

Institutional Approach to Fight Corruption: The Case of the National Anti-corruption Commission of Cameroon

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Abstrak

Studi ini bertujuan untuk menganalisis peran pemberantasan korupsi oleh komisi nasional anti korupsi di Kamerun. Analisis ini dilakukan dengan membandingkan lembaga anti korupsi di negara lain. Dalam studi ini, metode kualitatif digunakan untuk menganalisis peran pemberantasan korupsi oleh lembaga anti korupsi di Kamerun. Hasil studi menunjukkan bahwa lembaga anti korupsi di Kamerun tidak bebas kepentingan karena harus bertanggungjawab langsung terhadap kepala negara. Hal tersebut berdampak pada independensi dan cara penunjukkan anggota lembaga anti korupsi tersebut. Adapun rekomendasi dari studi ini adalah perlunya peninjauan ulang terhadap proses penunjukkan anggota lembaga anti korupsi yang selama ini berlangsung di Kamerun. Proses tersebut harus dilakukan secara setara, terdesentralisasi serta diawasi oleh judicial police.

Kata Kunci: CONAC, korupsi ACAs, komisi anti korupsi.

Abstract

This paper examines the organization and role of the National Anti-corruption Commission as an anti-corruption institution in Cameroon and the extent to which it can successfully fight corruption. It was carried out by comparing it with other anti-corruption institutions. A qualitative research method was adopted to analyze the case in this study. This study holds that the Commission is not independent as it is directly responsible to the Head of State. It contends that its independence and the way of appointing its members should be reviewed to fight corruption. It should equally be decentralized and given Judicial Police powers.

Keywords: CONAC, Corruption ACAs, Anti-Corruption Commission.

INTRODUCTION

The case in the past decade and a half, the effort to control corruption in the developing world has grown exponentially. It attracted support from major aid agencies and inspired hundreds of reform projects, action plans, anti-corruption agencies, and a growing class of in-demand experts (Heather & Caryn, 2015). Corruption exists in almost every society but varying degrees. It is regarded as an act to give some advantages deviated the official duty and the rights of others, a fiduciary's or official's use of a station or office to procure some benefit either personally or for someone else, which is on the

contrary to the rights of others (Garner, 2014). Corruption is a multifaceted concept just as its definition that varies depending on the context in which it is used by a person or institution defining it. The corruption level in Cameroon is endemic and manifested in diverse forms, with the most common being the misappropriation of public property, bribery, and abuse of public office. It led to the anti-graft campaign which has been baptized by the press as 'operation sparrow hawk' which has ensnared many top governments and state officials (a former Prime

Minister, three former secretaries-general at the Presidency, so many former ministers, two former Vice Chancellors of state universities, general managers and directors of public establishments and corporations and a host of top-ranking state functionaries are in prison for the misappropriation of public property and other offenses related to corruption). In 1998-1999, the level of corruption in the country became the center of attention because it was classified as the worst successive corruption in the world, as overseen by corruption watchdog, namely Transparency International. Since then, it has been classifying Cameroon as one of the most corrupt countries in the world (National Program on Governance, 2016). The gangrene of a hyper corrupt regime has taken the country down the drains, thereby necessitating urgent solutions.

In the past decades, some efforts have been marshaled by the government to change this disdainful image by combating and ending all forms of corruption. These efforts include the enactment of numerous national instruments that seek to tighten some administrative cracks, reform the public service, introduce new accountability standards, and hold perpetrators accountable (Avitus, 2019). These efforts are implemented through many agencies or organizations, such as the National Anti-Corruption Commission known by its French acronym, CONAC, the Audit Bench of the Supreme Court, the Supreme State Audit, the Courts, the Police, anti-corruption units in ministries and public enterprises and establishments, and the National Agency for Financial Investigation. Among these agencies, only CONAC has general jurisdiction in eradicating corruption and other offenses related to it. An institution in this context is regarded as an established organization with a public status vested with the jurisdiction to fight corruption. This organ, at times, is also referred to as an agency.

For example, Hong Kong's Independent Commission against Corruption was established in 1974 and has contributed significantly to Hong Kong's success in reducing corruption. Its success has inspired many countries around the world, including those in Eastern Europe that decided to establish specialized bodies to

prevent and combat corruption (OECD, 2008). Recent international treaties against corruption have acknowledged the advantages of fighting corruption through specialized bodies and, thus, require their member states to establish specialized bodies dedicated to fight and prevent corruption. The United Nations Convention against Corruption (UNCAC) requires the existence of two types of anti-corruption institutions: a body or bodies that prevent corruption; and a body, bodies or persons specialized in combating corruption through law enforcement (OECD, 2008). The African Union Convention on Preventing and Combating Corruption and the Inter-American Convention against Corruption in their Articles 1 and 3 (9) respectively require charter members to establish oversight bodies in charge of preventing corruption. Complying with this international exigency, CONAC was created by Decree no. 2006/088 of 11 March 2006 after Cameroon ratified the UNCAC adopted on 31 October 2003 and opened for signature at Merida Mexico from 9-11 November 2003 (Nguini, 2012). The Convention was ratified by Decree no. 2004/126 of 18 May 2004 in the application of Law no. 2004/010 of 21 April 2004 authorizing the President of the Republic to ratify the UNCAC of 2003. Accordingly, CONAC was the central organ in charge of the fight against corruption in Cameroon, and it became operational on 15 March 2007 (CONAC, 2011). It was placed under the authority of the head of State with headquarters in Yaoundé, the political capital of Cameroon.

