGOs or individuals. This makes the CNDHL a less than perfect representative voice on behalf of disadvantaged groups such as women, persons with disabilities or children⁵⁴.

Second, the Commission may investigate complaints of human rights violations received from its regional offices. At present, the CNDHL has offices in all the ten regions of Cameroon and the existence of the

⁵³ B. Hepple, *Enforcing Equality Law: Two Steps Forward and Two Steps Backwards for Reflexive Regulation*, in *Industrial Law Journal* 40, No. 4, p. 315.

⁵⁴ With regard to the position of the Commission For Equality and Human Rights of Great Britain, see C. O’Cinneide, *The Commission for Equality and Human Rights: A New Institution for New and Uncertain Times*, in *ILJ* 36, No. 2, 2007, pp. 141-162.

regional offices is justifiable on pragmatic grounds, as the activities of the commission in these regions will inevitably require special and distinct approaches. However, there are particular challenges posed in Cameroon in the context of the enforcement role of the CNDHL with regard to economic and social rights. Apart from the fact that relatively little is still known by Cameroonians of the whole world of economic, social and cultural rights, the Commission ability to investigate violations of these rights is seriously compromised by severe budgetary constraints which has almost paralysed the activities of the Commission⁵⁵.

As mentioned above, the CNDHL is a body largely funded by the government and one objection to the positive rights enterprise is that positive rights potentially have considerable resource implications. This is where the commitment of the government to promote economic and social rights becomes crucial. Investigating violations of human rights is essentially what a good Human Rights Commission should be concerned about. One of the problems of the CNDHL is that, even when it discovers that there has been a human rights violation, it does not have the resources to investigate it. There should be much more attention paid to how the CNDHL is funded if human rights violations are to be properly investigated in Cameroon.

The violation of economic and social rights is both a Constitutional and legal issue and, where the CNDHL finds that there has been a violation of the economic and social rights of Cameroonians, it must take action to obtain redress. The fact that the Constitution of Cameroon does not contain any substantive guarantee of economic and social rights and the courts have been denied any expressed jurisdiction in this domain does not mean that the constituent elements of social rights are non-justiceable and incapable of being adjudicated by the courts⁵⁶. What is challenging about a judicial review of social rights is not only that they involve allocation of resources but also that they are rarely self-contained. A budget is inherently interdependent whilst the right to “equality” appears to be an open-ended and

⁵⁵ According to the President of the Commission Dr. Banda, the Commission was unable to fund the operations of its field workers during the last Presidential elections.

⁵⁶ G. Van Bueren, *No Turning Back—The Right to Housing is Justifiable and The Cluster of Rights*, in D. Davis and H. Cheadle, (eds.), *Fundamental Rights in the Constitution* (Butterworths, 2002).

indeterminate concept, capable of giving rise to multiple and often conflicting accounts of its “proper” meaning⁵⁷.

There is a need to recognise the part that the Cameroon courts could play in protecting the socio-economic rights of Cameroonians. Extant Administrative Law of Cameroon may reflect the values of legality, fairness and rationality intended to protect citizens from exercises of power that may infringe against their interests. However, Administrative Law was not designed to achieve structural change and structural change is unlikely to occur through Administrative Law alone⁵⁸. Thus, a new emphasis on social rights by the courts is needed to ensure that these rights are not only guaranteed but are fully protected by the law. The Cameroon courts may gain inspiration from the judgments of the South African courts with regard to the protection of economic and social rights⁵⁹. A leading case in this domain is *Grootboom*⁶⁰. The claim in *Grootboom* was brought by Mrs. Irene Grootboom and 899 other respondents who were destitute and homeless, because they had been evicted from their largely metal shacks. They had built their homes on private land earmarked for formal low-cost housing. They alleged that their circumstances violated s. 26 of the Constitution. In his judgment, Yacoob J. found the state housing programme to be invalid to the extent that it failed to make provision for people in immediate and desperate need. Although laudable, the programme concentrated unduly on the goal of constructing permanent houses for as many people as possible over time, instead of providing shelter for the desperate in the interim. The Court therefore held that the programme would have to be modified so as to include a component catering for those in immediate need, even if this decreased the rate at which permanent houses could be constructed. The Court left the form of that component as well as the exact proportion of the housing budget that should be allocated for that purpose to be decided by the state authorities. The Court did, however,

⁵⁷ C. O’Cinneide, *The Right to Equality: A Substantive Legal Norm or Vacuous Rhetoric?*, in *UCL Human Rights Review*, No. 2008.

