Echoes of Colonial Control and Counterterrorism

The logics, laws and politics of proscription in Cameroon

Tania Maike Zeissig

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Department of Politics and International Relations, The University of Adelaide

Contents

Abstract

Proscription, or the outlawing of a political actor, is the state's most punitive power. It can depoliticise and ban a particular group or actor and criminalise its supporters, deny the self-determination of minority groups, justify state violence, and avoid genuine attempts at conflict resolution. Although the number of proscription regimes surged globally in response to the attacks of September 11, 2001, proscription is an historical tool with roots in civil and common law. This thesis constructs a framework that conceptualises proscription laws as colonial legacies, rather than the products of postcolonial governance or the global response to September 11.

To do so, I inquire into the colonial origins of proscription powers in Cameroon. I apply a genealogical approach to investigate the evolution and use of proscription laws and find that proscription laws have remained mostly unchanged since their importation into Cameroon by the French colonial administration. Critically, I find that the maintenance of colonial proscription laws also perpetuates a kind of governance that uses the logics and methods of colonial administrators. I argue that proscription laws facilitate the continuation of a 'colonial rationale.' In this mode of governance, colonial laws specify (and limit) what elements need protecting by the state and therefore what constitutes a threat to those elements and merits proscription. The thesis adopts the 'colonial rationale' as a theoretical framework. It develops its scope by drawing on a related concept of ductility, that theorises the perpetuation of the colonial rationale as a property of proscription laws imported from the French administration into Cameroon, which are maintained by successive governments. The resulting theoretical framework is used to analyse the evolution of Cameroon's security governance from pre-independence to 2017. I also consider the role of UNSC Resolution 1373 and find that neocolonial systems also facilitate a colonial rationale by implicitly approving of illiberal proscription if state leaders comply with global policy requirements. This analysis illustrates for scholars of counterterrorism governance how counterterrorism powers impact the human rights of self-determination, freedom of expression and non-violence.

Declaration

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Introduction

Proscription, or the outlawing of a political actor, can be an effective tool to immediately remove a violent or dangerous actor from the polity. It can also be used illiberally to deny the self-determination of minority groups, justify state violence, and avoid genuine attempts for conflict resolution. Proscription is a historical tool, with roots in common and civil law traditions, but its use dramatically escalated after the terrorist attacks of September 11, 2001, and with this surge of proscription tools came the rapid increase in the use of proscription for illiberal purposes. To this end, I am dedicated to this inquiry in the interest of defending the human rights of political representation, expression, and non-violence. At the heart of my interest in proscription lie the interweaving tensions between the challenges of postcolonial governance, the struggle for self-determination caused by arbitrary colonial boundaries, and the soft power influence of neocolonialism. In this thesis, I investigate these interacting factors and question how and why proscription was normalised for illiberal use in Cameroon.

The inquiry into Cameroon was motivated by the 2017 proscription of two civil society groups who represented the demands for secession and self-determination of an Anglophone minority population. The inquiry was also motivated by the 2014 adoption of a Suppression of Terror law by the Cameroonian government, which was used to imprison the leaders of the proscribed groups. The origin of the Anglophone secessionist movement is colonial: at the end of the First World War, the German protectorate of Kamerun was redistributed under two League of Nations mandates to French and British administration. Since the

territories reunified in 1961, the Anglophone minority, formerly under British administration, has resisted marginalisation by the Francophone population, formerly under French administration (Agbor Balla 2017, p. 3). In 2017, Anglophone secessionists declared independence for the English-speaking region of 'Ambazonia' after multiple failed attempts at national dialogue (Agbor Balla 2017, p. 3).

To answer the question 'how' proscription became normalised in Cameroon, I genealogically investigate the evolution of proscription regimes in Cameroon. Genealogy is a method by which we write a 'history of the present' (Purcell 2020, p, 14). By looking to the past to explain the conditions of the present, genealogical inquiry shows how practices and concepts are historically produced. Kate Purcell (2020) notes that the genealogical method can be used to expose the role of ideologies and practices of European imperialism in the making of international law (p.15). Similarly, Anne Orford (2013) asserts the ongoing relation of past and present in international law (p. 97). Orford (2013) argues that this anachronism makes the past normatively significant because, for example, imperial legal concepts and practices may continue to influence international law in the post-colonial era (p. 97). Although Purcell (2020) and Orford (2013) theorise the genealogy of international law, I apply this method to my investigation of proscription law in Cameroon because this mechanism underwent international policy diffusion and has been adopted globally. Through the genealogical method, I interrogate the historical (re)production of proscription laws in Cameroon and provide evidence that supports the conceptualisation of proscription as a colonial legacy. I focus on the French colonial influence in particular to determine the French imperial-colonial origins of proscription instruments. To answer the question of 'why' proscription was normalised, I question the domestic, colonial and neocolonial influences that motivate Cameroonian leaders to use proscription for illiberal purposes. In doing so, this thesis makes four contributions to the scholarly literature regarding proscription and Cameroonian politics. First, the thesis addresses the gap in proscription literature that minimises the influence of colonial legacies on the illiberal use of proscription. Second, the genealogical data contributes to the literature on Cameroonian legal and political history—a

scholarship harrowed by difficulties sourcing primary legal documents. Third, the thesis extends the 'imperial-colonial rationale' framework presented by Fatima Alzubairi (2017) that theorises how postcolonial governments perpetuate the logics and mechanisms used by colonial powers in contemporary counterterrorism laws. By applying the imperial-colonial rationale (henceforth colonial rationale) framework to the Cameroon case study, I extend Alzubairi's (2017) framework and argue that the colonial rationale is mediated along three dimensions: the domestic, global and horizontal/peer-state. This contribution better explains the contemporary neocolonial influences that motivate leaders to use proscription illiberally. Finally, I present my concept of 'ductility.' I argue that ductility is a property of law that perpetuates the colonial rationale. Ductility is an inherited colonial legacy that, through policy diffusion, enables a law to be used by any legislator to rule within the colonial rationale. For this reason, ductility is a form of 'rigidised flexibility' that explains why the Cameroonian government has maintained, consolidated and strengthened proscription instruments inherited from the era of France's imperial reign.

Background to Proscription

Proscription is the authority to outlaw a political group (Finn 2000, p. 56). It is the state's most punitive power; it can depoliticise and banish a political group, criminalise membership and forbid support for the group in any form, whether financial, symbolic, logistical, written, or vocal. The proscription of a group is typically executed by the executive on the grounds that the group comprises a threat and therefore merits being outlawed (Legrand 2021, p 417). The process of proscription in its entirety—from the proscription law, the implementation of the proscription, the justification for the proscription (by designating a group a threat), the implementation of the proscription, and its social, political, and cultural outcomes is referred to as a proscription regime.

In the aftermath of the 9/11 attacks, the global adoption of proscription regimes rose dramatically. On September 28th 2001, the United Nations (UN) Security Council adopted Resolution 1373, which required all UN member states

to implement domestic anti-terrorism legislation and associated Security Council resolutions within 90 days (UNSC 2001). The Security Council set up enforcement structures to ensure compliance with Resolution 1373: the UN Counter Terrorism Committee (UNCTC) was established to collect anti-terror plans and submissions from each UN member state, to establish guidelines for compliance, a strict timetable for submission and review, and plans for evaluations and monitoring (Stiles 2006, p. 47). The requirements for compliance with the resolution were so extensive that every UN member state had to amend its domestic counter terrorism legislation—for example, the USA Patriot Act and the UK Anti-Terrorism Act (2001) were enacted to comply with the resolution (Stiles 2006, p. 48). Proscription regimes then became a key instrument in states' domestic counterterrorism legislation (Muller 2012, p. 129).

The surge in the number of proscription regimes led to an increased attention to the shortcomings of proscription. Proscription is considered an impediment to the right to self-determination, because it eliminates a democratic outlet for legitimate political opposition, is used for politically motivated intentions rather than a desire to eliminate a genuine threat of terrorism, and blurs the lines between terrorism and legitimate political dissent (Sentas 2010, p. 16; Muller 2008, p. 125). For many scholars, proscription infringes on international and domestic human rights, including liberties of association and expression, representative democracy and democratic competition, the right to democracy, and the right to resist an oppressive regime (Bourne 2012, p. 198; Muller 2008, p. 120). To Vicki Sentas (2010), proscription legitimises and facilitates state terror, including ethnic cleansing and genocide (p. 16). Finally, the efficacy of proscription itself is questioned: to Gross (2011), Haspeslagh (2012) and Mark Muller (2008), proscription forecloses the ability to peacefully resolve conflict, and breeds long-term resentment. To Finn (2000), this contributes to a sense of alienation that increased the likelihood of a proscribed group resorting to violence (p. 6).

Because the majority of proscription scholarship focuses on the influence of the post-9/11 security paradigm, or on the illiberal use of proscription as a product of post-colonial governance, there is a significant gap in the literature which needs addressing: to conceptualise proscription regimes as a colonial legacy. So far, the

rich historical origins of proscription remain under-researched. Jarvis and Legrand (2014, 2016, 2017a, 2017b, 2018, 2020) have made significant progress and traced the emergence of proscription across common, civil, customary and religious legal traditions. Investigating the colonial elements of proscription will lend a significant layer of understanding to the illiberal use of proscription, because analyses can conceptualise proscription as a tool of imperial-colonial *regime security*, rather than as products of postcolonial governance. My thesis will address this gap in the literature and argue for the conceptualisation of proscription regimes as a colonial legacy first, and as a response to 9/11 second.

Background to Cameroon case study

This thesis focuses on the normalisation of proscription regimes in Cameroon, which will address the gap in proscription literature which diminishes the influence of colonial legacies on proscription regimes and overstates that of postcolonial governance or the War on Terror. The case study was chosen for four reasons.

First, Cameroon has a rich and complex colonial history. This allows my research to investigate the dynamics of proscription in a colonial and post-colonial setting and determine to what extent proscription should be conceptualised as a colonial legacy. 'Kamerun' was a German protectorate from 1884–1916 and was divided into two trusteeship territories under French and British administration at the end of the First World War and the formation of the League of Nations (Nsoudou 2009, p. 206**)**. British Cameroon and French Cameroun were administered in noticeably different ways. The first was administered as an eastern region of the colony of Nigeria, which, to Piet Konings and Francis Nyamnjoh (2018), created a sense of neglect and inferiority as the 'colony of a colony' (p. 63). The second was administered under French assimilatory politics and was fully integrated into the French economy as an unofficial overseas department. In 1960, French Cameroun became independent and formed the Republic of Cameroon under its first leader, President Ahmadou Ahidjo (Fonchingong 2006, p. 368). On February 11, 1961, the Northern and Southern British Cameroons voted in a United Nations plebiscite to end the trusteeship and join the Federation of Nigeria and the

Republic of Cameroon (Anywangwe 2020, p. 6; Okereke 2018, p. 8). The British Cameroons were divided into two Northern and Southern districts and voted in two separate plebiscites on the recommendations of the United Nations General Assembly (Enonchong 2020, p. 16). After the plebiscites, the British Southern Cameroons and the Republic of Cameroon entered a two-state federation as the United Republic of Cameroon (Okereke 2018, p. 8). Then, in 1972, President Ahmadou Ahidjo declared a referendum which would decide if the two-state federation would be abolished. The ensuing referendum was highly contested because it offered only one option: to abolish the two-state federation (Chem-Langhëë 1995, p. 18). The Ahidjo administration installed a unitary government and the Federal Republic became the United Republic of Cameroon (Chem-Langhëë 1995, p. 18). Because of Cameroon's complex colonial history, this thesis will adopt different terminology according to which colonial period the study refers to: Kamerun between 1884–1916, Cameroun for the territory under French colonialism, and Cameroon for the territory after independence. I also refer to the former British Southern Cameroons, or the Southern Cameroons, as the section of the British Cameroons which elected to reunify with the independent Republic of Cameroun.

Second, this case study was selected because proscription was used in the territory before the promulgation of UNSC Resolution 1373, after which the quantity of proscription regimes globally increased dramatically. In contrast, Cameroon used proscription in both the colonial and the post-colonial periods. The proscription of the Union des Populations du Cameroun (UPC), for example, illuminates the illiberal uses of proscription in the territory under French administration. The UPC was a political party which spearheaded Cameroonian nationalism and anticolonialism after its inception in 1948 (Nsoudou 2009, p. 207). It advocated for French Cameroun's independence, and predicated decolonisation with the reunification of the French and British Cameroons (Sharp 2013, p. 189). They were quickly supported by a large proportion of the Cameroonian population. This was due to several reasons: the UPC leadership was reflective of the diverse ethnic and linguistic makeup of Cameroon, they adopted successful grassroots-level organisation methods, and supported their demand for reunification by adopting the

German spelling of *Kamerun* which emphasised the common identity formed between the Anglophone and Francophone groups as a German protectorate (Nsoudou 2009, p. 207; Terretta 2014). In response to UPC's growing popularity, the French administration adopted a new high commissioner, Roland Pré, who had quashed a similar nationalist movement in Papua New Guinea (Pacific Islands Monthly 1963, p. 13). Pré's attempts to repress the UPC's influence resulted in violent conflict in May 1955 (Sharp 2013, p. 189). Finally, on July 13, 1955, Pré proscribed the UPC and its related organisations the Cameroon Democratic Youth (*Jeunesse Démocratique Camerounaise*) and the Cameroon Women Democratic Movement (*Union Démocratique des Femmes Camerounaises*) (Sharp 2013, p. 207).

Third, the neocolonial influence on proscription regimes can be analysed in the Cameroonian case study because the Cameroonian government legislated a counterterrorism law in response to UNSC resolution 1373 in the post-9/11 period. On December 23, 2014, the Cameroonian government under President Paul Biya (1982–present) enacted Law No. 2014/027 on the Suppression of Acts of Terrorism (Suppression of Terror law) to punish acts of terrorism, including the Boko Haram insurgency that was active in the Far North Region (Ashukem 2021, p. 120).

Finally, the Suppression of Terror law is also a demonstration of the illiberal uses of proscription law. Watchdogs including Amnesty International (2015) consider the Suppression of Terror law a violation of basic human rights and civic freedoms, and condemn the use of the death penalty to punish acts of terrorism (p. 17). To Ashukem (2021), the Suppression of Terror law is used '… to quench criticisms and oppositions from activists, students, trade union associations and political actors, exercised through strike actions or freedom of expression, as acts of terrorism' (p. 131). An example of this is the proscription of the Cameroon Anglophone Civil Society Organisation (CACSC) and the Southern Cameroons National Council (SCNC) and the arrests and imprisonment of prominent Anglophone leaders under the Suppression of Terror law. These cases illustrate the illiberal use of proscription instruments, because the CACSC and SCNC were representative of an Anglophone minority that has been systematically underrepresented by the Cameroonian government, and were protesting against the

'francophonization' of the Southern Cameroons (Agbor Balla 2017, p. 3). The proscription of the CACSC and SCNC represents the elimination of democratic avenues for the Anglophone minority's legitimate political dissent.

Thesis chapter outline and research questions

This thesis contains four chapters, the first of which constructs the theoretical framework I will adopt for this thesis to argue for the conceptualisation of proscription as a colonial legacy. First, I justify my subscription to Alzubairi's (2017) colonial rationale framework. In doing so, I reconcile arguments between Alzubairi's conceptualisation of counterterrorism legislation as a legacy of the colonial rationale and scholars conceptualising proscription as a predominately post-colonial or post-9/11 phenomenon. Then, I extend Alzubairi's (2017) framework through the critiqued concept of 'ductility' as theorised by Romain Rambaud (2015). I develop this concept to better explain the longevity of proscription laws inherited from colonialism and their utility. My theoretical framework developed in Chapter I informs my analysis and research agenda in the following three chapters.

Chapter II seeks to inform *why* proscription was normalised for illiberal use, by answering the questions: What kind of governance do Cameroonian leaders employ? What continuities exist between colonial governance and contemporary postcolonial governance? What governing characteristics are entirely modern or influenced by neocolonialism? I take the most contemporary case study, the 2014 Suppression of Terror law, and analyse its application and contents according to the four mechanisms of the imperial-colonial rationale as theorised by Alzubairi (2017). I find clear continuities between colonial and post-colonial governance that suggest Cameroonian political leaders are motivated to rule using the same logics and methods used by former colonial powers. However, I find that this imperial-colonial rationale is facilitated along three dimensions: the domestic as theorised by Alzubiairi (2017), the global (neocolonial influences, notably UNSC Resolution 1373), and the horizontal (peer-group relationships). I explore these three

dimensions, which serves as one of my theoretical contributions to proscription literature.