Before putting in place of CONAC, the Ad Hoc Committee to fight corruption had been created in 1998 and lodged at the Prime Minister's Office (CONAC, 2011). This committee was replaced by the National Observatory against Corruption, which was created by Prime Ministerial Order no. 001/PM of 4 January 2000. This observatory was another shadow institution as a lack of resources, and independence could not permit it to fight corruption effectively. Consequently, it was abolished by Decree no. 2006/088 of 11 March 2006 relating to the creation, organization, and functioning of CONAC. This Decree is the only legal instrument for the moment relating to the organization and functioning of

the organization and functioning of the National Anti-Corruption Commission. This paper, therefore, seeks to make an appraisal of its organization, functioning, role, and efficiency in fighting corruption in Cameroon. It is necessary to note that except for the reports it has been publishing, there is scanty literature on CONAC.

LITERATURE REVIEW

Corruption has become endemic in Cameroon to the extent that the authorities have proffered legal mechanisms to combat it. In addition to these, there are some institutional mechanisms such as CONAC, Supreme State Audit, and ANIF, with specific mandates, but broadly they all fit in the national fight against corruption, especially within state institutions, state-owned enterprises, and the public service (Avitus, 2019).

In making itself visible as the main specialized ACA with general jurisdiction, CONAC, in its 2012 report, dedicated part 1 to its mission, organization, and functioning (CONAC, 2013). This report is more analytical and does not make detail and comparative appraisal of CONAC, as is intended in this article.

Thierry Onga (2012), who makes a general overview of the war against corruption in Cameroon, has dedicated a section to the institutional approach against corruption with a focus on CONAC. He has discussed the functions of CONAC and some of its achievements. He considers it to have broad powers to investigate, prosecute, and sanction of all forms of corruption. This view is not shared in this article, which considers CONAC to be weak and lacks powers to prosecute corruption.

Another research discussing CONAC is that of Nguemegne Jacques (2011) that makes a holistic attempt at an institutional appraisal of the scope and effectiveness of the anti-corruption system in Cameroon. He does not examine the organization and functioning of CONAC but holds that it has not achieved its objectives because it is over-centralized on the President of the Republic, who finally has a discretionary decision on each case of high corruption. He further intimates that CONAC is not independent and lacks financial autonomy and castigates the manner of appointing its members.

Polycarp Ngufor (2007) makes an overview of the legal and institutional frameworks focusing on a comparative analysis of police corruption in Cameroon and Uganda. As regards CONAC, he intimates that it is an independent public organization placed under the President of the Republic charged with the effective putting in place and follow-up of government anti-corruption activities. His research was conducted when the pioneer members of CONAC were appointed, and as a result, he did not evaluate its ability to fight corruption.

The available research has not been entirely dedicated to the study of CONAC as an ACA. Accordingly, it has always featured as a sub-topic in the literature consulted. Furthermore, the presence of CONAC and other ACAs in Cameroon has not reduced the menace of corruption as it continues to strive stupendously in all sectors of the Cameroonian public and private sectors. It is demonstrated by the lack of political will to endow CONAC with broad powers to become a veritable anti-corruption watchdog institution. This paper is, therefore, an effort to overcome the shortcomings in past research on CONAC and to advocate for its reform. It will be done by adopting a comparative study of other ACAs engaged in the anti-corruption drive.

RESEARCH METHOD

The qualitative research methodology enabled the author to use a doctrinal approach. Primary sources consulted included newspaper articles, government documents, and legislation, while secondary sources comprised textbooks, journals, and other scientific works. It is worth noting that material from primary and secondary sources was achieved through the review of the literature.

RESULT AND ANALYSIS

For more or less the past twenty years, Cameroon has been at war against corruption and impunity that has crippled the prospects of one of the most promising countries in Sub-Saharan Africa, eating away the power of the state, its resources, its credibility and more importantly, with unknown consequences on its youth

(Onga, 2012). Thus, winning the war requires more than the enactment of legislation and the establishment of institutional mechanisms to combat it. It requires a political will that sets the tone to fight corruption (Agbor, 2019). The perpetuation of economic opportunism, the predatory administrative habits, the embezzlement of state funds, the theft of resources, bribery, the corruption of state organs (that is the executive, judiciary, and legislature) have neither reduced nor slowed down (Agbor, 2019). It is a clear indication that CONAC has not succeeded in reducing corruption.