⁵⁸ O. Dawn, *Common Values in Public and Private Law and the Public/Private Divide*, *Public Law*, 1, 1997.

⁵⁹ M. Wesson, *Equality and Social Rights: An Exploration in Light of the South African Constitution*, in *Public Law*, 2007, pp. 748-769.

⁶⁰ Government of the Republic of South Africa, The Premier of the Province of the Western Cape, Cape Metropolitan Council, Oostenberg Municipality v. Irene Grootboom and Others (2001 (1) SA 46) (CC) See also the judgment of the Constitutional court of South Africa in *Soobramoney v Minister of Health (Kura-Zulu-Natal)* CCT 32/97 (26 November 1997).

stipulate that “a significant number of desperate people in need [must be] afforded relief, though not all of them need receive it immediately”⁶¹.

5. Section IV

5.1. *Mainstreaming Human Rights*

Given the fact that Constitutional or even judicial protection of social and economic rights are limited in Cameroon, the CNDHL should focus more on encouraging a preventive rather than a litigation approach to human rights compliance. One way of achieving this is by encouraging the “mainstreaming” of human rights in governmental decision-making. “Mainstreaming” in this context refers to the process whereby a human rights perspective is incorporated into all stages of policy development, review, evaluation and implementation by all those involved in policymaking⁶².

The need to avoid the marginalisation of human rights thinking is pressing in Cameroon, particularly in the context of ensuring the compliance of the government with those positive obligations of the state to protect and promote human rights. There is a growing perception that, unless special attention is paid to the promotion and protection of human rights in policy making, it will become sidelined by government ministers who do not view issues of human rights as central to their concerns. In fact, the need to mainstream human rights in government decision-making has not only been identified as a priority by the United Nations High Commissioner for Human Rights⁶³, but it was also seen as a necessary component in the operational link between human rights and the attainment of the Millennium Development Goals (MDG)⁶⁴. The MDG is a set of eight time-bound, quantifiable goals destined to translate into action the commitment by world leaders to reduce extreme

⁶¹ *Government of the Republic of South Africa v Grootboom*, judgment of the Constitutional Court, October 4, 2000, par..23,

⁶² C. McCrudden, *Mainstreaming Human Rights* in C. Harvey (ed.), *Human Rights in the Community: Rights as Agents of Change*, Hart Publishing, Oxford & Portland, Oregon, 2005, pp. 9-28.

⁶³ UN Office of the High Commissioner for Human Rights, *Mainstreaming Human Rights*, available at (last accessed 3 March 2004).

⁶⁴ UNDPO, *Human Rights: Making the Link*, [UNDPO Oslo Governance Centre](#).

poverty and achieve human development and human rights⁶⁵. These goals are stated as;

- Eradicate extreme poverty and hunger;
- Achieve universal primary education;
- Promote gender equality and empower women;
- Reduce child mortality;
- Improve maternal health;
- Combat HIV/AIDS, malaria and other diseases;
- Ensure environmental sustainability;
- Develop a global partnership for development.

The United Nations has pointed out that the human rights framework does not only ensure that the MDGs are pursued in an equitable, just and sustainable manner but also that development policies are statutorily underpinned by a universal set of values⁶⁶. Linking MDGs and human rights through mainstreaming will ensure that the government proactively take human rights into account by building it into the activities of all those primarily involved in the development and implementation of MDGs policies. This will help the government stay true to the spirit and vision of the Millennium Declaration, which places human rights at the heart of efforts to achieve human development.⁶⁷ The CNDHL could play an important role in challenging the effectiveness of the mechanisms established by the Government for the implementation of the MDG by ensuring that a human rights perspective is built into all the policies.