Chapter III is a genealogical analysis of proscription regimes in Cameroon, from French colonial administration to contemporary Cameroon under President Paul Biya. I ask: How can we explain the longevity of Cameroon's proscription laws? Have proscription laws changed, and how? Where do Cameroon's proscription laws come from? Is proscription entirely a colonial legacy? How was proscription normalised and entrenched into Cameroonian politics? How is proscription justified, and how has this changed? I trace proscription regimes according to their historical, social, and political context, and the laws used to proscribe political actors. From this genealogy, I tabulate empirical data to describe the proscription laws, the time period, the proscribed actor, and, most importantly, the 'legalese' of the proscription laws. By legalese, I refer to the phrases that provide the legal grounds for proscription, which I name the 'authorisations' for proscription. The authorisations for proscription are fundamental to my analysis because they are permissive (by authorising or sanctioning the act of proscription) and explanatory (by justifying the act of proscription). Comparing the changes and consistencies in authorisations over time suggests how proscription laws have changed, if the actors deemed threatening (and therefore deemed appropriate to be proscribed) have changed, and how the justifications for proscription have changed. I find an unambiguous consistency between the authorisations for proscription in the colonial and independent administrations, despite dramatically evolving political and security paradigms. In rare cases where new authorisations are added, or historical authorisations are altered, the genealogical analysis suggests that the underlying motivation for proscription remains the desire to rule within the imperial-colonial rationale.

Finally, Chapter IV combines my empirical and theoretical contributions. I take my understanding of the governing style of contemporary Cameroonian leaders (Chapter II), and the consistencies in the authorisations for proscription (Chapter III) and explore the normalisation of proscription in Cameroon according to the emerging literature. I find that in Cameroon, the designation of threat, and therefore the construction of an actor as meriting proscription, changes according

to the security and political paradigm but is consistently aligned with ruling within the colonial rationale: the mode of governance which ensures regime security. I argue that the authorisations for proscription perpetuate ruling within the colonial rationale because they are ductile. I analyse the concept of ductility according to the three criteria I set out in Chapter I: the process of policy diffusion, a purposeful ambiguity of terms, and the perpetuation of the colonial rationale, and I argue that ductility is also a colonial legacy. I find that the global and horizontal (peer) dimensions of the colonial rationale are critical to ductility, because international community and peer-state groups implicitly approve of the illiberal consequences of proscription when the security agenda of neocolonial powers is adhered to. Finally, I find that because the authorisations for proscription are inherited from colonial administrations and remain largely unchanged, this has limited what the state deems merits protection to the elements that were critical to the stability of the *colonial* state, not a democratic one, and that are protected by ruling within the colonial rationale. I now turn to the first chapter of my thesis and present my literature review and theoretical framework.

CHAPTER I

Ductility as a property of proscription law

In the process of colonisation, colonial powers 'imported' policy, law and political instruments into the state under administration (Capstick 1978, p. 284; Le Vine 2004, p. 4). For example, in French Cameroun, the system of assimilatory politics transferred French political, economic and social norms, methods, and instruments into the territory (Berman, Eyoh & Kymlicka 2004, p. 17). The French colonial administration therefore overrode the existing forms of social, political and economic governance of 1916 Kamerun that were inherited from the influence of the German protectorate and traditional Cameroonian systems. After independence in 1960, the postcolonial Ahidjo administration maintained these extensive ties to France. This included cultural, educational and linguistic exchange; technical, military and financial assistance; the diffusion of French identity and popular culture, and the maintenance of French laws, policy, and political mechanisms inherited from the colonial administration (Le Vine 2004, p. 3). This also included the penal code and laws for proscription (Capstick 1973, p. 284). In this chapter, I organise the theoretical framework to question whether during the process of transferring the proscription laws from colonial to postcolonial government the intentions motivating their use were also transferred. Alzubairi's (2017) colonial

rationale framework structures this inquiry because it identifies continuities between the logic and methods of colonial administrators and contemporary political leaders.

The colonial rationale refers to the logic and methods used by former colonial powers to punish anticolonial threats, and ensure the security of their administrations (Alzubairi 2017, p. 22). The colonial rationale transfers via four mechanisms: centralisation, exceptionalism, militarism, and economic expansion and reform. Importantly, the colonial rationale framework conceptualises counterterrorism instruments as legacies of colonial histories in their entireties, as opposed to products of post-colonial regimes after decolonisation (see Alzubairi 2017, 2019). These two perspectives seem incompatible, but integrating them to study proscription is uncomplicated because both understandings use non-competing terms when describing its illiberal consequences. I justify my subscription to the colonial rationale framework in my literature review that reconciles the two perspectives according to the four mechanisms of the colonial rationale: centralisation, exceptionalism, militarism, and economic expansion and reform. This review comprises the first of three chapter sections.

The second section presents the illiberal consequences of proscription regimes due to the absence of a universal definition of terrorism. I continue to review the scholarly literature on proscription regimes and find the term ‘terrorism’ is instrumentalised by state leaders to ensure regime security and remove the democratic protections rightfully owed to their citizens, including those of political representation and democratic accountability. I justify the need to consider these illiberal shortcomings as an extension of the colonial rationale, because often the laws involved in cases are inherited from colonial administrations. In my third section, I begin this endeavour and present the concept of ‘ductility,’ which was first theorised by Romain Rambaud (2015) in his analysis of proscription law of 10th January 1936 on combat groups and private militias. I propose that ductility is a property in proscription law that functions to transfer the colonial rationale, to serve the authoritarian ambitions of leaders. I argue that there is a bidirectional relationship between ambiguity and the colonial rationale: that laws are written ambiguously because of a colonial rationale, but that this rationale is then

perpetuated by the same ambiguity; ductility is the latter element of this relationship. I present three criteria for ductility: the process of policy diffusion; a purposeful ambiguity of terms, and the perpetuation of the colonial rationale.

I. Centralisation

To Alzubairi (2017), colonial administrators used anti-revolutionary instruments to concentrate political power (p. 317). By emphasising the need for political 'stability,' administrators justified prioritising the security of the colonial state over that of its citizens (Wilson 2005, p. 6). The centralisation of power serves the 'authoritarian ambition,' or desire for political control of pre-colonial, colonial, or post-colonial leaders (Alzubairi 2017, p. 318). For example, laws serve the authoritarian ambition of leaders when they are used selectively to target political threats and immunise leaders and their supporters. In contrast, Vicki Sentas (2018) conceptualises counterterrorism instruments as continuations of counterinsurgency methods. In her analysis of the proscription of the Kurdistan's Worker's Party (PKK) by the Turkish government and the international community, Sentas (2018) found that the proscription shifted policy responses to a counterinsurgency sphere of negotiation, because the focus became to stabilise, rather than to address the causes of the injustice and find a resolution (p. 306). As a consequence, the proscription depoliticised the PKK and denied the self-determination of their supporters (p. 306). The focus on 'stability' discussed by Sentas (2018) is foundational to governing within the colonial rationale, because the denial of self-determination and political representation also centralises power to the current leaders.

Ben Hayes (2012) argues that leaders can centralise power by adopting international 'best practice' counterterrorism instruments. This is because these instruments serve the international security agendas of powerful neo-colonial states and states can 'extend' them for illiberal use once the standard requirements are met (Hayes 2012, p. 16). This extension is possible because international 'best practice' recommendations rarely suggest a maximum possible sentence, so legislators can increase sentencing against political opposition. Studies support this: Maria Josua

(2020) investigated Middle Eastern and North African (MENA) states' motivations for adopting counterterrorism legislation according to domestic, regional and international 'drivers.' Josua's (2020) results found two temporal clusters of counterterrorism legislating, 2003–2007 and 2014–2017, each with different causal drivers. The first cluster found the principal domestic, regional and international drivers were unprecedented terrorist attacks, regional counterterrorism policy diffusion and a compliance with the War on Terror (Josua 2020, p. 6). In the second cluster, domestic and regional drivers were protest-proofing for regime security, and a regional fear of uprisings after the Arab Spring (Josua 2020, p. 6). To Elena Pokalova (2015), the principal overall drivers for counterterrorism legislating were 'framing' motives, the influence of great powers and path dependency. 'Framing' is a discursive tool that leaders use to justify the adoption of policies for illiberal or political use (Pokalova 2015, p. 482). These studies support Alzubairi's (2017) claim that the domestic authoritarian ambition of states is the strongest driver of counterterrorism legislating. The driver of protest-proofing, for example, illuminates the desires of the ruling administration to political dissent or opposition which would destabilise control. In addition, although many of the laws adopted were domestic laws, they were profoundly influenced by the global diffusion of neo-colonial counterterror instruments. In this light, Josua's (2020) MENA case study found that domestic and regional drivers of counterterrorism legislating were more powerful than the international. However, this was possible due to international drivers 'conditioning' an environment in which domestic and regional drivers, such as regime security, could more powerfully drive legislation.

An analysis of the role of path dependence in counterterrorism legislating provides further context. Path dependence is a strong policy determinant: because certain policies have been adopted in the past, alternative policy options are dismissed from the policy-making process (Pokalova 2015, p. 482). In addition, Pokalova (2015) bases this hypothesis on Laura Donohue's (2008) concept of a counterterrorism 'spiral.' Donohue (2008) finds that counterterrorism provisions build up and create a 'spiral:' once legislation is adopted, it becomes permanent and is often strengthened (Pokalova 2015, p. 478, 482). Pokalova (2015) follows the logic of path dependence and Donohue's 'spiral,' and hypothesises that once states

adopt counterterrorism legislation, they are more likely to adopt more counterterrorism legislation in the future (p. 483).

Pokalova's (2015) empirical results found that a path dependence increased the probability of counterterrorism legislating (p. 490). However, the influence of path dependency was only slightly higher than participation in the War on Terror. Pokalova (2015) found that states participating in the War on Terror with no path dependence were 71% likely to legislate after September 11 (p. 490). In contrast, states with path a dependency that did not participate in the War on Terror were 72% likely to adopt counterterrorism legislation (p. 490). The combination of path dependence and War on Terror had the greatest influence: States with both factors were most likely (87%) and those with neither factor were only 49% likely to legislate (Pokalova 2015, p. 490).

To Pokalova (2015), a reliance on path dependence in decisions to adopt new legislation can lead to adverse outcomes, because counterterrorism laws define 'terrorism' according to the security paradigm in which they are written (p. 492). The dismissal of alternative policy options in favour of existing policy can result in silencing or criminalising political opposition, and it could 'eventually present a greater threat to society than terrorism itself' (Pokalova 2015, p. 492). In addition, the results found by Pokalova (2015) above were indicative of legislating patterns only *after* September 11. Before September 11, the presence of a genuine threat of terrorism was the greatest influence (Pokalova 2015, p. 491). These perspectives suggest that the combination of neo-colonial influence and historical connection to counterterrorism legislating encouraged the introduction of powerful new counterterrorism laws or the revision of existing laws inherited from colonialism. This potentially conditioned an environment in which leaders could ensure the stability of their regimes through instruments of centralisation.

II. Exceptionalism

The exceptional nature of imperial and colonial security instruments transferred the colonial rationale from pre-colonialism to contemporary counterterrorism legislation (Alzubiairi 2017, p. 204). Exceptionalism facilitates

governance within the colonial rationale because it creates a duality in the judicial system. Colonial penal codes were often direct copies of those of the colonial administrators that criminalised revolutionary actions exceptionally, and these penal codes were often used in conjunction with the pre-colonial penal systems (Capstick 1973, p. 285). This created a duality in the judicial system because wrongdoers could be criminalised under different penal systems, and this could criminalise those opposing the regime and immunising leaders and their supporters. Many colonial-era penal codes are no longer used in places of origin, but were maintained in postcolonial states. For example, a dual judicial system was established in Egypt through the British special court system, and these courts were constitutionalised in Egypt after independence (Alzubairi 2017, p. 205). To Alzubairi (2017), this evidences Egypt's attachment to governing within the colonial rationale because the special court system combines three mechanisms of the colonial rationale: centralisation, exceptionalism and militarism.

The global counterterrorism security paradigm has provided the opportunity to further extend this purposeful duality of the judicial system. Many wrongdoings that were already punishable by current (colonial) penal codes, are addressed separately by contemporary counterterrorism law. Criminalisation can either occur through the civil penal code or exceptional counterterrorism law. Often this marks the difference between the use of an exceptional military, or civil court tribunal (Alzubairi 2017, p. 52). Modern laws, such as the 2014 Suppression of Terror Law in Cameroon ensure such selective application is possible through a deliberate ambiguity of definitions and by the use of military courts. This law is applied selectively against terrorists, but also used to repress political opposition, protestors, human rights defenders and the press (see Ashukem 2021, Kamga 2020).

Exceptionalism is also found outside of the judicial system, in instruments designed to centralise power in the executive. Emergency regimes, such as full powers or a state of siege, are exceptional because the suspension of law, even temporary, fractures the accountability of the government to its citizens (Kamga 2016, p. 92). In Cameroon, emergency powers legislation was maintained, constitutionalised, and strengthened after independence. Emergency powers entered the Cameroonian political system via the constitution-making process that

strongly resembled that of the French Fifth Republic (see Awasom 2002, Le Vine 1964, Kamga 2015). In response to the violent nationalist struggle in Algeria, Charles de Gaulle was given *pleins pouvoirs* (full powers) to revise the Constitution and birth the Fifth Republic (Kamga 2015, p. 296). Cameroonian President Ahmadou Ahidjo (1960–1982) copied this process. Under a state of emergency, Ahidjo rejected calls for a roundtable drafting of the Constitution, and instead proposed an emergency powers bill which would grant him full powers to govern by decree for six months (Awasom 2002, p. 11). The proposal passed and a highly centralised Constitution which strengthened emergency powers was promulgated (Kamga 2015, p. 301). The Constitution-making process served the authoritarian ambition of the new leader, but this was only possible through the use of exceptional colonial legislation and the direct emulation of policy-making processes of the colonial powers.

But the history of leaders using emergency powers to centralise their own, reaches further than French counterrevolutionary policy in Algeria. In fact, emergency powers were codified by the French constituent assembly in 1791 in the aftermath of the French revolution (Alzubairi 2017, p. 78). The crucial transformation occurred in 1797, when emergency powers were modified to allow the declaration of a state of siege in case of foreign invasion or rebellion. Napoleon I and Napoleon II used this modification to target political opposition, because 'rebellion' referred to any type of domestic disturbance (Alzubairi 2017, p. 79). Then, in 1914, President Raymond Poincare declared a state of emergency for the 'maintenance of public order' while the response against the first World War One was being mobilised. This did not meet the requirement that it needed to be declared in the face of 'imminent danger'. Instead, it embraced the ambiguity of the written law for its exceptional use, as counterterrorism laws do now.

III. Militarism

The use of the militarism is foundational to counterinsurgency and is readily found in contemporary counterterrorism. David Miller and Rizwan Sabir (2011) quote David Kilcullen on American War on Terror strategy. Kilcullen says '... the present

conflict is actually a campaign to counter a globalised Islamist insurgency. Therefore, counterinsurgency theory is more relevant to this war than is traditional counterterrorism' (p. 15). Here, Kilcullen is stating that neocolonial states have reworked counterinsurgency militarisation into a global counterterrorism security paradigm. However, to Alzubairi (2017), militarism transfers the colonial rationale, and although neocolonialism may alter and revise these counterinsurgency instruments, these revisions are continuously informed by the past (p. 87).

An example of such revision is martial law. Martial law is an exceptional instrument which shifts political power to a military authority, and can suspend basic liberties and the rule of law, detain wrongdoers without trial, permit torture, and use a military court system (Neocleous 2007, p. 489). Mark Neocleous (2007) delineates the process by which democratic states, including the United States and United Kingdom, began using key features of martial law without declaring martial law itself (Neocleous 2007, p. 489). This occurred through the process of 'liberalization,' whereby martial law shifted its logic and focus from a military to a political dimension, and from the defence against military encounters with foreign enemies to internal security and public order. To Neocleous (2007), the historical transformation of martial law into the logic of emergency made this possible (p. 496).