In 2008, newspapers reported that between the years 1998 and 2004, an audit conducted by the Supreme State Audit revealed that 1845 billion F CFA or more than 300 billion F CFA was lost to corruption yearly during this period and for reasons of comparison, it is necessary to know that the total state budget in 2006 was about as large, 1861 billion F CFA, as the total losses over six years (Hulten, 2010). This phenomenon has escalated over the years, as evidenced in some CONAC reports. For example, on the state of corruption report for 2016 published in Yaoundé on 27 December 2017, it was revealed that a group of customs agents swindled over 1200 F CFA between the period 2010 to 2016 (Cameroon Tribune no. 11504/7703, 2017).

Nevertheless, it is enticing to note that independent ACAs have drastically reduced corruption in countries where it once appeared impossible (Sebudubudu, 2002). ACAs are often born out of a broad political consensus in a context of scandal and crisis, which helps to explain the short existence of some of these bodies and their limited capacity to deliver results. Also, following the perceived failure of conventional law enforcement bodies (police, courts, and attorney-general offices), ACAs are often regarded by governments, donors, and international governmental organizations as the ultimate institutional response to corruption (Luis, 2009). Consequently, CONAC has, through its field missions, stopped several cases of corruption and abetted the recovery of billions of Francs CFA that could have been swindled into private pockets. It is thanks to its coordinated actions against the misappropriation of public funds that 375 billion FCFA was prevented from being looted from the public coffers

in 2017. It equally recovered over 52 billion FCFA and pecuniary sentences in cases sent to court amounted to 52 billion FCFA, as evidenced in its 2017 report (Investir Au Cameroun, 2019).

AN OVERVIEW OF CONAC

The missions, organization, and functioning of ACAs are powerful benchmarks for measuring their efficiency in preventing and combating corruption. CONAC is, therefore, a quasi-public agency with general jurisdiction in preventing and combating corruption. It should be noted here that quasi-public agencies are independent governmental corporations created through enabling legislation to perform a particular service or set of public functions. As such, they are technically public entities and often exercise public power, but they remain relatively independent of the government that created them (Onga, 2012).

Missions of CONAC as an ACA

As per Art 2 (2) of the 2006 Decree creating CONAC, it has the following missions:

- to follow and evaluate the effective application of the government's plan to fight corruption to gather, centralize, and exploit denunciations and information for which it is seized on practices, facts or acts of corruption and related offenses
- to carry out studies or investigations and propose measures aimed at preventing or halting corruption
- to proceed as the case may be to the physical control of projects as well as the evaluation of the conditions for the award of public contracts
- to disseminate and vulgarize laws on the fight against corruption
- to identify the causes of corruption and to propose to the competent authorities measures susceptible to permit its elimination in all public or para-public services
- to accomplish any other mission conferred to it by the President of the Republic

A perusal of the above missions conferred on CONAC indicates that it does not prosecute corruption, although it has been carrying several missions geared towards the

elimination of corruption in Cameroon. An essential function of ACAs is to conduct investigation and prosecution of corruption. Many countries have set up ACAs, and the bottom line of establishing these institutions is to strengthen mechanisms for monitoring and punishment by providing permanent oversight. It is observed that the collective objective of these watchdog organizations is to introduce significant changes in attitudes and conduct of state officials to encourage integrity and honesty in the public service, through watchdog powers to reveal as well as probe every alleged act of corruption (Sebudubudu, 2002).

To immediately perform its duties, CONAC prepared and published in September 2010, the national strategy to corruption for the period of 2010-2015. CONAC has been publishing yearly reports on the state of corruption in Cameroon. A perusal of yearly reports published by CONAC shows that it has been doing a tremendous job. The 2012 report is one of the best with information on the Rapid Results Initiatives (RRI), which was experimented in some public administrations since 8 April 2011 and disseminated in 2012 to various institutions and entities falling under the anti-corruption priority sectors (CONAC, 2013). The RRIs within the framework of the fight against corruption by CONAC seeks to curb corruption in major targeted sectors through specific and inexpensive techniques capable of producing qualitative and quantitative results within a short time (CONAC, 2013). It must be noted that CONAC has not come out with a detailed study relating to the causes of corruption in all the sectors in Cameroon, which is one of its mission.