As pointed out above, a core human right with particular significance in the domain of social and economic rights is that of equality and non-discrimination. There have long been somewhat similar discussions on the benefits and problems of mainstreaming in the context of equality and non-discrimination requirements and a part of the scholarly work has argued that human rights considerations be “mainstreamed” in similar ways to those adopted for equality mainstreaming⁶⁸. In this respect, the CNDHL may gain considerable inspiration from the operations of two Human Rights organisations where equality mainstreaming has featured prominently in their agenda. The first is the Equality Commission for

⁶⁵ *Ibid.*

⁶⁶ United Nations, *Human Rights and the Millennium Development Goals in Practice: A Review of Country Strategies and Reporting*, United Nations, New York and Geneva, 2010.

⁶⁷ UNDPO, *op. cit.*

⁶⁸ C. McCrudden, *Mainstreaming Human Rights, op. cit.*

Northern Ireland which has responsibility for the implementation of the provisions of Section 75 of the Northern Ireland Act 1998⁶⁹. Section 75 provides that each “public authority” is required, in carrying out its functions relating to Northern Ireland, to have “due regard” to the need to promote equality of opportunity between certain different individuals and groups. The relevant categories between which equality of opportunity is to be promoted are between persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without.

The second is the Commission for Equality and Human Rights of Great Britain which has responsibility for ensuring the implementation of the Public Sector Equality Duty (PSED)⁷⁰. The PSED is contained in Section 149 of the Equality Act of 2010. At the heart of the duty is the core requirement that a public body must pay due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. Thus, Section 149 of the Equality Act of 2010 provides that:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

However, it is the provisions for the enforcement of the equality duties in Northern Ireland and Great Britain that mark out the mainstreaming approach as particularly interesting from a human rights viewpoint. With regard to the Northern Ireland equality duty, all public authorities in

⁶⁹ C. McCrudden, *Review of Issues Concerning the Operation of the Equality Duty*, in E. McLaughlin and N. Faris (eds.), *Section 75 Equality Review—An Operational Review*, Belfast, 2004.

⁷⁰ S. Spencer, *Equality and Human Rights Commission: A Decade in the Making*, 2008, in *The Political Quarterly*, No. 79, pp. 6-16. Also, C. O’Cinnede, Commission for Equality and Human Rights, *A New Institution for New and Uncertain Times*, *op. cit.*

Northern Ireland are required to submit to the Equality Commission an equality scheme which shows how the public authority proposes to fulfil the duties imposed by Section 75 in relation to the relevant functions, and which specifies a timetable for measures proposed in the scheme. Where it thinks appropriate, the Commission may request any public authority to make a revised scheme. Before submitting a scheme to the Equality Commission, a public authority must consult, in accordance with any directions given by the Commission, with representatives of persons likely to be affected by the scheme, and with such other persons as may be specified in the directions. An equality scheme is required to state the authority's arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. On receipt of a scheme from a Northern Ireland department or public body, the Commission either approves it or refers it to the Secretary of State. Where the Commission refers a scheme to the Secretary of State, the Commission is required to notify the Northern Ireland Assembly in writing that it has done so and send the Assembly a copy of the scheme. When a scheme is referred to the Secretary of State, he has three options: to approve the scheme, to request the public authority to make a revised scheme, or to make a scheme for the public authority.

A somewhat different approach is taken in Great Britain under the Public Sector Equality Duty. The duty is a general one, set out in the Act itself as the Public Sector Equality Duty, and specific duties imposed through regulations⁷¹. The specific duties are designed to provide a structure for delivering on the general duty and require the relevant public authorities to publish a range of equality data relating both to their workforces and to the services they provide. There are three main identifiable parts of the duty; the duty to publish equality data, the duty to set equality objectives and the duty to publish transparently and proactively.