Under the 1628 Petition of Right, martial law referred to the jurisdiction over soldiers of the British crown and alien enemies, was only permitted in times of war, and did not apply to citizens (Neocleous 2007, p. 491). By the late nineteenth century, this thinking had shifted, notably in the use of martial law in the British colonies and Ireland. Martial law became applicable to citizens on the grounds of necessity to 'maintain order', modifying martial law from the regulation *of* the military through the state to regulation *by* the military on behalf of the state. At the time, martial law was only being used in British colonies and not at home, but this shifted radically in May 1922 when the British Cabinet rejected declaring martial law in Northern Ireland on the grounds that martial law was effectively already in place under the emergency Defence of the Realm Act. Here came therealisation that martial law powers could be introduced under the logic and

language of ‘emergency,’ which supplanted the language of martial law (Neocleous 2007, p. 500).

How states understood or framed the circumstances that constituted an ‘emergency’ began to change dramatically and was used domestically against industrial and labour revolts throughout the 1920s (Neocleous 2007, p. 503–504). Then, it began to globalise. Its flexibility has led to permanent states of emergencies in dozens of states in response to a multitude of ‘crises’: this could include war, weather, natural disasters, human (in)security, and mass protests. Through its liberalisation, martial law has been transformed out of its historic form and legitimised through the need for national security. This suggests that the shift from martial law into emergency powers rhetoric has allowed the use and normalisation of martial law and mechanisms of militarism during peacetime. For example, counterterrorism law contains elements of militarism that were prominent in counterinsurgency, but this is no longer reserved for times of war or a genuine threat of terrorism (for other examples, see Roach 2015, Atiles-Osoria 2012, Miller and Sabir 2011, Sentas 2018). This is not unique to martial law, but is prominent in the use of military courts, the death penalty and states of siege (Alzubairi 2017, p. 87).

IV. Economic expansion and reform

Alzubairi (2017) delineates the inseparable nature of political control and the economy in the colonial era. In order to maintain the import of raw materials and resources into the West, colonial powers imported the capitalist system into colonies. More importantly, this pulled colonial administrations into an international market in which western powers controlled the rules of engagement. This remains unchanged in the contemporary political system (Alzubairi 2017, p. 44). According to Ben Hayes (2012), this inseparable relationship persists: neo-colonialism has not only perpetuated this relationship, but is wholly dependent on it to maintain the influence of the former colonial powers. Former colonies systematically experience higher levels of poverty, malnutrition, and healthcare concerns, lack basic or reliable infrastructure, and have poor education, welfare, housing and health systems. For these reasons, they are often highly dependent on

aid and assistance granted by the international community. It is a dynamic that perpetuates a relationship based on the subordination of the colonised to the coloniser, and neocolonial institutions place former colonial powers as agenda-setters in the management of international markets and decision-making processes. For example, War on Terror counterterrorism financing instruments demonstrate how economic coercion has facilitated the extension of the colonial phenomenon of *localised* policy importation to the neo-colonial *global* diffusion of policy.

Hayes (2012) follows the adoption of the Financial Action Task Force (FATF) 40+9 Special Recommendations by major development agencies including the International Monetary Fund and World Bank, and the multilateral European, Inter-American, Asian and African development banks. The support by major aid donors to global 'best practice' threatens the loss of critical financial aid if the state is non-compliant to global standards. Developing countries, many of which are former colonies, are *de facto* obliged to accept FATF requirements to ensure critical funding and attract private investment (Hayes 2012, p. 27). Hayes continues: funding trends have indicated that aid from the global north to the global south is increasingly used to serve national and international security agendas. Despite little evidence suggesting that these efforts actually benefit the citizens of developing countries, western security agendas are prioritised in the development agenda (Hayes 2012, p. 27).

Similarly, Alzubairi (2017) considers that the *de facto* subordination to the west gives former colonial powers the ability to use direct economic pressure to influence global political matters according to their agendas (p. 47). Yee-Kuang Heng & Ken McDonagh (2008) challenge this. In their understanding, the FATF is a manifestation of governmentality in the Foucauldian sense: a '... question of not imposing laws on man, but of disposing things: that is to say employing tactics rather than laws, to arrange things in such a way that, through a certain number of means such and such ends may be achieved' (Heng & McDonagh 2008, p. 561). Simply put, the intention is to guide behaviour to certain ends through mechanisms of compliance, rather than outright economic coercion (Heng & McDonagh 2008, p. 567). This is observed in the principal compliance mechanism of the Non-cooperative Countries or Territories (NCCT) list, a 'blacklist' of states failing to

comply with the 'best practice' FATF 40+9 Special Recommendations on money laundering and terrorist financing.

This NCCT list powerfully influences the internal governance of states in four ways. First, as states and organisations align with FATF recommendations, the FATF becomes a 'legitimacy conferring agency,' at the detriment of states' global reputations (Heng & McDonagh 2008, p. 566). In 2006, the FATF observed that of the twenty-three Non-compliant Countries and Territories (NCCTs) in 2000 and 2001, all but one (Myanmar) had been delisted (FATF 2006, p. 9). Further, after listing, most NCCTs *immediately* began improving anti-money laundering systems, an urgency which supports the FATF's capacity to 'question the legitimacy (of these countries) to operate as financial centres in the global financial system' (Heng & McDonagh 2008, p. 566).

Second, the complexity of the delisting process supports the conceptualisation of the FATF as a legitimacy-conferring power. To be removed from the NCCT list, an NCCT must enact laws and promulgate regulations to address deficiencies identified by FATF, and submit a thorough implementation plan for legislative and regulatory reforms in specific reference to: the filing of suspicious activity reports, the analysis and follow-up of the reports, the conduct of money laundering investigations, the examinations of financial institutions, the international exchange of information, and the provision of budgetary and human resources. The NCCT must be continuously monitored by the regional review group who reports on its progress, must be visited on-site by this group, and, finally, receive a confirmation letter from the FATF president that approves its delisting and makes clear that 'delisting does not indicate a perfect anti-money laundering system' (FATF 2001, p. 29).

Third, reviewing processes extend FATF influence of internal governance beyond the Special Recommendations. Hayes (2012) describes the FATF's mutual evaluation process, in which states are 'peer reviewed' by inspectors from IGOs or neighbouring states on their compliance to the Special Recommendations (Hayes 2012, p. 16). States lacking compliance are provided 'extraordinarily detailed guidance' via over 250 criteria to improve compliance. States are effectively subjected to the '40+9' recommendations as well as an additional 250.

Finally, the policy recommendations, and requirements for 'delisting,' are inherently western and principally serve the security interests of the global north. Take, for example, Hayes' examination of the mutual evaluation reports of 159 countries and territories evaluating the implementation of Special Recommendation VIII. Of the 159, only five countries were assessed as 'compliant,' meaning the 'recommendation [was] fully observed with respect to all essential criteria'. Seventeen were considered 'largely compliant,' 66 'partially compliant,' and 69 'non-compliant,' having 'major shortcomings, with a large majority of the essential criteria not being met' (Hayes 2012, p. 33). These assessments were strongly divided across the global north and south: six out of seven G7 members were assessed as 'compliant' or 'largely compliant.' In South America, all 21 FATF of South America members were either 'partially compliant' or 'non-compliant,' as with 26 of 28 FATF Caribbean members, eight out of ten FATF West Africa members, 24 of 27 FATF Asia Pacific members, seven of eight FATF Eurasia members, and eight of eleven members of the Eastern and South Africa Anti-Money Laundering Group (Hayes 2012, p. 33). The implication to be drawn here is that the Special Recommendations either serve the existing interests of western states, are more easily implemented by them, or both.

This trend supports Alzubairi's claim that 'financially and politically powerful' institutions, like the FATF and the UNSC, operate in a 'context of centralisation,' which determines the distribution of power within supranational bodies (Alzubairi 2017, p. 53). Take the veto powers given to the five permanent (P5) members of the UNSC. This centralised structure of governance affirms the superiority of powerful states in the global north, namely former colonial powers. Similarly, Hayes (2012) uses the term 'policy laundering' to describe how powerful states have shaped international policy agendas to their own ends. States use intergovernmental organisations to push policies which would not be approved through regular domestic political processes, allowing states to eschew deliberative procedures and parliamentary democracy (Hayes 2012, p. 6). For example, the global diffusion of War on Terror policy, which served the Bush administration's counterterrorism agenda, is an example of policy laundering (Haye 2012, p. 9). The War on Terror dramatically shaped the agenda of various IGOs, which embedded

the domestic counterterrorism strategy of the Bush administration into international law and policy. As explained above, international 'best practices,' although non-binding, are accepted into the internal governance of former colonies via neo-colonial instruments such as the NCCT list. According to Hayes (2012), the decision to participate in the War on Terror by the EU and G7/8 was not because of their abilities to provide substantial support in identifying the perpetrators of 9/11, but rather 'due to the influence that these organisations would wield in terms of global standard setting' (p. 8). Following the lead of the Bush administration, the EU and G7/8 quickly passed 'best practice' standards through regional bodies such as the FATF, to prevent terrorist financing, terrorist blacklisting, technical assistance to less developed states, and international surveillance mechanisms (Hayes 2012, p. 8). These channels became crucial mechanisms for the global diffusion of War on Terror policy (Hayes 2012, p. 9).

Although economic pressure remains a strong influence over former colonies, I argue that the neocolonial influence of former colonisers is the strongest contemporary driver of system reform. It is the strongest driver because the current neo-colonial era depends on the importation of capitalist markets and the western domination of them, and also because it depends on western 'governmentality' over other systems – the political and the social, as enabled and facilitated by the global domination of markets, aid, and financial investment. Because western security interests are prioritised on the global development agenda, the colonial importation of policy on the local level has escalated to the global neocolonial diffusion of international 'best practice.'

Proscription law and the transfer of the colonial rationale

In the previous section, I supported my subscription to Alzubairi's (2017, 2019) colonial rationale framework. To do this, I reconciled non-competing terms between her historical analytical approach—which considers pre-colonial as well as colonial history—and scholars who understand counterterrorism instruments as products of post-colonial regimes after decolonisation or of colonial counterinsurgency. I will now extend Alzubairi's framework by attaching my

critique of Romain Rambaud's (2015) notion of 'ductility.' I justify this extension by presenting the need for an historical, colonial form of what we now call flexibility: a product of the (mis)use of laws, due to the absence of a universal definition of terrorism.

I. Flexibility and the (mis)use of proscription law.

Proscription regimes are a form of counterterrorism, which outlaw individuals or organisations considered 'terrorist' by the state. Naturally, this action requires a definition of terrorism. Despite attempts by the scholarly and political communities, there is no universally accepted definition of terrorism. Anthony Richards (2014) rightly explains to us the insurmountable challenge scholars face of defining terrorism, because it is an ontologically unstable term. Where no such universal definition exists, states decide on the definition themselves, and because of its subjective application (or non-application), 'nothing about it is definitional' (Richards 2014, p. 218). This has caused proscription regimes to have significant shortcomings. Proscription law can be used discursively to legitimise antagonism between state and non-state actors (de Goede 2018, Jarvis and Legrand 2016), and to permit the transgression of international law and human rights norms (Muller 2008, Sentas 2010). To Tim Legrand (2021), and Mark Muller (2008), these shortcomings ultimately reinforce, rather than limit, state sovereignty.

In their discourse analysis of UK parliamentary debates, which details every effort to list new organisations to the UK's proscribed list from 2002 to 2014, Lee Jarvis and Tim Legrand (2016) outline the illiberal uses of proscription law through discourse, rhetoric and performance. They find that proscription discourse served an important function in identity formation – by delegitimizing its target, proscription debates separated the UK Self from its terrorist Other. The terrorist Other was constructed as immoral, illiberal, and violent, which strengthened and constructed the image of a liberal, responsible UK (Jarvis & Legrand 2016, p. 560). Along with Marieke de Goede (2018), Jarvis and Legrand (2016) found that the constructed Self-Other antagonism also governed the boundaries of the polity. To Jarvis and Legrand (2016), when the terrorist Other was constructed as

'unwelcome', the proscription target was placed outside of the political order (p. 573). According to de Goede (2018), it is instead the *preemptive* nature of exclusion that is problematic. By bringing the *potential* of future harm into the present, proscription forms the basis of and justification for an exceptional security measure (p. 337).

Muller (2008) and Sentas (2010) consider similar consequences through an analysis of the legal, rather than discursive properties of proscription. Muller (2008) explains that the 'outsourcing' of the definition of terrorism in response to UNCTC Resolution 1373 undermines the efficacy of proscription regimes and infringes on human rights and international law norms, including on the right to self-determination, the right to resist state violence, and the right to democracy.

The right to self-determination is recognised under customary international law as *jus cogens*, in Article 1 of the International Covenant on Civil and Political Rights, and in the International Covenant on Economic, Social and Cultural Rights (Muller 2008, p. 116). By not distinguishing between armed conflicts and terrorism, non-state actors are labelled as *a priori* terrorists, which denies their political claims and often the roots cause of the armed conflicts. When the grievance is for self-determination or political autonomy, this right can be swiftly denied by the state. Consequently, listing does not just combat criminality, but delegitimises and depoliticises organisations or people which challenge the sovereignty of the state. Sentas (2010) applies this to migrant diaspora communities in the United Kingdom, in which solidarity for self-determination is criminalised by the UK Terrorism Act 2000. According to Sentas (2010), many organisations proscribed by the United Kingdom are engaged in armed struggle against repressive regimes, advocating for self-determination, regional autonomy, statehood, or basic ethno-cultural rights (p. 16). Under the UK Terrorism Act 2000, diverse forms of solidarity for armed resistance groups can be criminalised, effectively prohibiting any transnational affiliation or support from diaspora groups who remain connected to struggles for self-determination. Sentas (2010) considered the infliction of criminalisation on citizens and residents of the United Kingdom as an intentional disruption of their legitimate connection to identity as diaspora community members, and therefore as a form of state violence (p. 16).

The right to resist state violence is also circumvented by proscription regimes. As a tool of counterterrorism, proscription can valorise state violence against armed conflict in circumstances when it is a violent repression of self-determination. International law theorist Antonio Cassese (1991) refers to the legitimisation of state terror as institutionalised violence. In the name of counterterrorism, state violence is shifted into an exceptional sphere of law, in which any resistance is considered an act of terrorism and criminalised.

The right to democracy is also enshrined in international law and human rights norms (Muller 2008, p. 120). However, the international community frames counterterrorism as the protection of democracy. Both the UN General Assembly and the UN Commission of Human Rights, for example, define terrorism as intending to destabilise 'legitimately constituted Governments' and 'pluralistic civil society.' However, to Muller (2008), this has not been adopted by member states in their domestic definitions.

Sentas (2010) and Muller (2008) consider proscription regimes as foreign policy tools which facilitate these violations of international law and human rights norms in the interests of the global north. As a foreign policy tool, listing can approve of and worsen state violence, and sabotage conflict resolution between state and non-state actors. For example, the Permanent People's Tribunal on Sri Lanka found the listing of the Liberation Tigers of Tamil Ealam (LTTE) by the international community depoliticised the Tamil population's claim to self-determination. It undermined the 2002 ceasefire and played a key role in the 2009 massacre of tens of thousands of Tamil civilians by the Sri Lankan government (Sentas 2010, p. 17). The proscription of the LTTE also erased British complicity, as to Sentas (2010), the origins of the war between the Sri Lankan government and the LTTE began in the merging of the separate Sinhala and Tamil nations by the British in 1883 (p. 17). The potential for genuine conflict resolution is significantly reduced if one party in the conflict is depoliticised, as occurred to the Tamil population. Take, for example, the escalation of the military conflict between Turkey and the Kurdistan Workers Party (PKK). Although the PKK sought to open negotiations to end the conflict, Turkey consistently denied discussion on the grounds that the PKK are a listed terrorist organisation (Sentas 2010 p. 17, 2018 p.

98). After finding all opportunities for political dialogue closed off, the PKK called off its unilateral ceasefire and resumed military conflict. The conflict worsened in 2006 when Turkey amended its draconian counterterrorism laws and escalated its use of state violence again the Kurdish people (Sentas 2010 p. 17). Clearly, the listing of the PKK by the international community has given impetus to state violence by Turkey and denied the Kurdish people their rights to self-determination, to resist state violence, and to democracy.