Notwithstanding the above functions, CONAC does not prosecute corruption offenses in court as is the case with the Anti-Corruption Commissions of Sierra Leone and Hong Kong. Section 89 of the 2008 Anti-Corruption Act of Sierra Leone of 2008 provides that where the Commissioner believes that the findings of the Commission on any investigation warrant prosecution under this act, he shall do so in Court. Accordingly, the Commission has powers to prefer an indictment against anyone it considers to have committed any offense under the Act just as the prosecution service. The Independent Commission against Corruption of Hong Kong (ICAC)

has the same powers, and in 2015, it prosecuted 213 persons in 117 cases, and by the end of the year, its overall caseload stood at 1737 cases (<http://www.icac.org.hk>, Hong Kong: The facts, ICAC, 2017). Other ACAs have judicial police powers but may only initiate prosecution after the consent of the prosecution authority is obtained. It is the case with the Nigerian Independent Corrupt Practices Commission (ICPC) that has Judicial Police (JP) powers during investigation, and corruption and related offenses are prosecuted with the consent of the Attorney-General as stipulated in Sections 27 (3) and 61 (1) of the Corrupt Nigerian practices and other related offenses Act of 2000.

Organization and Functioning of CONAC

CONAC is made up of two organs which are: the Coordination Committee and the Permanent Secretariat. The Coordination Committee is the deliberative organ of the commission. It meets at least once in a month on the convening of the president and decisions taken in the presence of at least 2/3 of its members as provided by Art 4 of the 2006 Decree. The Decree further provides that the Coordination Committee is under the authority of the President of the Commission. In addition to the president and vice president, the Commission comprises nine members chosen among persons who have demonstrated probity in the exercise of their functions and having a proper morality, coming from public administration or the civil society. The members of the Commission must have established professional experience in domains falling within the mandate of the Commission. The president, vice president, and members of the Coordination Committee are appointed by Presidential Decree for a three-year term of office renewable once, and they take the oath before the Supreme Court as stipulated by Art 8 of the 2006 Decree. The appointment is not subject to approval by Parliament, as is the case with the Anti-corruption Commission of Sierra Leone, where section 3 of the anti-corruption act provides for such approval. With the Ethics and Anti-Corruption Commission of Kenya, the members and the chairperson are appointed for a single term of office of six years, as provided by section 7 (1) of the Ethics and Anti-Corruption Commission act no. 22 of 2011 of Kenya. This system guarantees the independence

of members who may not have any interest to protect in order to secure reappointment. Nguemegne Pascal (2011) holds that the appointment of members of CONAC has displayed the same pattern of patronage and cronyism existing in the Cameroonian administration and patrimonial states.

It is, therefore, unequivocal that no particular procedure or qualification is required for the appointment and selection of members of CONAC except the profession and moral rectitude of the members taken into consideration. Kenya, Nigeria, and Sierra Leone have adopted particular criteria and academic and professional qualifications for the selection of the members of their ACAs, which significantly ensure the independence of these Commissions and their efficiency in combating corruption. To this effect, see section 5 of the 2011 ethics and Anti-Corruption Commission act of Kenya and section 3 (3) of the 2000 corrupt practices and other related offenses act of Nigeria. In Kenya, the members through a complex, competitive process where candidates are interviewed before a commission. It is contrary to the situation in Cameroon wherein the appointment is based on mere discretionary powers of the President of the Republic (POR), causing them to be loyal to the system in certain aspects where uncovering grand corruption may threaten the interest of some close aides of the president.

The Permanent Secretariat is placed under the authority of a permanent secretary who is the principal administrative collaborator of the President of the Commission and is responsible for centralizing denunciations of acts of corruption, registering matters for investigation, and coordinating the activities of the commission. As per Art 11 of the 2006 Decree, the Permanent Secretariat comprises the division of investigation, the division of prevention and communication, the division for research and cooperation, mails and archives service, service in charge of general affairs, and the translation service. Apart from the head of the division, each division consists of research officers, assistant research officers, and chief of services, which are appointed by the President of the Commission after a meeting of the Coordination Committee (CONAC, 2011). Any issue affecting the Commission that is not regulated by the 2006 Decree is decided at a meeting of the Coordination Committee in the form of resolutions.

It is trite to note that the personnel of the Commission is made up of public agents put at its disposal or transferred by the administration, and in case of need, the Commission can proceed to recruit its personnel. The selection criteria are established probity, good morality, and established professional experience in any domain falling within the mandate of the Commission. The concentration of CONAC in Yaoundé makes its activities inefficient, especially as it usually takes longer to investigate cases out of Yaoundé, which requires the President of the Commission to put members on mission. Consequently, the creation of regional and divisional offices is a condition sine qua non for the preventing and combating of corruption by CONAC. Furthermore, the membership can be reduced to the president and vice president to avoid wasteful spending and guarantee efficiency.

MANDATE AND AUTHORITY TO INVESTIGATE CORRUPTION

Corruption is not an exact criminal law term. As such, for substantive jurisdiction of specialized law enforcement bodies, it needs to be further defined, e.g., by enumerating offenses under their competence, such as serious forms of passive and active bribery, trading in influence, and abuse of powers. However, these criminal offenses are often committed in concurrence with other financial and economic crimes, as well as in the course of organized criminal activity (Engelbert, 2014).