Two particularly important techniques have been developed to make the idea of equality mainstreaming effective in both Northern Ireland and Britain and which seem particularly well suited for addressing the two obligations of promoting and protecting human rights. The first is the requirement to conduct equality impact assessments as part of the process

⁷¹ Section 153 Equality Act 2010 gives the Secretary of State the power to impose specific duties through regulations. Schedule 19 of the Act list out the bodies subject to the Specific duties which are now contained in the Equality Act 2010 (Specific Duties) Regulations 2011 SI No.2260.

of considering proposals for legislation or major policy initiatives. In the context of equality mainstreaming, impact assessment involves assessing what the effect of a proposed legislation or policy is, or would be, on particular protected groups, such as women or persons with disabilities. To the extent that the technique can develop criteria for alerting policy makers to potential problems before they happen, impact assessment could be considered as essentially anticipatory and a proactive approach which not only emphasise the effect of policies on the human right in question but also how the government should exercise its discretion in such a way as to protect and promote human rights. This involves examining not only alternative ways of delivering policies but also of moderating any adverse effects that the policies may have on the human rights of those affected.

A second important feature of the mainstreaming approaches of Northern Ireland and Britain is the extent to which groups inside and outside the public body have attempted to use the process as part of a strategy not only to influence governmental policy making but also to construct a more participatory approach to the development and implementation of policies. In the context of the protection and promotion of human rights, mainstreaming should not only be a technical mechanism of assessment within the bureaucracy but an approach that engages those with an interest in the particular policy or policies. Engagement here goes beyond “consultation” which often gives only a passive role to those consulted to respond to proposals made by the government and involves a process not only of information exchange but also of learning and persuasion based on reasoned argument, with a view to reaching agreement on how best to promote and protect human rights⁷². In fact, “engagement” in the context of the promotion and protection of human rights must ensure that certain basic moral and political values are upheld. These include respect for the dignity of vulnerable individuals, the elimination of discrimination and the promotion of equality and the need to foster good relations between different groups in the community. This approach to engagement is consistent with a modern understanding of deliberative democracy which Fredman defines as “a situation in which citizens share a commitment to a resolution of problems of collective choice through public reasoning”⁷³.

⁷² B. Hedbo, *Enforcing Equality Law: Two Steps Forward and Two Steps Backwards for Reflexive Regulation*, in *Industrial Law Journal* 40, No. 4, 2011, p. 315.

⁷³ S. Fredman, *Human Rights Transformed: Positive Rights and Positive Duties*, Oxford University Press, Oxford, 2008, pp. 35-36.

It is important to point out here that the approach that may be adopted to the issue of mainstreaming in Cameroon will inevitably differ from that in Northern Ireland and Great Britain. This is due partly to two fundamental reasons. First, the development of the Northern Ireland equality-mainstreaming model is intricately linked to the Constitutional context, which places equality issues high on the political agenda. Second, equality mainstreaming in both Northern Ireland and Great Britain takes place against the background of extensive statutory provisions dealing with anti-discrimination and equality. This distinguishes the equality agenda in these countries from that of Cameroon where no equivalent extensive Constitutional or statutory protections exist.

An institutional implication of mainstreaming for the CNDHL would, therefore, be the recruitment, development and support of what might be referred to as an epistemic community which would consist of a network of professionals with recognised expertise in human rights issues and an authoritative claim to knowledge within that domain. These professionals would have to work collaboratively with government officials and the civil society, including NGOs to develop a participatory approach to mainstreaming human rights into governmental decision-making. An important “by-products” of such an approach will not only be the development of a crucial link between government and “civil society” but also the encouragement of greater participation in decision-making by marginalised groups, thus lessening the democratic deficit.

6. Conclusion

The creation of a commission to protect and promote human rights represents a significant milestone in the development of a human rights culture in Cameroon. However, focusing attention primarily on civil and political rights does not move Cameroon forward. The promotion and protection of economic, social and cultural rights should represent the next Constitutional dynamic in Cameroon. It is a dynamic which not only calls for a change to the legal and Constitutional framework but also one that should be at the heart of the operations of the CNDHL. Whether the Commission fails or succeeds may to a large extent depend upon the quality of its leadership and the effectiveness of the strategies it uses to achieve its statutory objectives. In particular, the activities of the Commission should move beyond issues of enforcement and address those which are important to the achievement of equality of opportunity, such as improved representation of women and disabled persons in public

life. The Commission would also have to encourage good practice amongst both public and private sector employers while promoting awareness and understanding of human rights by the general public. These promotional activities of the Commission should be set out in its plan of action.

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