These shortcomings of proscription regimes, which delegitimise and hence depoliticise targets of proscription, deny the minorities they represent internationally recognised rights to self-determination, to resist an oppressive regime and to democracy, and instead protect the interests of the proscribing state and secure its sovereignty. To Muller (2008), this comes from the outsourcing of the definition of terrorism. As self-determination seeks to limit state sovereignty, states define terrorism in the widest sense, giving discretion to proscribe groups which present a threat to state power. This is especially true in cases of secession movements, where minority or ethnic groups directly challenge the territorial sovereignty of the state (Muller 2008, p. 120). Similarly, Legrand (2021) refers to proscription as 'a ritual of sovereignty' which has been used historically by the UK as a tool of sovereignty and political control over its colonial and domestic jurisdictions (p. 417). The contemporary form of this historical tool is found in the UK Terrorism Act 2000, which was globalised in the urgent response to Resolution 1373 after the September 11 attacks. According to Legrand (2021), this act of policy diffusion not only globalised the UK Terrorism Act 2000's definition of terrorism, but also globalised the tool's intention to preserve state sovereignty (p. 419). Considering that the ambiguity of the term 'terrorism' can be instrumentalised by leaders as a tool to ensure regime security and that the definitions are not consistently framed to protect democratic institutions, I consider this ambiguity as purposefully written into counterterrorism laws. When this ambiguity is historical or colonial (because it is written into laws inherited in colonialism), this historical, colonial ambiguity requires theoretical attention. I now turn to Romain Rambaud's (2015) concept of 'ductility,' which conceptualises the colonial nature of ambiguous law.

II. Ductility as a property of proscription law

The concept of 'ductility' is found in Romain Rambaud's (2015) analysis of the French proscription law of January 10, 1936 on combat groups and private militias. The ductility of a law, mechanism or institution is found in its adaptability, i.e., its '… capacity to be deformed without breaking, that is … the ability to serve everything and its opposite depending on the circumstances' (Rambaud 2015). Ductility is hence an 'ultimate' form of flexibility.

Rambaud (2015) genealogically investigates the promulgation of the 1936 law and its application. To Rambaud (2015), the ductility of the law is clear in its 'turnaround:' its ability to be used for its opposite political purpose. Rambaud's (2015) argument proceeds as follows: In 1937, the French colonial administration in Algeria used the 1936 law to dissolve the anticolonial group the North African Star. This significantly altered the objective of the law because it had been until that point used exclusively against monarchist groups by the French government. Its use in Algeria shifted its application from the defense of the French *republic* to the defense of the French *empire*. The law then experienced a 'turnaround' when Charles de Gaulle used the law in the direction of decolonisation to dissolve groups *opposed* to Algerian independence in Algeria and France. To Rambaud (2015), the 'turnaround' demonstrated that the law could be used to serve opposing political objectives: in favor of, and against, the French Empire. Later, the 1936 law continued to be used by the French government to prevent the secession of independent nationalist groups from France, such as the Corsicans. The 1936 law became a sophisticated instrument used by state powers to pursue their interests and affirm their sovereignty in virtually all circumstances, by virtue of its ductility (Rambaud 2015).

I mostly agree with Rambaud's (2015) analysis of the ductility of the 1936 law but question the concept of its use for 'opposing political objectives.' Considering the extension of the 1936 law from the defense of the French republic, to the defense of the French empire, to the use of the 1936 law in defense of the Algerian government, there is one critical commonality between the three uses: all

three are used in defense of a regime to ensure its security. Hence Rambaud's (2015) assertion of the 1936 law's use for 'opposing political objectives' does not hold. In fact, the 1936 law was used for the same purpose throughout its application. Rambaud's (2015) concept of the 'turnaround' is intriguing, especially when considering the adoption of the law by other legislators, or when the same law is used to defend the regime security of a different power, as demonstrated by de Gaulle's use of the law to defend the regime security of the Algerian government. I seek to address this critique by extending the concept of 'ductility' to the use of proscription law in Cameroon according to Alzubairi's colonial rationale framework.

Ductility as an extension of the colonial rationale

Rambaud's (2015) concept of 'ductility' explains the ability of the French 1936 law to be transported spatially and temporally—across continents, cultures, regime types, and security paradigms. To Rambaud (2015), the transportation occurs to defend the legislator against political threat.

I seek to extend this concept to counterterrorism proscription law and propose a deeper purpose: that the property of ductility in counterterrorism proscription law functions to transfer the colonial rationale and to serve the authoritarian ambition of legislators. This extension also deepens Alzubairi's (2017) understanding of the role of 'flexibility,' 'vagueness,' and 'ambiguity' in the colonial rationale framework. Alzubairi (2017) does not suggest a direct colonial influence on the current definition of terrorism (p. 19). Instead, flexibility 'reflects' a colonial rationale which enables a law to be used and interpreted selectively against political opponents (Alzubairi 2017, p. 270). By this logic, the relationship between colonial definitions of, for example, 'insurgency' and a contemporary definition of terrorism is only the rationale underpinning the writing of each discrete law. I argue for a bidirectional relationship, in which the way a law is written is driven by the colonial rationale, and that the colonial rationale is then perpetuated by the writing of the law. The latter direction holds the property of ductility: the flexibility of laws is

unlikely to change, as it strengthens and perpetuates the colonial rationale, and by extension, the authoritarian ambitions of legislators.

It is critical to distinguish between ductility and flexibility. Although the concept of 'ductility' seems analogous to flexibility, a distinction is found in its rigidity. A flexible law may be used for any purpose, by any legislator, and does not contain a boundary in its application. In contrast, ductility as a property of law contains a rationale and logic for its existence, which indicates a rigidity or boundary to its application. A ductile law can be used by any legislator, but only for the same purpose, and through the same mechanism. For this reason, ductility as a property of proscription law gives a deeper meaning to the ambiguity and flexibility of this counterterrorism instrument. As a property of law, ductility is identified via three central criteria: the process of policy diffusion; a purposeful ambiguity of terms, and the perpetuation of the colonial rationale.

1. *A ductile law will have undergone policy diffusion*

This criterion responds to my critique of Rambaud's (2015) concept of a 'turnaround.' The 'turnaround' of law is when it is used for its opposite political purpose, when it is 'reformed without breaking' (Rambaud 2015). I critique the assertion that ductility enables laws to be used for their 'opposite political purpose,' rather claim that the purpose remains the same: for regime security. For this reason, the first criterion of ductility is the process of diffusion. However, Rambaud's (2015) analysis of the transfer of the 1936 law spatially and temporally across continents, governments and time periods is intriguing because the legalese of the 1936 law remained mostly unchanged. This is the process of policy diffusion. More specifically, it is the diffusion of legalese, because the purposeful adoption and maintenance of legalese across states and administrations indicates the legalese is flexible insofar that it can be used by any legislator. This simultaneously conforms to the substance of the 'turnaround' concept and addresses my critique: diffusion indicates a law can be used by any legislator, but not necessarily for *any* political purpose.

2. *A ductile law will contain a purposeful ambiguity of terms*

Ductility relies on purposeful ambiguity of terms that is written into law and transported via policy diffusion. A certain level of ambiguity is required for policy diffusion across different security paradigms and political administrations, for the legalese to be appropriate to its political context. The 1936 law, for example, contained legalese ambiguous enough to be utilized in domestic France, exported into colonies, and then adopted by independent postcolonial governments. The ambiguity is purposeful because broad-based, undefined terms can be flexibly used according to leaders' needs and to ensure regime security. Ambiguity allows an administration to selectively criminalise wrongdoers according to their security interests, because the same wrongdoing by different actors can be criminalised differently according to whether the wrongdoer is deemed a threat to the regime. Selectivity is a fundamental element of exceptionalism and centralisation that facilitate governance within the colonial rationale.

My use of the criteria 'purposeful ambiguity' rather than 'flexibility' is deliberate, because the final criteria for ductility is to perpetuate the colonial rationale. As a consequence, the term flexibility is unsuitable because flexibility denotes the ability to be used by any legislator, for any purpose. Ductility then becomes a 'rigidised' flexibility—a purposeful ambiguity—because it can be used by any legislator (as evidenced by the transfer of authorisations for proscription into each administration) but for a specific purpose—to rule within the colonial rationale.

3. A ductile law will perpetuate the colonial rationale.

As Alzubairi (2017) contends, laws transferred through the imperial and colonial periods, and maintained in independent states serve the authoritarian ambition of leaders and are applied using a colonial rationale. To identify the property of ductility, the diffusion, legislative changes and application of a law must be interrogated. By genealogically investigating the applications of a law in its political and social context, the intentions for its use can be determined. When a focus on regime security is consistent, and the mechanisms of exceptionalism, centralisation, militarism and economic expansion and reform are consistently facilitated through the law, the law has been used to perpetuate a colonial rationale.

Again, it is in this requirement that the distinction between ductility and flexibility lies. Laws can be flexible to serve multiple different purposes, yet ductile laws will have an inherited, primary purpose to serve regime security and hence the authoritarian ambition of leaders.

In the perpetuation of the colonial rationale lies a colonial legacy, because the diffusion of a ductile law has transferred its historical intentions. This aligns with Legrand's (2021) understanding of the global diffusion of the UK Terrorism Act 2000 in response to the War on Terror, which globalized the tool's intention to preserve state sovereignty (p. 419). As in the above section, reconciling Legrand's (2021) understanding with a 'whole history' approach is uncomplicated—ductility simply extends this beyond counterinsurgency into the colonial and imperial time periods, and looks for the same pattern. The property of ductility illuminates that despite the War on Terror's profound effect on the adoption of counterterrorism legislation and diffusion, these transfers of *intention*, and not just legislation, are a colonial legacy, rather than a product of postcolonial governance. Because the colonial rationale is perpetuated, ductile laws limit what should be protected to the elements that were critical to the stability of the *colonial* state, not a contemporary democratic one. The perpetuation of the colonial rationale explains the longevity of ductile laws because of their utility: the elements requiring protection to stabilize a colonial state are not unlike those faced by postcolonial governments who seek to maintain control of state territories whose boundaries have been arbitrarily drawn, to navigate ethnic disparities and build state capacity.

Conclusion

This chapter first built the foundation for my theoretical framework of imperial-colonial ductility as a property of proscription laws. I began by introducing Alzubairi's (2017) concept of the colonial rationale and reconciled non-competing terms between Alzubairi's understanding of the properties of counterterrorism instruments as legacies of colonial histories in their entireties with the literature that understands them as products of post-colonial regimes after decolonisation. To

justify my extension of Alzubairi's work, I introduced the literature on proscription and the shortcomings made possible by the ambiguity of proscription laws, indicating a need for a new understanding of an historical, imperial-colonial form of what is known as flexibility. My theoretical framework does this by extending Romain Rambuad's (2015) concept of ductility. I theorise that ductility aids in the transfer of the colonial rationale and is best understood in laws which are currently used by the governments of former colonies to serve authoritarian ambitions. I now apply this framework onto a case study analysis of the 2014 Cameroonian Suppression of Terrorism law, whose origins can be found in the French law of 10th January 1936 on combat groups and private militias. I seek to find continuity in the rationale behind the use of the original, amended and contemporary manifestations of this law, to decipher a colonial rationale, and finesse the concept of ductility as a property of proscription law.

CHAPTER II

How does Cameroon govern? Law 2014/028 on the Suppression of Acts of Terrorism

In the previous chapter, I constructed a theoretical framework to argue that ductile properties of law facilitate the transfer of the colonial rationale. This chapter will analyse the 2014 Suppression of Terror law, which motivated my inquiry into Cameroon, and question how the law perpetuates the colonial rationale through its four mechanisms: exceptionalism, centralisation, militarism and economic expansion and reform. To do so, this chapter will assess the content and application of the law in it political and social context. I find that the Suppression of Terror law exemplified ruling within the colonial rationale, and that this rationale is mediated in three dimensions: the domestic, global, and horizontal or peer-state.

The first dimension which drives the colonial rationale – the domestic – is supported by an exceedingly large amount of evidence. I find clear examples of exceptionalism, centralisation and militarism in the Suppression of Terror law. Take, for example, its use of the death penalty. The death penalty is an exceptional tool which, if applied selectively, creates a dual legal system because it punishes actors threatening regime security and is not applied to supporters of the regime. As a mechanism of centralisation, the Suppression of Terror law violates internationally established freedoms of the press, expression, and association by constructing these primary democratic principles as threats to national security. Finally, the Suppression of Terror law has elements of militarism in its use of the military court system and martial law. These mechanisms of exceptionalism,

centralisation, and militarism are motivated and facilitated by the authoritarian ambition of state leaders.

The second dimension – the global – questions if global policy diffusion facilitates state leaders governing within the colonial rationale. Because United Nations member states were required to legislate counterterrorism financing and money laundering legislation in response to Resolution 1373, I analyse the three available submissions to the United Nations Counterterrorism Committee (UNCTC) from Cameroon in 2002, 2003 and 2006. I argue that global counterterrorism policy diffusion is a form of neocolonialism that implicitly approves of the illiberal consequences of proscription.

The third dimension – the colonial rationale as facilitated *horizontally* by peer states – is found in the mutual evaluations system of the Financial Action Task Force. I analyse the 2022 report on Cameroon released by the Groupe d'Action contre le blanchiment d'Argent en Afrique Centrale (GABAC). I find the mutual evaluation system is one of mutual justification, because the evaluation constructs a moral equivalence between the use of the Suppression of Terror law against leaders of the Anglophone movement and Boko Haram militants. I argue that this system is structured to protect the authoritarian ambitions of peer-group governments by reducing or excusing government human rights violations, and promoting the compliance of peer-group members to the security agenda of neocolonial powers.

Law 2014/028 on the Suppression of Acts of Terrorism

The Suppression of Terrorism law was promulgated on 23rd December 2014. It is divided into four chapters and 17 Articles.

The first chapter outlines the objective and scope of the law, that it (a) provides for the repression of acts of terrorism, (b) that the Penal Code, the Code of Criminal Procedure, and the Code of Military Justice remain applicable when not contrary to the law, and (c) that the offences provided for by the law fall under the jurisdiction of the military court system.

The second chapter sets forth criteria for terrorist offences and their punishments. Critically, the definitions of 'terrorism', or a 'terrorist act' are both ambiguous. Article two defines acts of terrorism as those which would be likely to cause death, endanger physical integrity, cause bodily or material damage, damage to natural resources, the environment, or cultural heritage. According to Section 2(1), a terrorist act would intend to (a) intimidate a population, or compel the victim, the government or an organisation to perform or refrain from performing an action, (b) disrupt the functioning of public or essential services, and (c) create a general insurrection. This includes by supplying or using weapons and war equipment, biological or radioactive weapons and agents, and hostage taking. Articles three and four address the crimes of terrorism financing and money laundering. Article five criminalises terrorist recruitment and training, which includes participation, or the pressuring of others to join or participate in a terrorist group or plan to commit a terrorist act. Those who plan to participate, but do not do so, are also criminalised. Articles six to ten set forth the criminal liability of corporate bodies, the interruption or prevention of planned acts of terrorism, the apology for an act of terrorism, false statements, and witness protection. All offences from Articles two, three, four and five, with the exception of Article 5(2) are punishable with the death penalty. Articles six to ten are punishable by ten to twenty years imprisonment, or fines of 25,000,000 to 50,000,000 CFA Frances. Witness protection is punishable by life imprisonment.

Chapter three presents the special dispositions of the law. This includes a renewable fifteen-day period of imprisonment, the persecution by a military court, and minimum sentencing requirements. Articles 14 and 15 provide for ancillary penalties under Article 19 of the Penal Code in circumstances under Articles two to seven. Article 16 provides possible exemptions, which, contrary to Articles seven to ten, exempts perpetrators and co-perpetrators of acts of terrorism who, after agreeing to commit an act of terror, prevent it from occurring, identify co-offenders before it occurs, or provides knowledge to public authorities. The fourth chapter requires its publication in French and English.

The domestic dimension of the colonial rationale

I now turn to the domestic dimension of the colonial rationale, which is facilitated by the authoritarian ambition of state leaders in Cameroon. My analysis finds that mechanisms of exceptionalism, centralisation, and militarism drive these domestic elements.