It is worth noting that a plethora of corruption and related offenses contained in the 2016 Penal Code of Cameroon and other laws have not been enumerated in the Decree creating CONAC. Conversely, money laundering is investigated in Cameroon by the National Agency for Financial Investigation. As per the terms of the 2008 draft law on corruption and the Decree creating CONAC, only corruption and related offenses are investigated by CONAC. Albeit, the 2006 Decree does not provide the type of corruption offenses falling under the jurisdiction of CONAC. It is considered that CONAC investigates all corruption cases. The adoption of the 2008 draft law will solve this problem since corruption and related offenses have been clearly outlined. Nonetheless, it is germane to note that the investigation of corruption cases does not

oust the jurisdiction of the prosecution authorities, especially as the procedure for investigation under the Criminal Procedure Code (CPC) is not respected. Since creation, it has been receiving several complaints and denunciations that have been on the increase. Hence, defining the various offenses to be investigated will spare CONAC of complaints made by the public, which at times have nothing to do with corruption.

From 1 January to 31 December 2012, CONAC received a total of 2089 denunciations, with some having nothing to do with corruption (CONAC, 2013). Part IV of the Anti-Corruption Act of 2008 of the Republic of Sierra Leone defines the types of crimes that could be investigated by the Anti-Corruption Commission of the state. The investigation of corrupt practices by CONAC would have been very efficient if it took the form of Judicial Police investigations as laid down by the CPC.

Unfortunately, no legislation gives CONAC the mandate to investigate corruption with the same powers as those of Judicial Police Officers (JPO) as laid down in the CPC and other special laws conferring special Judicial Police powers. Consequently, their reports cannot serve as judicial police reports before the criminal courts though they can be used as evidence since the Criminal Procedure Code of Cameroon in its Section 309 providing that proof in criminal matters can be by any means. It is worth noting that Section 53 of Sierra Leone's Anti-Corruption Act of 2008 for any investigation gives the Commission powers, rights, and privileges as those vested in the High Court or a judge. This Commission files actions and prosecutes them in court directly, thereby, making it a veritable tool in the anti-corruption drive. Giving similar prerogatives to CONAC will enable it to combat corruption meritoriously.

The 2006 Decree on the creation and organization of CONAC provides in its articles 11 and 12 for a division in charge of the investigation, which is under the command of the division head. The power and authority to investigate is enshrined in Art 2 (2) of the 2006 Decree providing that CONAC shall be responsible for gathering, centralizing, and analyzing denunciations and information forwarded to it in respect of corrupt practices, deeds, facts, and similar offenses; and to conduct all studies or investigations and propose any measures aimed at curbing

corruption. To effectively deal with corruption and the numerous requests from victims of corruption, CONAC created a Rapid Response Unit in 2010 that has undertaken several missions leading to tremendous satisfactory results (CONAC, 2013).

The members of the Commission in the exercise of their functions, follow-up, evaluate, and investigate corrupt acts per the provisions of the 2006 Decree. In this regard, the members of the Commission have the following powers during the investigation: the right of access to all public services, para-public and private as well as any information or documents necessary for the execution of their mission. They can request any authority to lend them support or assist them in the exercise of their missions, and they equally have powers to forward requests for information to every public servant who is the holder of a post of responsibility or not as well as to any natural or juristic person who has been attributed a public contract.

It is glaring that only the commission's members can investigate through the President of the Commission that may assign specific investigation tasks to the investigation division. It can negatively affect the activities of the Commission when it is overburdened with cases, but fortunately, it does not have mandatory jurisdiction, and its seizure does not deprive the prosecution or other institutions to trigger proceedings. Howbeit, the Commission has some exorbitant powers in the discharge of its activities. It does not dispose of any squad that can carry out arrests, search, and seizures, as is the case with some anti-corruption commissions that have Judicial Police powers. To remedy this situation, the Commission always requests the services of the forces of law in case of flagrant delicto offenses. Some ACAs have adopted comprehensive means in exercising certain prerogatives like is the case with the Nigerian ICPC. Sections 36 and 37 of the Nigerian Corrupt practices and related offenses Act of 2000 allows the chairperson, whenever he/she suspects that there is evidence of the commission of any offense, to direct an officer of the Commission to obtain a court order to enter any premises and search, seize and take possession of any book, document or other articles evidencing the commission of such offense. Furthermore, officers of the commission can equally seize movable or immovable property suspected to

be the subject matter of an offense during an investigation.