I. Exceptionalism

To Alzubairi (2017, 2019), the outcome of exceptionalism is twofold. First, it creates a duality in the judicial system that allows laws to be applied selectively against threats to regime security. Second, it provides a means to the extension and maintenance of power. The Suppression of Terror law presents several exceptional *prima facie* properties, including the death penalty and the violation of human rights. The use of the death penalty creates a dual legal system between itself and the Penal Code. Wrongdoings only punishable by death in exceptional circumstances, such as wartime and states of emergency or siege, are punishable by death in times of peace under the Suppression of Terror law. Because wrongdoers can be punished either under the Suppression of Terror law or under the Penal Code, the death penalty can be selectively applied according to the authoritarian ambitions of state leaders.

The death penalty

The death penalty is understood by scholars as a political tool (Kawalya-Tendo 2018, Lourtau 2019, Muma 2018), a colonial legacy (Capstick 1973, Lourtau 2019, Novak 2014), a tool of repression and power-centralisation (Muma 2018, Tande 2016), and as a violation of human rights, international law, and constitutional norms (Muma 2018). Delphin Lourtau (2019) and Andrew Novak (2014) understand the death penalty as a colonial tool of deterrence. It was used by French administrators against anti-colonial or nationalist groups (Novak 2014, p. 30). Because postcolonial states generally adopted the legislative systems of colonial powers, the death penalty remained in the new Penal Codes. After the Cold War, a democratic transition began a trend toward the *de jure* or *de facto* abolition of the

death penalty in most states (Novak 2014, p. 52). In recent years, some states have expanded the scope of their death penalty laws for terrorism offences. To Lourtau (2019), however, this has not led to an increase in executions despite significant increases in death penalty sentencing (Lourtau 2019, p. 34). In Cameroon, although no executions have taken place, military courts sentenced hundreds with the death penalty under the Suppression of Terror law (Lourtau 2019, p. 43). This phenomenon illuminates the political underpinnings of the death penalty. Cameroon's 2014 Suppression of Terror law is one of many that apply the death penalty (Lourtau 2019, p. 41). Under the law, all offences from Articles two, three, four and five, with the exception of Article 5(2) are punishable with the death.

Lourtau (2019) questions why states have become more likely to charge political opponents with terrorism rather than with treason. According to Carlson Anyangwe (2011), the original 1967 Cameroonian Penal Code, which has an 'obsessive interest in the law of treason and subversion,' gives wide scope to what are considered treasonous offences (p. 2). Seven treasonable offences are punishable by death, found in sections 102–103 of the Penal code. They include: assisting or offering to assist in hostilities against the Republic; taking part in hostilities against the Republic; instigating a foreign power to undertake hostilities against the Republic; surrendering of offering to surrender to a foreign power or to its agents any troops, territory, installation or equipment employed in the defence of the nation, or any defence secret; acquiring, in whatever manner, a defence secret with intent to surrender it to a foreign power; damaging any construction, installation or equipment with intent to injure the defence of the nation; and committing any malpractice liable to prevent the normal working of any construction, installation or equipment or lead to an accident, with intent to injure the defence of the nation (Anyangwe 2011, pp. 9–12). Although the punishment for each of these seven offences is death by hanging or shooting, regardless of it being committed in wartime or peacetime, the court may reduce the penalty to a term of imprisonment (Anyangwe 2011, p. 14).

According to Lourtau (2019) and Novak (2014), the transition from 'treason' to 'terrorism' sheds light on the politicisation of the death penalty. The 36 abstentions and 39 votes against the United-Nations global moratorium on the death

penalty gives clear evidence of its political value. Among the African countries to abstain, Cameroon was one of six (Novak 2014, p. 92). Despite international efforts to abolish or restrict the death penalty, it has continued to be used politically. To Lourtau (2019), the lines between treason and opposition were blurred after the international prohibition on punishing political opponents with death and the international recommendation that the death penalty should only be used for the 'most serious crimes'—from which political offences are explicitly excluded (p. 41). In response, 'terrorism [became] the modern incarnation of the offence against the state,' and states are now more likely to charge political opponents with terrorism, rather than treason (Lourtau 2019, p. 41).

The Suppression of Terror law expanded the application of the death penalty further than precedent set in 1972 and 2016. In 1972, the Federal Republic became the United Republic of Cameroon, and the government was striving toward complete political and legal unification. The death penalty was extended to include aggravated theft, premediated murder, and hostilities against the fatherland. This expanded its application beyond the 1967 Penal Code, which applied it to treasonable offences and, in cases of wartime, state of emergency, or state of exception, to civil war and secession (Capstick 1973, p. 284–6, Anyangwe 2011, p. 26, 28). The death penalty was maintained in Law 2016/007 of July 12, 2016 on the Penal Code despite repeated calls by the international community and the Cameroonian Human Rights Commission to abolish it (Tande 2016). However, the exceptionalism of the Suppression of Terror law lies in the application of the death penalty to acts that would not be penalised by death in the Penal Code. In the Penal Code, 'offences against the internal security of the state' including secession, civil war, spreading of false information, revolution, armed bands and insurrection were punishable by life imprisonment (Kamga 2020, p. 199). Instead, the Suppression of Terror law reframes these wrongdoings into 'acts of terrorism,' and extends this to terrorist financing, recruitment, and the laundering of money profited from terrorism. As a consequence, the death penalty is not applicable in times of peace, as opposed to cases of states of emergency, siege, or wartime. The Suppression of Terror law therefore creates an exceptional response to crimes in the Penal Code only punishable by death in exceptional circumstances. Even though Cameroonian

leaders rely more so on the threat of the death penalty than on executions themselves, and judges are able to adopt a liberal interpretation which replaces the death penalty with life imprisonment, it is the selective application and threat of the death penalty (at the discretion of (non-impartial) judges and the military court system) which serves the authoritarian ambitions of the government (Lourtau 2019, p. 53; Muma 2018, p. 78).

Human rights and international law violations

The Suppression of Terror law also violates many human rights and international law norms, a consequence of proscription laws as discussed by Muller (2008) and Sentas (2010). Amnesty International (2015) investigated the human rights violations by Cameroonian security forces in the Far North Region in the mobilisation against Boko Haram. Amnesty International (2015, 2018), recognises the Suppression of Terror law as the facilitator of these multiple human rights abuses (p. 17; p. 37). These include the arbitrary six-month long detention of 84 children, cordon-and-search operations resulting in unlawful killings, arbitrary arrests, disappearances and deaths in custody. (Amnesty International 2015, p. 37–47). The Suppression of Terror law has been heavily criticised for its violations regarding unlawful and arbitrary imprisonments. For example, an accused person can be held without trial for fifteen days, renewable indefinitely (Amnesty International 2015, p. 13). This is in violation of international law that dictates a maximum imprisonment period of 48 hours, twice renewable (Amnesty International 2015, p. 13). The Suppression of Terror law also infringes on Cameroonian laws 67/LF/1 of 12 June 1967 on the Penal Code and Law no. 2005 of 27 July 2005 on the Criminal Procedure Code, which grant citizens a right to equality before the law and courts, and the right to a fair and public hearing without undue delay (Amnesty International 2015, p. 18).

Eric Che Muma (2018) argues the use of the death penalty is unconstitutional. Regardless of Cameroon's abolishing the death penalty in practice—it has not been carried out in over a decade—it remains in statutory laws despite the Constitution promulgating the 'right to life' of all citizens in the

preamble of the 1996 Constitution (Kawalya-Tendo 2018, p. 13; Muma 2018, p. 78). To Muma (2018), the Penal Code and the Suppression of Terror law infringe on the Constitution as all other law derive their legitimacy from it, and is therefore unconstitutional (p. 82).

II. Centralisation

Human rights organisations and scholars responded with outrage to the Suppression of Terror law, which violates the freedom of the press, expression, and association (Ashukem 2021; CIVICUS 2020; CIVICUS, REDHAC & CHRDA 2017; CPJ 2017; ICG 2017; Kamga 2020; Ngangum 2018). These are primary democratic principles that expose public authorities to scrutiny and ensuring accountability between a government and its citizens (Ngangum 2018, p. 234). These freedoms are also inscribed in the preamble of the Cameroonian Constitution. It provides that the 'freedom of communication, of expression, of the press, of assembly, of association, and of trade unionism, as well as the right to strike shall be guaranteed under the conditions fixed by law' (1972 Constitution, as amended in 1996). Under the Suppression of Terror law, these freedoms are securitised and treated as national security threats, rather than as vital components of democratic governance. Consequently, the Suppression of Terror law changes how constitutional commitments to freedoms are operationalised in the context of national security and terrorism. This is against the Anglophone movement and any government critics or opposition, and is an example of an extreme form of centralisation which guarantees the regime security of the Biya administration.

Freedom of the press

There has been a growing pattern of arrests, trial, and detention of journalists under the Suppression of Terror law (Ngangum 2018, p. 234). To Peter Ngangum (2018), this is not unique to Cameroon, but instead an example of a global use of counterterrorism legislation to silence investigative journalism (Ngangum 2018, p. 234; Ngangum 2020, p. 110). Under the Suppression of Terror law, Section Nine

violates the freedom of the press, stating ‘whoever makes a false statement of a defamatory nature to an administrative or judicial authority pursuant to Section seven and 16, shall be punished with imprisonment of twenty years’ (Ashukem 2021, p. 126; CIVICUS, REDHAC & CHRDA 2017).

In a series of questionnaires and interviews of Cameroonian investigative journalists and lawyers, Ngangum (2018) found that journalists and media practitioners who held a critical or alternative political view to the government systematically experienced various forms of harassment, intimidation, obstruction of access to information, questioning of motives for stories and interviews, and threats against themselves and their sources of legal prosecution under terrorism charges (pp. 240–242). The respondents unanimously agreed that the Suppression of Terrorism law was incompatible with international human rights law, and in response, journalists often resorted to self-censorship as protection from these threats (Ngangum 2018, p. 240). The case of news anchor Samuel Abuwe Ajieka (Samuel Wazizi) illustrates the necessity for this behaviour. Wazizi was arrested on August 2, 2019 and accused of ‘collaborating with separatists’ and ‘spreading separatist information’ (CIVICUS 2020). He was known for reporting on cases of human rights abuses in the context of the Anglophone crisis, and had expressed critical views on the government’s mismanagement of the crisis. Wazizi was facing charges under the Suppression of Terror law, was denied bail, and was never presented before a court (CIVICUS, 2020). According to authorities, Wazizi died on August 17, 2019 from severe sepsis but this is disputed by his family and civil society organisations, who stated he had been tortured in detention and died as a consequence (CIVICUS 2020, Kamga 2020, p. 192).

Freedom of expression

Jean-Claude N. Ashukem (2021) investigates the violation of the freedom of expression under Suppression of Terror law. The preamble of the Cameroonian Constitution guarantees the right to freedom of expression, and Article 45 provides that ‘all duly approved or ratified treaties and international agreements including the International Covenant on Civil and Political Rights (ICCPR) and the African

Charter, shall override national laws' (Ashukem 2021, p. 125). Cameroon has also ratified the 1981 African Charter of Human and People's Rights, which guarantees the right to freedom of expression, as does the International Bill of Rights, the 1948 United Nations Universal Declaration of Human Rights, and the 1996 International Covenant on Economic, Social and Cultural Rights (Ashukem 2021, p. 124). However, applications of the Suppression of Terror law against human rights defenders, political opposition, and the press are indicative that it is used to deny freedom of expression as a mechanism of centralisation.

To Ashukem (2021), its ambiguity has made the Suppression of Terror law applicable to political opposition, human rights defenders, and journalists (p. 122). The Suppression of Terror law only outlines possible intentions driving possible 'acts' of terrorism. However, it does not specify, for example, if a singular action or intention can independently constitute an act of terrorism, or if it must be in conjunction with specified others (Ashukem 2021, p. 122). In addition, Sections seven and 16 are contradictory—Section seven punishes accomplices to acts of terrorism, even if they stop the act from occurring, and Section 16 provides for an exemption if they provide knowledge of the act to officials, prevent its realisation, or identify other accomplices. In this way, the law can be applied broadly and with political interests. For example, in January 2017, Justice Ayah Paul Abine was charged with 'complicity in terrorism and rebellion, secession and spreading false information' under the Suppression of Terror law (Ashukem 2021, p. 124; International Crisis Group 2017). An open critic of the Biya administration, Justice Ayah had criticised its marginalisation of Anglophone Cameroonians, and recommended a return to the federal system as a solution to the crisis (Ashukem 2021, p. 125). Justice Ayah was arrested without warrant or notice, imprisoned, tortured for seven months, and was finally released after extreme pressure from the international community.

Freedom of association and assembly

The Suppression of Terror law also restricts the freedom of association and assembly, including the right to peaceful protest in Cameroon. Article 2(a) of the

Suppression of Terror law punishes with the death penalty those anyone who would 'compel the victim [of terror], the government and/or an organisation, national or international, to perform or refrain from performing any act, to adopt or renounce a particular position or to act according to certain principles.' To Gerard Kamga (2020), this 'redefines the terms of the social contract,' as the rationale behind such unrest in a constitutional democracy is precisely to compel the government to act or refrain from adopting or renouncing a certain position (p. 195).

A primary example is the use of the Suppression of Terror law to deny the self-determination of the Anglophone minority. In 2016, a series of sit-in strikes and non-violent actions were held by Anglophone common law lawyer and teacher unions to protest the 'francophonisation' of the Anglophone region through the imposition of civil law judges into common law courts and the installation of French-speaking teachers in Anglophone schools (Ngangum 2018, p. 236). Authorities responded brutally to the protests, arrested and detained individuals participating in the protest, and closed schools and medical facilities in the Anglophone southwest region (Kamga 2020, p. 200). In response, Anglophone civil society organisations demanded a range of political reforms, from federalism, decentralisation, and secession. Leaders of the protest and other Anglophone leaders including attorney Felix Agbor Balla, university lecturer Fontem Neba and radio host Mancho Bixby were indicted under the Suppression of Terror law for 'acts of terrorism, complicity in acts of terrorism, insurrection, rebellion against the state, incitement of civil unrest, propagation of false news and calling for civil war' (Kamga 2020, p. 200).

Under Ministerial Order no. 00000009/A/MINATD/CAD, the Southern Cameroons National Council (SCNC) and the Anglophone Civil Society Consortium (CACSC) were declared 'null and void,' and all activities, meetings and affiliated groups were prohibited. The order drew upon several other laws and decrees: Law no. 90/055 on the holding of public meetings and demonstrations, Law 2016/007 on the Cameroon penal code, Law no. 90/054 of 19 December 1990 on the maintenance of law and order, Decree no. 2011/408 of 9 December 2011 to organise the government, and Decree no. 2011/410 of 9 December 2011 to form the government. The Ministerial Order also used Law no. 2014/028 of 23 December

2014 on the suppression of terrorism, and Law no. 90/053 on freedom of association.

The Suppression of Terror law is also used as a centralisation mechanism to restrict demands for representation through electoral politics (Ngangum 2018; Kamga 2020). In 1992, the popular vote was won by opposition leader Ni John Fru Ndi (Kamga 2020, p. 201). The same occurred in 2018 and the leader of the Cameroon Renaissance Movement, Maurice Kamto, was declared runner-up in spite of serious concerns of massive fraud committed by Biya's party, the Cameroon People's Democratic Movement (CPDM) (Kamga 2020, p. 204). Kamto appealed before the Constitutional Council and was refused. In response, Kamto's party, the Cameroon Renaissance Movement (CRM), organised peaceful demonstrations in protest of 'electoral hold-up' to reaffirm their victory (Kamga 2020, p. 205). The government deployed the military, who shot live bullets into the crowd and imprisoned nearly two thousand protesters without charge (Kamga 2020, p. 205). On January 28, Kamto was arrested and held in a military compound for two weeks, and arrested along with 28 others for rebellion, insurrection and hostility against the fatherland under the Suppression of Terror law on February 13 (Kamga 2020, p. 205). The violent response to any political opposition speaks to the government's authoritarian ambition and focus on regime security. Although Kamto and the another 533 people arrested in connection with the protests were released, Kamga (2020) considers that the government uses the Suppression of Terror law as a *carte blanche* to restrict public freedoms to prevent challenges to the political system (p. 191).

III. Militarism

To Alzubairi (2017, 2019), militarism is found in the connection between counterterrorism and counterinsurgency. In the Suppression of Terror law, this can be found in the use of the military court system and martial law. In Cameroon, the military court system is a tool of centralisation that extends the power of the

executive into counterterrorism trials. This system, and the use of martial law, has violated the human rights of those supporting the Anglophone movement and citizens in the Far North region of Cameroon, where security forces are fighting Boko Haram militants.

The independence of the military court system

According to Kamga (2018), Kwei Haliday Nyingchia & Ngaundje Doris Leno (2021) and Cephas Lumina (2008), the trial of civilians by military courts raises concerns over the independence of the military court system. In fact, Nyingchia & Leno (2021) consider the military court system an extension of the executive branch (p. 124). A Cameroonian military tribunal is organised by law no. 2017/102 of 12 July 2017 to lay down the code of military justice (Nyingchia & Leno 2021, p. 184). Under Section five, subsection two stipulates that the President of the Republic shall appoint by decree the President, Vice-Presidents, examining magistrates, state prosecutor and deputy state prosecutors. The appointment of a military judge may only be done by the President of the Republic or, due to service needs, a temporary military judge may be appointed by the Minister in charge of military justice. Here lies a distinction between civilian and military courts. In Article 37 of the Cameroonian Constitution, the President of the Republic shall guarantee the independence of the judicial power, and is assisted by the Higher Judicial Council (HJC) on all nominations for the bench, and on disciplinary actions against judges (Nyingchia & Leno 2021, p. 186). Although the Constitution does not indicate if the President of the Republic is bound by HJC opinion—as the President can unilaterally act by decree—the military court system is not under HJC influence, and is directly dependent on the Ministry of Defence, which is attached to the Presidency (Nyingchia & Leno 2021, p. 186). To act as a check and balance on the executive and legislative branches, the independence of the judiciary system is crucial. In the civilian and military court system, but especially in the military court system, the appointment process does not allow this possibility.

Military courts and human rights consequences

Human rights organisations have strongly jettisoned the trial of civilians by the military court system (Nyingchia & Leno 2021, p. 187). It is in contravention of the right to fair trial by an independent and impartial court, as promulgated in the Universal Declaration of Human Rights, the ICCPR, and the Banjul Charter (Ngangum 2020, p. 104). This right consists of fair treatment, the presumption of innocence, the right of a criminal suspect to be informed for their reason of detention, the right to seek legal advice and representation, the right to trial by an independent judiciary, and the presumption of innocence (Amnesty International 2018, p. 2; Lumina 2008, p. 124). The Suppression of Terror law violates these rights in several ways. First, a suspect can be remanded in custody for a period of fifteen days, renewable indefinitely. According to The Law Society (2017), a person can hence be held in custody without charges for an excessive amount of time, under the order of the State Prosecutor in the military tribunal (p. 12). This constitutes a clear violation of Article 9(2) and (3) of the ICCPR, which require a person to be informed of the reasons for arrest at the time of arrest, and of charges against them, to not be detained in custody while awaiting trial, and to be brought to trial within a reasonable time.

Research by Amnesty International (2018) found that military court trials are marred by irregularities: defendants are tried without interpreters, the evidence used is extracted under torture, and defendants are convicted on the basis of limited and unidentifiable evidence (p. 4–5). The arrest, detention and trial of Felix Agbor Balla and Fontem Neba, leaders of the CACSC, illustrates the human rights violations resulting from the use of the military court system. Agbor Balla and Neba were arrested without warrant on January 17, 2017 and were not informed of the charges against them (The Law Society 2017, p. 7). They were detained and then submitted to the jurisdiction of the military court on January 20, and the first hearing was held on February 13, 2017, which was delayed from the original date of February third (The Law Society 2017, p. 8). Trial observation by The Law Society finds that several rights were violated in the trial, including the right to fair trial, the right to an independent and impartial tribunal, the right to defence (access to the case file), the right to an interpreter, the right to be tried without undue delay, the

right to pre-trial release, and the right to physical integrity (p. 20–38). Rights partially or entirely respected in the trial included the right to a public hearing, and the right to defence (access to counsel of own choosing) (The Law Society 2017, p. 39–41).

Defence against Boko Haram and human rights consequences

The Suppression of Terror law has also been used to criminalise Boko Haram fighters, which has also resulted in human rights violations (Amnesty International 2015; Ashukem 2021; Gelin Kourna 2017; Kamga 2020). To Kamga (2020), the ambiguity of the Suppression of Terror law removed any distinction between perpetrators of violent terrorist activities, such as those of Boko Haram, and civilians involved in national protests, such as the leaders of the CACSC that led the non-violent teacher and lawyer protests in 2016 (p. 191). In addition, Kamga (2020) asserts that the exceptional powers that already existed in the Cameroonian Penal Code were sufficient for defence against the Boko Haram threat in the Far North region, but the Suppression of Terror law was used instead (p. 191). Similar illiberal consequences of the Suppression of Terror law are found in its use in the Far North region. Amnesty International (2015) found that the response by Cameroonian security forces to Boko Haram has 'too often been heavy-handed and has failed to put in place all necessary safeguards to prevent crimes under international law and human rights violations being committed during their operations. As a result, many people have been victims of both' (p. 4). The actions of Cameroonian security forces infringed international legal norms, including the excessive use of force, the prohibition of arbitrary arrest and detention, the detention of children, enforced disappearance and incommunicado detention, rights to human detention conditions and freedom from ill-treatment, and the investigation of deaths in custody (Amnesty International 2015, pp. 12–17). In addition, the increased number of arrested individuals since the adoption of the 2014 Suppression of Terror law worsened the already extremely poor condition of detentions in Cameroon, which Amnesty International (2015) found amounted to cruel, inhumane and degrading treatment (p. 49). I turn to two examples of cordon and

search operations carried out with the objective to track down Boko Haram insurgents and sympathisers, in which mass human rights violations occurred (Amnesty International 2015, p. 37).

On December 20, 2014, Cameroonian gendarmerie and police conducted a cordon and search operation in the town of Guirvidig. The authorities claimed the schools were being used as fronts for Boko Haram training camps, despite no reporting of Boko Haram attacks in the town (Amnesty International 2015, p. 38). Security forces raided a number of Qur'anic schools and houses, and detained 84 children and at least 43 adults, including many teachers (Amnesty International 2015, p. 38). Amongst the children, all but three were under 15 years of age, 47 were under ten years of age, and one was five years old. The children were detained for six months without charge (Amnesty International 2015, p. 38). On December 27, 2014, a cordon and search operation in the villages of Magdeme and Doublé resulted in nine unlawful killings, the destruction of property, mass arrests, and at least 25 deaths in custody (Amnesty International 2015, p. 42–46). Security forces broke into and looted homes, beat and shot civilians, and set houses on fire. While government officials claim 70 people were arrested during the raids, evidence found by Amnesty International (2015) indicates at least three times this number were detained (p. 46). The arrested men were beaten and taken to the Gendarmarie headquarters, where they were locked in two storerooms. Human rights organisation Réseau des defenseurs des droits humains en Afrique Centrale (REDHAC) later announced that at least 50 men had died from asphyxiation that night. Testimonies given to Amnesty International claim that up to 140 people had died, and that the presence of a 'toxic substance' released in one of the storerooms was the cause of many deaths. These figures are fiercely contested and are the subject of an investigation by the Ministry of Defence (Amnesty International 2015, p. 46). Of those who survived, many are unaccounted for, and at least 130 enforced disappearances have occurred (Amnesty International 2015, p. 49).

Martial law

Martial law has been used extensively in the repression of the Anglophone crisis, largely in response to peaceful protests (Fonkeng 2019; Kondu et al. 2022). Primus Fonkeng (2019) and Patience Kondu Jacob et al., (2022) describe the Cameroonian government's response to a series of Anglophone protests in 2017. On September 22, 2017, nearly 80,000 people protested across thirty Anglophone towns nd communities (Kondu et al. 2022, p. 7). The protests were organised to coincide with President Biya's address to the United Nations General Assembly, and demanded the release of the arrested CACSC and SCNC group leaders, the return to the federal system, the resignation of President Biya, and, for some, outright secession (Fonkeng 2019, p. 10). The protests were initially peaceful but turned violent in some areas. In Buea, protestors vandalized the mayoral residence in protest of the mayor's sympathetic relationship with the Biya administration and burnt a police station (Kondu et al., 2022, p. 7). In response, the government declared a state of emergency and martial law. Over 1,000 troops were deployed to control the protesters by force, resulting in four deaths, dozens of injuries, and the detention of protestors who were taken to the military court in Yaoundé and sentenced under the Suppression of Terror law (Fonkeng 2019, p. 7).

Martial law remained in place until October third. On October first, a peaceful march to proclaim the independence of Ambazonia was helf by tens of thousands across Bamenda, Buea and dozens of Anglophone towns (Fonkeng 2019, p. 10). Again, the protest was met with disproportionate force by Cameroonian security forces. Forty protestors were killed and hundreds of others were injured by the use of tear gas, live ammunition from low-flying helicopters, sexual abuse, looting and destruction of property (Fonkeng 2019, p. 11). Under martial law, the military enforced curfews, banned demonstration and gatherings of more than four people, banned all movement between regional divisions, and cut off social networks, the internet, and electricity (Fonkeng 2019, p. 11).

The global dimension of the colonial rationale

In this section, I determine that the colonial rationale is facilitated globally through the process of policy diffusion. In my introduction, I reviewed existing scholarship on the United Nations Resolution 1373, its human rights consequences (Foot 2007; Muller 2008), its effectiveness, and its diffusion (Josua 2021; Masri & Phillips 2021). In my previous chapter, I theorised that diffusion of global policy, as in Resolution 1373, is a (neocolonial) perpetuation of the colonial importation of law, policy, and practice. I now turn to the available submissions from Cameroon to the UNCTC from 2002, 2003, and 2006 to evaluate this perpetuation. My findings are tentative, and would be significantly stronger if more submissions were available.

My analysis found that the three submissions shared several key similarities. First, the three submissions promised the *future* enactment of a specific counterterrorism policy, and emphasised the utility of existing legislation as an effective mechanism in the interim. In my theoretical framework, I reviewed studies which questioned why states adopt counterterrorism legislation, especially if the existing penal system was already sufficient to penalise acts of terrorism: notably those of Pokalova (2015) and Josua (2021). Both studies found that participation in or compliance with the War on Terror, or 'great power influence' were significant drivers of counterterrorism legislating. To Pokalova (2015), the variables of participation in the War on Terror and a past history of counterterrorism legislating influenced counterterrorism legislating almost equally— states were 71% likely to adopt counterterrorism legislation with only the former, and 72% likely with only the latter (p. 490). The combination of both was most powerful: states with a past history of counterterrorism legislation who also participated in the War on Terror were 87% likely to legislate (p. 490). Josua (2020) similarly found that between 2003–2009, War on Terror participation was the principal international driver (p. 6). To Alzubairi (2017, 2019), the idea of an expansion or duplication of the penal system is a tool which serves to ensure the regime security of a government by creating a legal duality through, for example, exceptional counterterrorism legislation, wrongdoers can be penalised *selectively* by the 'dual' legal system,

according to if the regime considers them a 'terrorist' or not (Alzubairi 2017, p. 205).

The introduction of the 2002 submission writes: 'Cameroon has a general legal framework that enables it to respond to [an act of terrorism], pending the adoption of more extensive and specific legislation on terrorism,' and that it 'envisaged that the Penal Code [would] be amended in order to penalize *more specifically* those offences that, like terrorism and its various forms and manifestations, are now covered only by association or assimilation with other provisions of the Code' (UNCTC 2002, p. 3, my emphasis). The critical phrase is 'more specifically': despite existing legislation, which Cameroon *itself* specified sufficiently penalised acts of terror, the penal system is being expanded and duplicated, and makes possible the selective application of the Penal Code and future exceptional legislation. The 2003 and 2006 submissions differ slightly: rather than *intending* to adopt counterterror legislation, Cameroon was *in the process* of legislating (UNCTC 2003, p. 5; UNCTC 2006, p. 6). Yet the reports emphasised, twice verbatim, that existing legislation was appropriate, at least until specific legislation was adopted. The legislations referenced by the three submissions as sufficient for the control of terrorism were: Article nine of the Constitution on the state of emergency (2002), the Penal Code, in particular section 115 on armed bands (2002, 2003, 2006), Act No. 2001/019 of 18 December 2001 on unlawful acts against the safety of civil aviation (2003, 2006), the 1990 Law on the Freedom of Association (2006), and the 1990 Law on non-governmental organisations (2006). Take, for example, the 1990 law on the Freedom of Association, which continued to be used in 2017, when it was used in addition to the Suppression of Terror law under Ministerial Order 00000009/A/MINATD/CAD to proscribe the SCNC and the CACSC. Here, the Suppression of Terror law functioned as a tool of exceptionalism because it created a legal duality: where the SCNC and CACSC may have been criminalised under just the 1990 Freedom of Association law, it was instead criminalised under the Suppression of Terror law *and* the 1990 Freedom of Association law. The consequences have a high human cost: where the 1990 Freedom of Association penalises (civil) wrongdoers by dissolving their association, the Suppression of Terror law charges terrorists with the death penalty.

According to Cameroon, this duality, or the promulgation of specific counterterrorism legislation, is pursuant to the requirements of Resolution 1373. I can conclude that the international community, by virtue of mandating action to resolution 1373, implicitly approved of the creation of this duality. Consequently, the global diffusion of counterterrorism policy has facilitated the selective application of this exceptional law therefore enabled leaders to rule within the colonial rationale.

The submissions also emphasised Cameroon's cooperation with regional and international partners and desire for collective action. In the 2003 and 2006 submissions, Cameroon claims 'it is convinced that action to combat money-laundering cannot be credible and fully effective unless all states introduce a legal framework based on the international norms and standards obtaining in this area' (UNCTC 2006, p. 6). The submissions, especially the 2003 submission, request international assistance to implement measures in accordance with Resolution 1373 (UNCTC 2003, p. 16). In addition, each submission reinforced the primacy of international instruments over domestic law. In 2002, Cameroon writes '… it should be borne in mind that the constitutional principle that allows conventional norms to prevail over domestic law in Cameroon *ipso facto* gives the provisions of international instruments on terrorism to which Cameroon has already acceded the force of law before the judicial and administrative authorities' (UNCTC 2002, p. 3). The reasoning is historical, as '[t]he primacy of conventional norms over domestic law has been enshrined in Cameroon's Constitution since the nation's independence, as is clear from article 40 of the Constitution of 4 March 1960' (UNCTC 2002, p. 13). Cameroon's cooperative attitude toward the international community and desire for collective action demonstrates a strong desire for involvement in global counterterrorism, notably in accordance with Resolution 1373. The desire to implement *mandated* domestic legislation implies that the legislation has utility: that counterterrorism legislating serves the interests of the government by providing an opportunity to eliminate legitimate democratic opposition, such as the Anglophone movement.

The horizontal or peer-state dimension of the colonial rationale

In their 2003 and 2006 submissions to the UNCTC regarding Resolution 1373, Cameroon specifies their membership of the Task Force on Money Laundering in Central Africa, or GABAC, as an example of their cooperative attitude toward collective action on money laundering and counterterrorism financing (UNCTC 2003, p. 5; UNCTC 2006, p. 6). In this section, I consider the 2022 GABAC Mutual Evaluation Report for Cameroon, which evaluated Cameroon's technical compliance and effectiveness according to the Financial Action Task Force's (FATF) 40 + 1 recommendations to fulfill Resolution 1373. In my analysis, I consider GABAC's role as a facilitator of the colonial rationale. I find that the report constructs a moral equivalence between the Boko Haram terrorist group and the Anglophone secessionists. These two groups not only have dramatically different goals and intentions, but utilise violence differently: for political goals of self-determination, and religious ideological extremism. I argue that this moral equivalence is unjustified and that it creates a permissive relationship that justifies and enables human rights violations like the implicit approval granted by the international community in the global dimension of the colonial rationale. Consequently, GABAC, and the mutual evaluations process permit the denial of Anglophone self-determination by the Cameroonian government. My findings could possibly be extended to other regional bodies, or multilateral agreements between peer states.