The Operations Department of the Hong Kong ICAC has powers to arrest during the investigation of alleged corruption offenses while the Department of Justice examines evidence gathered by the department and advises on the prosecution. However, the consent of the secretary for Justice is needed before prosecution can be instituted (<http://www.icac.org.hk>, 2017). Another glaring example of an Independent Anti-corruption Commission with tremendous powers is that of Sierra Leone as provided in parts V, VI, and VII of the 2008 Anti-corruption Act that can arrest, grant bail, order for the surrender of travel documents, seize property, and prosecute offenses investigated before the trial courts in the same capacity as the prosecution department and even request for mutual assistance from foreign governments.

Art 22 (1) of the 2006 Decree on CONAC stipulates that the results of investigations by the Commission lead to judicial or disciplinary proceedings. It is rather unfortunate that the same provision in its sub-Art 2 provides that facts denounced are likely to constitute an offense of corruption or a similar offense, as confirmed by the Commission. The Commission assembles elements of proof and transmits the file to the President of the Republic for appropriate action. It is an aberration. If not, why is not this report sent directly to the court or to the competent State Counsel for the prosecution to be engaged? As of the moment, no one can state how many files have been sent to court after the investigation was completed by CONAC and forwarded to the president. Moreover, the president himself cannot be investigated by CONAC. With these types of laws, how then can the battle against corruption be won in a country considered to be one of the most corrupt in the world?

The 2006 Decree also stipulates that any refusal to give assistance or collaboration to the Commission within the framework of the exercise of its functions is susceptible to lead to disciplinary or administrative proceedings. The Decree further provides in Art 21 that where the refusal comes from a member of government or a manager of a public or para-public enterprise, a report is immediately made to the President of the Republic. The provision does not include other essential personalities of the State like the President of the Senate and National Assembly, the

President of the Constitutional Council, the President of the Supreme Court, and the President of the Economic and Social Council. Furthermore, it merely talks about disciplinary and administrative proceedings in case of refusal to lend assistance or collaborate without criminalizing it, as is the case in other countries. In order to give the Commission more powers, any conduct aimed at hindering it from accomplishing its activities should be criminalized. For example, under the anti-corruption Act of Malawi, which establishes the Anti-Corruption Bureau (ACB) of Malawi, any person who knowingly makes a false complaint or delays or hinders the work of the Bureau can be prosecuted under the law with hefty fines and imprisonment. It is similar to the law creating the ICAC of Hong Kong (Montesh, 2007). This provision helps in ensuring that resources are not wasted and that the credibility and image of the Commission are not tarnished. A perusal of most CONAC reports indicates that it receives several denunciations unrelated to corruption, as exhibited in table no. 41 of the 2012 reports wherein in the same year, a total of 2089 denunciations in diverse subjects were made (CONAC, 2013).

However, Art 22 (3) of the 2006 Decree provides that in order to ascertain a flagrante delicto case of corruption following a denunciation, the Commission can resort to the competent services of the State or the President of the Commission may directly seize the Minister of Justice and inform the employer of the person being subject to investigation. CONAC has used the flagrante delicto procedure in some cases wherein the Judicial Police is immediately seized, and the matter is investigated and sent to court. In 2016 CONAC seized the courts on ten matters after the investigation on alleged forgery, misappropriation of public funds, usurpation of qualification, corruption, undue demand, oppression, and illegal exercise of a profession (Ministry of Justice, 2016). Furthermore, the 2006 Decree stipulates in Art 23 (1) that the President of CONAC and its members may follow up proceedings in court. Unfortunately, it does not indicate how this can be done or whether they can directly intervene in proceedings on corruption before the trial court.

INTEGRITY MEASURES AND INDEPENDENCE OF CONAC IN ERADICATING CORRUPTION

The independence of ACAs allows them to operate without interference, but measures must be put in place to avert any possibility for the agents of these agencies to be involved in vicious practices.

Organization and Functioning of CONAC

Civilian oversight refers to measures that allow citizens to engage and supervise operations of government and public institutions; it is also a means of checking how public officers' conduct themselves and their offices especially in terms of utilization of public funds indicating that they are compelled to serve the citizens in an open and accountable manner (Adili Newsletter, 2015). Under the 2006 Decree creating CONAC, there is no provision relating to civilian oversight. However, what can be interpreted as safety checks is the provision of Art 19 of the said Decree, which provides that the Commission shall carry out necessary investigation within a reasonable time from the receipt of a denunciation. This provision can be interpreted to mean that no investigation can be commenced without the visa of the Coordination Committee or the President of the Commission. A reading of the Decree shows that no provision is dedicated to the powers of the president. This provision is, however, a necessary safety valve as it guarantees that no member of the Commission can commence an investigation without authority and hence precludes potential abuse of the investigative process.