According to the FATF, GABAC was 'established in 2000 with the mandate to combat money laundering and terrorist financing, assess the compliance of its members against the FATF standards, provide technical assistance to its member states and facilitate international cooperation' (FATF 2022a). In 2012, it became an FATF observer organization and then an FATF-Style Regional Body (FSBR) in 2015 (FATF 2022a). Its member countries include Cameroon, Central African Republic, Chad, Republic of Congo, Democratic Republic of Congo, Equatorial Guinea, and Gabon (FATF 2022a). GABAC executes the mutual evaluations proscribed by the FATF which the FATF describes as 'peer reviews, where members from different countries assess another country' (FATF 2022b). Peer

states evaluate a country's money laundering and counter terrorism financing measures according to technical compliance to the FATF 40 + 1 Special Recommendations, and the effectiveness of implemented mechanisms (FATF 2022b). The evaluation occurs according to supplied FATF methodology, and rates states' compliance with the Special Recommendations as 'largely compliant,' 'partially compliant,' or 'non-compliant' (FATF 2022b).

In 2022, GABAC released a Mutual Evaluation Report on Cameroon (GABAC 2022). The report was prepared '…based on the 2013 FATF Methodology updated in November 2020 and the GABAC Round 2 Mutual Evaluation Procedures Manual' (GABAC 2022, p. 10). The evaluation and writing of the report was carried out by a team of legal, financial, and prosecution experts from GABAC member states, reviewed by representatives of the permanent secretariat of GABAC and the FATF (GABAC 2022, p. 10; FATF 2021, p. 6). The Mutual Evaluation Report evaluated Cameroon's performance as 'largely compliant' for ten recommendations, 'partially compliant' for 20 recommendations, and 'non-compliant' for 19 recommendations (GABAC 2022, p. 22). Of most interest are the explanations for why Cameroon was at risk for money-laundering and terrorism financing, and the reasons why Cameroon had implemented laws, such as the 2014 Suppression of Terror law. In these explanations, there is a moral equivalence between the Boko Haram terrorist group, and the Anglophone secessionists.

Take, for example, the overview of Cameroon's money laundering and terrorism financing risks in the Mutual Evaluation report. The threats of terrorist financing were '… characterized by Cameroon's proximity to some countries where terrorism caused by religious extremism and the militancy of armed groups or gangs prevails, but also internally with the desire of secessionist groups active in the North-West and South-West regions' (GABAC 2022, p. 25). In reference to the 'religious extremism and militancy of armed groups,' the report refers to groups including Boko Haram, and armed bands from the Central African Republic. In the interest of clarity, this section will focus only on Boko Haram. Here, the 'internal' threat of secessionists contributes equally to the threat of terrorist financing as the Boko Haram militants. There is a distinction between the two insofar that the

‘religious extremism and the militancy’ of Boko Haram is not explicitly subscribed to the Anglophone secessionists. However, this distinction is inconsistent. The Mutual Evaluation report found that ‘Cameroon faces a high risk of TF due to terrorist groups active in the territory, in particular the Boko Haram group which operates mainly in the North, […] and secessionist groups which are rampant in the North-West and the South-West’ (GABAC 2022, p. 79). The ‘sources of funding’ by the groups were the same for both, including ‘crowdfunding from abroad, donations and fundraising through some NPOs and criminal activities including the illicit exploitation of natural resources, drug trafficking and kidnappings for ransom’ (GABAC 2022, p. 79). In fact, the report claims the Boko Haram conflict ‘worsened with the militancy of the English-speaking secessionist groups in the [North-West] and South-West areas considered by the government as terrorist groups’ since 2014 (GABAC 2022 p. 83). The reference to Anglophone secessionists as ‘considered by the government’ as terrorists contradicts the FATF self-description of the Mutual Evaluation report as ‘without prejudice to the status or justification that led to the designation of an entity as a terrorist or terrorist group or organisation’ (FATF 2022b). This suggests the mutual evaluation, or ‘peer-review’ system can extend beyond the normative requirements dictated by the FATF.

In the report, the threat of terrorism justified the adoption of the Suppression of Terror law, and constructed it as a proportionate example of collaboration with the international community. Boko Haram and Anglophone secessionists—now morally-equivalent ‘terrorism’ groups—were ‘main factors that have weakened the country’s political stability for nearly five years’ (GABAC 2022, p. 32). Here, both groups are constructed as destabilising agents which threaten political stability and security, with no regard of their dramatically different goals. Cameroonian authorities showed ‘willingness’ to combat money-laundering and terrorist financing ‘despite this political instability,’ and the ‘awareness of the country’s authorities led to the adoption of Law No. 2014/028 of 23 December 2014 on the repression of acts of terrorism’ (GABAC 2022, pp. 32, 50). The Suppression of Terror law is therefore constructed as both a response to two genuine security

threats, and as a benevolent and courageous action in the interest of the international community.

Finally, the report also approved of the militarised response against the 'internal' terrorism and the threat of Boko Haram. Take, for example, the inclusion of the 'exclusive attribution of jurisdiction to military tribunals to hear acts of terrorism and terrorist financing,' which has been denounced as a (politicised) violation on the right to life and basic liberties (GABAC 2022, p. 50–51). The Mutual Evaluation report found the use of military courts 'demonstrate[d] the system's ability to judge and apply sanctions to perpetrators of [terrorist financing]' (GABAC 2022, p. 15). The military court system is criticised, but not on the basis of its human rights infringements, but instead for its potential as a barrier to international cooperation (GABAC 2022, p. 18, 84, 130). The military court system is described as 'an obstacle to international judicial cooperation, because of the possible reluctance of some foreign courts to collaborate with special courts of a military nature, especially when the prosecution is brought against a civilian' (GABAC 2022, p. 84). In addition, the report references the use of the death penalty under the Suppression of Terror law, which, '[a]bolished by almost all countries, [the death penalty] may constitute a real obstacle to extradition requests to Cameroon' (GABAC 2022, p. 134). These phrases indicate that the mutual evaluations team are aware that the use of military courts and the death penalty is not in line with international normative standards. The report does not provide reasons for this potential impact on cooperation, but the likely explanation would involve the admission of international human rights violations.

To Ben Hayes (2012), the mutual evaluations process *de facto* extends the FATF recommendations, because it provides 'extraordinarily detailed guidance' through a continuous cycle of review, assessment, and guidance (p. 16). However, my analysis of the Mutual Evaluations Report by GABAC demonstrates that the mutual evaluations system does more than extend international (neocolonial) governance, in, for example, compliance with Resolution 1373. It also approves of, and facilitates, legislation by states which aims to secure the regime security of leaders. In this way, as mutual evaluations promote the compliance of peer states and hide or excuse their human rights violations, the authoritarian ambition of

leaders is left unchecked. In Cameroon, this occurs by creating a moral equivalence between Boko Haram and Anglophone separatists, which constructed the use of the Suppression of Terror law against both groups as equally in compliance with the FATF recommendations. This is not unlike the implicit approval granted by the international community in the vertical dimension of the colonial rationale: here, the relationship functions to serve the security agenda of neocolonial states. If a participating state complies with this agenda, the authoritarian ambition of their leaders is not interfered with. In this horizontal relationship, excusing or hiding the authoritarian compliance of peers protects the authoritarian ambitions of leaders of all peer-group members.

Conclusion

In this chapter, I discussed the contents and application of the Suppression of Terror law. In doing so, I find the colonial rationale is facilitated along three dimensions: the domestic, the global, and horizontal or peer-state.

I analysed the first dimension through three mechanisms: exceptionalism, centralisation, and militarism, which all function to serve the authoritarian ambition of state leaders. The exceptional elements of the Suppression of Terror law, such as its extension of the Penal Code's application of the death penalty, allowed exceptional punishments to be applied selectively. The law also allowed basic freedoms of association, of the press, and expression, to be constructed as national security threats and justify the extreme centralisation of power into the executive. Finally, military court jurisdiction and martial law likewise served to extend the arm of the executive.

There is substantially more evidence towards the domestic dimension, compared to the vertical or horizontal. This may be because vertical and horizontal relationships are more diffuse and difficult to decipher, and due to an absence of critical evidence. But this also speaks to the possible interactions between the domestic, global, and horizontal dimensions. To Josua (2021), international drivers of counterterrorism legislation condition an environment in which domestic and regional drivers can more powerfully drive legislative decision-making; my

analysis of Cameroon's submissions to the UNCTC support this argument. My analysis found that the global diffusion of Resolution 1373 policy requirements approved and facilitated the creation of a selective penal system. Consequently, the global community, through the United Nations, has some culpability for enabling the authoritarian ambition of the Cameroonian government, implicitly approving human rights violations in service of the security agenda of the global north—a neocolonial phenomenon.

The horizontal dimension functioned not unlike the global, in that it was structured to protect the authoritarian ambitions of peer-group governments by excusing or reducing the severity of human rights violations and promoting the compliance of peer-group members to the international community. I found the 2022 GABAC Mutual Evaluation report constructed a moral equivalence between Boko Haram and the Anglophone secessionist movement, and extended this moral equivalence to Cameroon's use of the death penalty under the Suppression of Terror law against both groups equally, regardless of the difference in political motivations of each group. This somewhat alters Josua's (2021) analysis. First, this dimension is not bound by region or geography, rather it instead functions between 'peer' states—states of similar political, economic, and historic experience. More research is necessary to know if this phenomenon would occur if Mutual Evaluations systems were not limited to geographical region, but it would be reductive apply a limit prematurely. Second, the peer-group facilitates the colonial rationale, not individual 'drivers' of counterterrorism legislating. This rationale, not specific events, drives the authoritarian ambitions of governments; it is this ambition that is protected in the peer-group.

CHAPTER III

The normalisation of proscription regimes in Cameroon

This chapter undertakes a genealogy of proscription regimes in Cameroon. The chapter is in three parts, the first of which delineates the use of proscription in Cameroun under French administration. I focus on the proscription of the Union des Populations du Cameroun (UPC) because this case imported proscription powers into Cameroun. Because the UPC was proscribed using the French law of January 10, 1936 on combat groups and private militias, I trace the extension of this law—referred to by Romain Rambuad (2015) as the 'weapon of mass dissolution'—from its defense of the French Republic, to the defense of the French Empire, and into Cameroon as a colonial import.

In part two, I outline the application of proscription laws in postcolonial Cameroon under the presidencies of Ahmadou Ahidjo and Paul Biya. I find that Biya extends Ahidjo's rejection of political pluralism, but where Ahidjo could justify the need for a unitary government for the process of nation building, Biya suppressed political pluralism under a democratic façade of multipartyism. For each president, proscription laws have a pre-emptive nature, which serves to eliminate political opposition and the critical independent press through systems of authorisation and pre-publication censorship.

Part three is a lexical analysis of how proscription is authorised in Cameroon. It extends from parts one and two by tabulating each proscription law

presented in the genealogy to compare its legalese. I call this legalese—the phrases which provide the legal grounds for proscription— 'authorisations,' because they are permissive (by authorising or sanctioning the act of proscription) and explanatory (by justifying the act of proscription). I find that these authorisations share strong colonial legacies and are consolidated into emergency legislation. The latter similarity significantly increases the political utility of proscription powers because of the exceptional nature of emergency regimes. For this reason, I argue that the coupling of proscription with emergency powers entrenched proscription as the *modus operandi* of the Cameroonian governance within the colonial rationale. Then, I present the constitution-making process in Cameroon, which emulated Charles de Gaulle's 'full powers' as the process which consolidated a reliance on proscription in Cameroon.

I conclude to find that the authorisations for proscription in Cameroon remain astoundingly consistent across the colonial and post-colonial periods. In addition, the authorisations remain largely unchanged, especially amongst 'groups' of laws, such as emergency legislation or censorship laws. However, the authorisations can adapt according to differing political periods and security concerns. Where authorisations do not sufficiently adapt according to the political period, they are not replaced, but grouped with others to form new combinations. In this way, proscription laws evolve, but the original laws remain in use.

Methodology

This chapter takes a genealogical analysis to identify the origin of proscription law in Cameroon and the imperatives for its use by investigating its application in the historical context. Parts one and two chronologically investigate the practice of proscription in French Cameroun, and then as a postcolonial state. It considers the targets of proscription and the motivations of leaders that execute proscription powers.

Part three looks at the evolution of how proscription is authorised in Cameroon by analysing the legalese of the proscription powers discussed in parts

one and two. This section is limited by the restricted access to legal documents from Cameroon (Ngwe Ali 2017, p. 62). Because English translations are difficult to source and often inaccurate, I have translated the laws myself (Fombad 2015). I selected only laws which contain proscription powers. Although some laws are 'grouped' as, for example, emergency legislation, I have omitted any laws of the same group that do not include proscription powers. I have tabulated the laws according to time period (colonial or postcolonial), the target or reference of the law, and the authorisations for proscription in the law (see Appendix I, Table I). This sets out the empirical data to compare the authorisations and motivations driving proscription. My genealogical method was as follows:

1. Collection and translation: I first sourced the law and translated the text in its entirety using translation software, which I then proofed for errors. I then looked for lexical similarities between laws I had already translated and, understanding that software might translate certain words inconsistently, rectified any errors. Finally, I compared my own translations with any available official translations.

2. Contextualisation: I investigated the use of each law individually. This information was sourced mostly from journalistic and academic publications. I considered the acts of proscription in their historical context – for example, their use in independent or colonially-administrated Cameroon – and took into account the political and social context that motivated each proscription.

3. Analysis of continuity and change: My analysis was focused on the legalese that authorised each act of proscription. I identified which clause(s) of proscription laws were used to proscribe each actor, under which social and political context, and looked for continuities over time that identified an ongoing relationship between imperial and contemporary proscription laws.

4. Interpretation: This data allowed me to determine what elements of contemporary proscription in Cameroon are historically produced. By identifying consistencies in the legalese – and therefore the authorisations for proscription – I identified how the maintenance of imperial legalese continues to influence the practice of proscription in contemporary Cameroon.

I. Cameroon under French administration

On July 13, 1995, Roland Pré, the French commissioner for the territory of Cameroun, passed a decree proscribing the Union des Populations du Cameroun (UPC), an anti-colonial nationalist group, and its affiliate parties (Atangana 2010, p. 26). Formed in 1948, the UPC advocated for complete independence from France, and the reunification of the French and British Cameroons. To dissolve the UPC, Pré adopted the French law of January 10, 1936 on combat groups and private militias.

It was through this law and the proscription of the UPC that the French administration imported proscription powers into Cameroun. The 1936 law was promulgated by the Léon Blum government to defend the French Republic against violent monarchist groups (Rambaud 2015). After the monarchist group Action Française attempted a coup on February 6, 1936, the Front Populaire government deliberated its promulgation for two years and adopted it after the Camelot du Roi, a subsidiary of Action Française, attacked Léon Blum. Action Française and its affiliated groups were then dissolved by decree on February 13, 1936 (Rambaud 2015). The 1936 law continued to be used against militant far-right, far-left wing, and monarchist organisations by the third, fourth and fifth Republics (Backes 2006, p. 275).

Romain Rambaud (2015) refers to the 1936 law as a 'weapon of mass dissolution.' Rambaud's (2015) follows the evolution of the law, which is as follows: Article four of the original law specified that it was 'applicable to Algeria and the colonies.' It was through Article four that the law expanded from a domestic tool in defence of the *republic* to an imperial tool in defence of the *empire* (Rambaud 2015). The dissolution of the Algerian nationalist group the Étoile Nord-Africaine marked the first use of the 1936 law in defence of the French Empire. The group had opposed the French administration by claiming independence for Algeria, and it was dissolved by decree on January 26, 1937 on the grounds that the group aimed to undermine the territorial integrity of the national territory (Rambaud 2015). Between 1950–1960, anticolonial groups in Indochina and French Polynesia were dissolved under the same justification (Pacific Islands Monthly 1963, p. 13).

The 1936 law was also used over seventy times between 1945 and 2005 against Basque, Corsican and Breton separatist groups, and groups supporting anticolonial groups in the wars in Indochina and Algeria (Backes 2006, p. 274–5).

To Meredith Terretta (2013), the importation of the 1936 law and the proscription of the UPC was unprecedented for two reasons. First, United Nations trusteeship documents protected the political and civil liberties of trusteeship territory civilians and prohibited the administering authorities from banning political parties (p. 107). Second, there was no set precedent for proscription. Before arriving in Cameroun, Pré was governor in Guinea and responded to the anti-colonial group Parti Démocratique de la Guinée (PDG) with punitive lawsuits, arrests, and imprisonments, but did not proscribe the group (Terretta 2013, p. 107). The UPC had expected similar treatment to the PDG (Terretta 2013, p. 107).