Code of Conduct and Ethical Behavior

The 2006 Decree establishing CONAC does not make any provision for a code of conduct for its members and personnel. It is not the case with the EACC of Kenya and the Prevention and Combating Corruption Bureau of Tanzania, where such codes exist (Open Society Foundation, 2015). Ethical codes are needed to ensure integrity in the conduct of personnel and members of ACAs, which builds public trust in the agencies. On this premise, the fact that ethic intertwines with morality should not be neglected, and in order to practice sound work ethics, it is necessary to adopt a code of conduct, which should be properly enforced. In this case, the codes

of conduct and ethics entail the development of reasonable standards and procedures for deciding what is morally wrong and right within an institution (Mwamba, 2013). In order to ensure compliance, these rules should be backed by severe disciplinary and criminal sanctions. Accordingly, section 134 of the Penal Code of Cameroon punishing active corruption in its subsection 4 aggravates the sanction where the offender is a Legal or Judicial Officer, a Judicial Police Officer, and an employee of the institution in charge for fighting corruption.

Over the years, newspaper articles have painted the image of CONAC negatively, especially that of its president, that has managed the Commission in gross violation of the law by auto attributing to members and himself astronomical sums on salaries and mission orders. It was alleged that this action triggered the control carried out by the Supreme State Audit in CONAC during that period (Le Bi-Hebdo La Nouvelle Vision no. 0270 du 21 Juillet 2014, L'anecdote, no. 677 du Lundi 07 Juillet 2014). In order to clear the image of the Commission, the president on 3 July 2014 granted a press conference to denounce malicious media campaigns against CONAC. He declared that the control mission of the Supreme State Audit did not mean a war between two institutions fighting corruption but that Art 32 of the 2006 Decree creating CONAC provided that the management of funds by the Commission was subject to control (The Star newspaper no. 289 of 30 June 2014). During this press conference, the president avoided questions related to the remuneration of CONAC officials but instead disclosed that the salaries of some of his peers in Africa like that of Mauritius are 8 million FCFA and Gabon 5.2 million FCFA. However, newspapers maintained that the control conducted by the Supreme State Audit was due to the exorbitant salaries, bonuses, and allowances accorded to members of the Commission.

The measure aimed at maintaining integrity within the Commission is in Art 5 of the 2006 Decree, which gives disciplinary powers over the Commission's personnel to the Coordination Committee. Furthermore, Art 8 provides that where the president, vice president, and members of the Coordination Committee are involved in severe fault, the President of the Republic can put an end

to the functions. This provision further provides that in case of judicial proceedings against a member, the appointing authority proceeds to the suspension of members of the Commission. This manner of removal does not guarantee the independence of the members because the appointing authority can replace them at his convenience. The integrity of the ACA and its ability to fight corruption depends on its independence and accountability checks through civilian oversight and other public institutions like Parliament.

The Independence of CONAC

The real autonomy of ACAs concerning the executive and their broad mandate, which affords them the power to institute legal proceedings, are conditions par excellence to guarantee them to the success in eradicating corruption. However, it lacks most anti-corruption agencies, and most of them seem to have been put in place to appease international donors (Open Society Foundation, 2015). The level of independence can vary according to specific needs and conditions. Experience suggests that structural and operational autonomy is essential, along with a clear legal basis and mandate for a particular body, department, or unit (OECD, 2008). Also, transparent procedures for appointment and removal of the chairperson or president together with proper human resources management and internal controls are essential elements to prevent undue interference (OECD, 2008). These enhance independence thereby paving the way for efficiency in eradicating corruption.

Though Art 2 (1) of the 2006 Decree on CONAC stipulates that the Commission is a public entity in charge of contributing to the fight against corruption, a critical appraisal of its organization and function shows it is very far from being independent except for the fact that it has an autonomous budget. Art 24 of the 2006 Decree provides that the president approves the program of the Republic, and it prepares an annual report on corruption forwarded to him. Another weakness of CONAC is that it does not have the coercive means to compel the appearance and furnishing of information by those implicated in corruption cases. Worst among others is the fact that it does not have Judicial Police powers and cannot directly prosecute corruption offenses. Section 9

of the 2008 Anti-corruption Act of Sierra Leone provides that the Commission shall act independently, impartially, fairly, and in the public interest. It further provides that the Commission shall not in the performance of its functions, be subject to the direction or control of any person or authority.

It should be noted that an independent and well-resourced anti-corruption agency is usually seen not only as a threat to the positions of the politicians and their access to state resources but also to the political establishment itself. It explains why in most African states, some of these agencies are accountable to the president (Sebudubudu, 2002). In such a situation, an anti-corruption agency risks being perceived as not immune from executive patronage, “perhaps protecting the machinations of kin and cronies” (Sebudubudu, 2002). It is when there are independence and good governance that an ACA can effectively fight corruption. It has been held that one of the crucial aspects of a country’s political system affecting the effectiveness of ACAs is its level of governance (Transparency International, 2015).

COOPERATION IN FIGHTING CORRUPTION

No single body can fight corruption alone; interagency co-operation, co-operation with civil society and business are important factors to ensure their effective operations (OECD, 2008). Cooperation occupies an essential place in fighting corruption, especially when it comes to cooperation between institutions in charge of the fight against corruption. The UNCAC enjoins state parties to collaborate and with relevant regional and international organizations in developing measures to prevent corruption. CONAC performs this task through the department of studies and cooperation, which one of its principal functions is to conduct studies related to the reinforcement of the capacities of organs in charge of fighting corruption as laid down in Art 14 of the 2006 Decree. CONAC has done a lot in the domain of cooperation at the national and international levels in the domains of personal training and sharing of information (Anoukaha, 2013).

At the national level, it has, through a participatory and inclusive strategy, boosted Civil Society and private sector activities. In ensuring cooperation with Civil Society Organizations (CSOs), it has organized activities to fight corruption with NGOs, Associations and Common Initiative Groups. A glaring example is the activities organized in 2012 with the National Coalition Against Corruption (NCAC), which centered around the financial control of public resources in all the ten regions of Cameroon and awareness campaigns on harmful effects of corruption in the transport and health sectors. NCAC is a group of NGOs that have come together intending to fight corruption. Some of the objectives of the campaign were to raise awareness among public vote holders, management controllers, and service providers as well as the local population on the losses suffered by the national treasury due to corruption and to develop the culture of integrity, transparency, and accountability among vote holders and controllers (CONAC, 2013). During these campaigns, 5000 posters, 20000, and 25000 brochures were distributed.

Furthermore, more than 50 meetings held with administrative authorities, CSOs religious authorities, schools and university officials, and several visits to construction sites, which helped to ascertain that some projects had been abandoned while others were being executed in disregard of specifications. Cooperation was equally exercised with the following organizations: ADEN Network and the independent monitoring of the debt relief and development contract (CD2) implementation, FODER (Forest and Rural Development, COMICODI (Independent Commission Against Corruption and Discrimination and Publiez Ce Que Vous Payez (PCQVP). In the private sector, cooperation was also established with GICAM (Cameroon Employers' Association) and the National Private Sector Business Coalition against Corruption (CONAC, 2013).

As concerns international cooperation, CONAC's activities are merely bottomed on information and outreach missions abroad in order to strengthen partnerships with national and international anti-corruption entities. Accordingly, in 2012 CONAC carried out several missions to Africa, Asia, and Europe (CONAC, 2013). It has signed

collaboration agreements with national institutions such as the Ministry of Youth and Civic Education, National Polytechnic, National Advanced School of Public Works, ARMP, Groupement Industriel du Cameroun (GICAM), the National Coalition for the fight against corruption (CNLCC) and the Business Coalition against Corruption (BCAC) (CONAC, 2019). CONAC at the international level is a member of the International Association of Anti-corruption Authorities, the African Network of Anti-corruption Agencies, and the African Commonwealth Network of Anti-corruption institutions (CONAC, 2019). It is worth highlighting here that CONAC does not dispose of powers to carry out investigations on corrupt acts committed abroad through Mutual Legal Assistance since it does not have judicial police powers. It is different from the Anti-corruption Commission of Sierra Leone, which directly cooperates with foreign states in carrying out investigation and requests for the freezing of property suspected to have been acquired through corruption as provided by S 106 of the anti-corruption act of 2008.

CONCLUSION

Though the independence of CONAC is a severe impediment to its efforts in preventing and combating corruption, it has achieved so many successes like in cases of flagrante delicto corruption offenses where the services of the forces of law and order have been used and suspects arrested and brought to court immediately.

Nonetheless, corruption has remained rife in the country, thereby demonstrating the inefficiency of CONAC, which is attributed to the lack of independence. The reports are forwarded to the president, and no one knows what is reserved for such reports. The inability of CONAC to combat corruption in Cameroon especially, when committed by political actors who occupy top ranking and management positions in public enterprises and administration, making it a futile institutional mechanism in combating corruption. Accordingly, the creation of CONAC has not reduced the level of corruption in Cameroon. It can be buttressed by the fact that its ranking on Transparency International Corruption Perception Index has not improved. It is further amplified by the absence of an independent

judiciary and legislature, which automatically renders CONAC weak since these are institutions which could have been assisting CONAC to fight corruption

In order to effectively combat corruption, CONAC must be restructured to give it all the necessary powers to fight corruption independently by directly prosecuting corruption and related offenses with the assistance of the prosecution service. It should be given powers in such a way that it can probe all public authorities and even the president. Its members should be recruited through an open competition process with well-defined criteria, and the National Assembly should confirm the appointment. It should be accompanied by the creation of courts specialized in the repression of corruption. It should be decentralized through the creation of offices at the regional level with increased funding. It is only after these reforms have been put in place that CONAC can effectively fight corruption.

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