Pré justified the proscription of the UPC on several grounds. Terretta (2013) and Martin Atangana (2010) find that Pré used anti-communist rhetoric to justify its proscription by criticising the UPC's connections with the Rassemblement Démocratique Africain and the French Communist Party. Terretta (2013) and Atangana (2010) reject Pré's framing. To Terretta (2013), the UPC leaders' travel to communist centres was 'not so much communist as anti-colonialist' (p. 109). Similarly, Atangana (2010) characterises UPC ideology as 'radical nationalism'—radical in seeking a dramatic change to economic structures which benefitted colonialists, and nationalist insofar that the UPC mandate necessitated reunification and independence as a first step to building a socially just Cameroonian society (p. 50).[1] Pré's construction of the UPC was sustained by political parties and groups in support of the French administration (Atangana 2010, p. 47). Their anti-communist rhetoric prevented the UPC movement's spread from the Anglophone regions into others.[2]

[1] Ruben Um Nyobe, UPC party leader, describes their ideological placement at the party's first congress in 1950: 'Everyone knows that we are not a communist party. We do not say this because we detest communists, or that we fear becoming communists, but because we believe that the struggle for our national liberation cannot be reduced to a particular ideology' (Sharp 2014, p. 83).
[2] For example, the Cameroon Bishops issued a joint statement in April 1955 warning the public against the UPC's communist affiliations. It read: 'We are warning Christians about the true tendencies of the political party known under the name of Union des Populations du Cameroun (UPC), not because of the independence it defends, but because of the spirit that drives it and inspires its methods, because of its hostile and malevolent attitude towards the Catholic mission

Second, at the time of their proscription, and despite attempts by Pré, the UPC was gaining popularity, and so was their opposition to the Greater France project. This presented an imminent threat to the stability of the French administration. The 'Greater France' project, advocated by Charles de Gaulle, relied on the maintenance and consolidation of political and economic ties between France and the territories of 'France overseas' (Sharp 2014, p. 17). To ensure these relationships, power was transferred from French administrators to pro-French government leaders (which the UPC leaders were not), and governmental bodies such as the French Union and the trusteeship agreements were exploited for French interests. The UPC had already sparked tensions with the Franco-Cameroonian government at the creation of the French Union, to which the UPC denied that membership would provide any substantial representation to Cameroon (Atangana 2010, p. 15).[3] In addition, the adoption of the Trusteeship Agreement changed the administrative objective from the 'general well-being and development' of Cameroun to 'self-government or independence' in accordance with the United Nations Charter (Sharp 2014, p. 13, 55). The UPC challenged the trusteeship agreement because it could be used by the French to administer Cameroun as an overseas territory or department, rather than a trusteeship, because Article five held that the administering authority 'shall administer it in accordance with his own laws as an integral party of his territory' (Atangana 2010, p. 22; UN 1946).

However, the Franco-Cameroonian government escalated their response to the UPC after the release of the UPC's *Proclamation Commune* (Joint Proclamation) and a series of riots. In response to Pré's anti-communist rhetoric, UPC leader Felix-Roland Moumié released the Joint Proclamation with the Union

and because of its links to atheist communism condemned by the Pontifical Sovereign' (Atangana 2010, p. 47).

[3] Um Nyobe writes: 'With regard to representation in the metropolitan parliamentary assemblies we can show that out of the 624 deputies who constitute the National Assembly of Paris, 4 deputies are elected by Cameroon, of which 1 by the French of Cameroon and 3 by the indigenous people. What kind of influence can 3 deputies exercise over 624? […] The French Senate has 320 members, 3 are elected by Cameroon, of which 1 by the French of Cameroon and 2 by the indigenous population. The Assembly of the French Union is a consultative assembly which has no legislative power whatsoever. […] How could the territories under trusteeship then properly benefit from the French parliamentary assemblies?' (Atangana 2010, p. 15).

of Free Trade Unions, the Cameroonian Democratic Youth (JDC) and the Democratic Union of Cameroonian Woman (UDFC) on April 22, 1955 (Sharp 2014, p. 84). It abrogated the UPC's previous mandate for a 'timetable for independence' and instead demanded immediate independence, general elections for a new constituent assembly, and the immediate installation of a UN commission and an African executive committee to oversee the process of independence and serve as interim government (Sharp 2014, p. 84). Pré administration fiercely rejected the Joint Proclamation and claimed it was a declaration of war from the UPC (Atangana 2010, p. 26; Sharp 2014, p. 84). In addition, a series of violent riots between May 22–25, 1955 escalated tension between the UPC and the French administration (Terretta 2013, pp. 104–107). On May 22, approximately fifteen hundred UPC members arrived in Mbanga for a meeting. The French chief of the Mbanga subdivision, his assistant, the police force commander, eleven Cameroonian guards, and seventeen regional guards arrived to disperse the meeting and were attacked by the UPC members. One Cameroonian guard later died in hospital, two others were injured, and five vehicles were destroyed (Terretta 2013, p. 104). This sparked several days of violence. As French security forces arrested participants of the Mbanga confrontation, UPC members marched on a prison to free arrested UPC members, stormed the Nkongsamaba administrative buildings, and demonstrated in groups of over 800 members. At one protest, a speaker announced: 'Now all the [UPC members] have decided to no longer submit to administrative disruptions and the intrusion of an administrative representative in any meeting shall be opposed by force' (Terretta 2013, p. 105). In response, French security forces opened fire in the prison, killing six and wounding five UPC members. The French administrators also involved citizens in their crackdown against the riots—any person who 'host[ed] a UPC leader in flight or helps one of them in any way' would be 'immediately arrested for collaborating with a criminal,' a chief would be arrested if they 'failed to alert the administration of within 24 hours of the passage of a criminal in flight or a clandestine meeting,' and citizens could apprehend a person with a warrant out for their arrest (Terretta 2013, p. 105). The violence that characterised the riots and the perceived declaration of war from the

Joint Proclamation sufficiently characterised the UPC as fulfilling the requirements of Article one of the 1936 law.

II. An independent Cameroon

In the 1960s and 1970s, Ahmadou Ahidjo could justify a unitary system of government. This was because it was 'necessary' to centralise diverse groups under the banner of a single party to overcome problems inherited from the colonial state and a way to do this was to proscribe those opposed to such 'unity.' Multipartyism was therefore an obstacle to nation-building (Fonchingong 1998, p. 119). However, Biya also relied heavily on proscription instruments, because Biya accepted the principle of multipartyism under Law no. 90/056 of December 1990 (Fonchingong 1998, p. 120). Biya also kept the preemptive element of proscription laws found in authorisation systems for political parties and pre-publication censorship requirements in press freedom laws. Regardless of the introduction of nominally competitive elections, Biya set about creating constitutional reforms and restrictive political statutes—notably proscription laws—that limited political pluralism and ensured no opposition party could come to power (le Vine 1997, p. 187; Takougang 2003, pp. 438–441). To le Vine (1997), the effect of such reforms was the establishment of a form of presidentialism even 'more powerful than the original Gaullist model' (p. 187). In my investigation of proscription in Cameroon, I found the main targets of proscription laws were political opposition and the critical independent media. In both types of proscription, the pre-emptive element of proscription was essential to its efficacy.

I. The proscription of political opposition

Ahidjo's nation-building policy, dubbed the 'ethic of unity,' eschewed tribalism, and systematically eliminated political threats from across the entire territory by controlling the freedom of association (Terretta 2013, p. 196; Takougang 1993, p. 277). Under law 67/LF/19 of June 19, 1967 on the freedom of association, associations with 'an exclusively tribal or clanic character, as well as those set up

for an illicit cause or objective, contrary to the laws or good customs, or which have as their goal the endangering of the integrity of the national territory or the form of government' were 'null and void.' To Eyoh (2004), the proscription of groups with tribal or clanic characters ethnicised access to the state: leaders were mostly Hausa-Fulbe ethnicity (like Ahidjo), and a system of clientelism required leaders from other ethnicities to support the government in exchange for political opportunity (Eyoh 2004, p. 100).

For Biya, potential political opposition is eliminated through proscription law and an extensive authorisation system. Biya introduced multipartyism to Cameroon under law no. 90/056 relating to political parties, which contains proscription powers. Parties can be suspended by the Minister for Territorial Integration for three months if found responsible for disturbances to the public order. In addition, parties will not be authorised if they undermine the territorial integrity, national unity, the republican form of the state, national sovereignty, and national integration; advocate the use of violence and envisage the form of a military or paramilitary organisation; receive subsidies from abroad, and promote belligerence between components of the nation or between countries.

As in Ahidjo's presidency, Biya uses laws on freedom of association to declare political groups 'null and void.' Under law 90/053, this occurs under a two-pronged authorisation system: an authorisation system for all foreign and religious associations, and a declaration system for all other associations (CIVICUS, REDHAC & CHRDA 2017, p. 4). Under the authorisation system, associations that operate contrary to the Constitution or undermine security, unity or national integration can be declared 'null and void,' prohibited from holding meetings, and suspended for up to three months if the organization has 'disturbed public order' (CIVICUS, REDHAC & CHRDA 2017, p. 4). Under the declaration system, associations are required to declare their formation and provide two copies of their Constitution to a divisional officer. Associations are declared 'null and void' if its Constitution undermines security and national integration (CIVICUS, REDHAC & CHRDA 2017, p. 4).

Between 2014–2017, the UPC (which were relegalised in 1991), the Cameroon People's Party, the Mouvement pour la Renaissance du Cameroun and

the Social Democratic Front, all parties in opposition to Biya's Cameroon People's Democratic Movement, were either banned, or had their meetings and movements restricted (REDHAC 2017 p. 9; Refworld 2013).

II. Proscription and pre-publication censorship of critical independent media

In their presidencies, Ahidjo and Biya both maintained banning clauses in press freedom laws and used them to censor and limit the critical independent press (Eko 2004; Fombad 1995; Nyamnjoh 2011; Takougang 1995, p. 334). Press freedom laws have consistently relied on pre-publication censorship to centralise discourse away from critical independent media (Eko 2003, p. 131). To Lyombe Eko (2004), Peter Ngangum (2019) and Pechulano Ngwe Ali (2017), pre-publication censorship was introduced to Cameroon under the French law of July 29, 1881 on Press Freedom. The French-Cameroun assembly then adopted the 1881 law as law no. 55/35 of May 27, 1959 (p. 131; p. 11; p. 19). In 1966, the Adhidjo administration adopted law no. 66/LF/13 in December 1966, a modified version of the 1881 French law, which now allowed for pre and post publication censorship (Ngangum 2019, p. 11; Ngwe Ali 2017, p. 20).

Take, for example, the 1990 Mass Communication law and its 1996 amendment, which contained measures for pre-publication censorship, seizures, suspensions, and banning (Fombad 1995, p. 215, International Centre against Censorship 1999, p. 15). Articles 17 and 24 permit the Minister of Territorial Administration to ban a press organ if its activities (a) are considered harmful to the national interest or (b) conflict with public policy, public order, health, and morals, (c) conflict with national security, and (c) allow anyone whose honour or dignity was attacked by a publication to order the authorities to seize of withdraw its circulation with no required judicial oversight (Fombad 1995, p. 216; Tazoacha & Ngwang 2021; International Centre Against Censorship 1999, p. 15).

The 1990 mass communication law was ambiguous (Fombad 1995), and selective (Nyanmjoh 2011). It was ambiguous as the basis of the pre-publication censorship was not clearly defined: Section 14, which required that newspapers be presented four hours before publication to the censorship office, did not state if this

only included working hours, or if the publisher was required to return to censorship office and hear what was decided (Nyanmjoh 2011, p. 80). In response, newspapers would often publish four hours after submission, which was considered by authorities as acting in derogation of the law (Nyanmjoh 2011, p. 80). Any publication considered to lead to a breach of peace, to violate or conflict with the principles of public policy, or insulted the President—all terms ambiguously and ill-defined—would be censored or seized, and journalists could be arrested, imprisoned, sued or fined (Fombad 2015, p. 216; Ngangum 2019, p. 21). The 1990 law was also applied selectively andnewspapers critical of the government became contingent on government approval and were published with entire sections blacked out by censors (Eko 2004, p. 131; International Centre Against Censorship 1999, p. 16). Its selective application is supported by Nyanmjoh (2011), who quotes the Minister for Territorial administration, Andze Tsoungui, who declared that 'one must not stick to the letter of the [Mass Communication] law' as 'laws are made by men for men' (p. 79).

The banning clauses were brutal and effective: In May 1990, the independent weekly *The Cameroon Post* was banned for supporting an opposition party, the Social Democratic Front (Takougang 1995, p. 344). In September 1991, in a period of just two weeks, the Minister of Territorial Administration banned seven newspapers that advocated for political reform and criticised the administration (Takougang 1995, p. 343). Between September 4–11, 1992, the newspapers *Le Messager*, *La Nouvelle Expression* and *Challenge Hebdo* were suspended on the eve of the 1992 Presidential elections (Nyamnjoh 2011, p. 111). In May 1996, a weekly debate radio programme was banned, when the host and guest planned to speak about the former President Ahmadou Ahidjo (International Centre Against Censorship 1999, p. 19). The official justification was that the host had not completed the 'necessary formalities' to air the segment (International Centre Against Censorship 1999, p. 19). In October 1996, *Le Nouvel Indépendent* was dissolved under Article eight, which requires every newspaper to have a director (International Centre Against Censorship 1999, p. 17). The newspaper in fact did have a director, Ndzana Seme, who had fled Cameroon in 1996 (International Centre Against Censorship 1999, p. 17). On September 12, 1997,

independent weekly *La Plum du Jour* was banned after publishing two articles that criticised the state leadership and penal systems (International Centre Against Censorship 1999, p. 16). In January 1999, 1000 copies of the weekly newspaper *Mamy Wata* were seized because it contained a cartoon about the President's personal life – this was considered a threat to the public order (International Centre Against Censorship 1999, p. 15). To Ngangum (2011), the reorganisation of the National Communications Council (NCC) in January 2012 resulted in the fewer seizures of newspaper issues but the increase in the suspension and banning of media outlets and journalists (p. 15). In 2016, the NCC imposed 24 sanctions on 14 publishers and their newspapers, one radio station managing director, and 15 journalists for reports containing 'unfounded, offensive and insinuating allegations' against government officials, private individuals, and business executives (Ngangum 2011, p. 16). These sanctions included the permanent banning of the weekly newspapers *Dépeche du Cameroun*, *Aurore Plus* and *Aurore*; the permanent ban on *Aurore*'s publisher, Michel Michaut Moussala for repeating 'unfounded allegations' against the former CEO of Cameroon Airlines; and the permanent ban of Gilbert Avang, publisher of *Dépeche du Cameroun* (Ngangum 2011, p. 16). In addition to the 24 sanctions, *La Nouvelle* and *Le Courrier* were each suspended for six months, *Le Renaud* and its publisher were suspended for six months following allegations of defamation, and the radio program *Ambouteillage* and its presenter were suspended for one month (Ngangum 2011, p. 16).

These cases are a non-exhaustive list of press organs banned by the Cameroonian government. After Paul Biya assumed the Presidency in 1982, he promised to liberalise press-government relations in Cameroon (Fombad 1995, p. 215; Takougang 1995, p. 339). Some positive changes occurred. For example, the financial and administrative requirements for setting up a press organ were eliminated or simplified (Nyamnjoh 2019, p. 13). Yet the repressive dimensions of the existing press freedom laws were either maintained or strengthened. For example, the promulgation of the 1990 Mass Communication law claimed to restrict the power given to military tribunals in the anti-subversion bill to jurisdiction over only military offences (Fombad 1995, p. 215). The government instead installed a state security court, appointed mixed civilian and military judges,

and transferred jurisdiction to try 'felonies and misdemeanours against the internal and external security of the state and related offences' to this court (Fombad 1995, p. 215). In addition, the state security court determines which offences fall under these categories. To Fombad (1995), this is a 'pseudo-military court masquerading as a state security court,' and therefore no less exceptional than the jurisdiction under the 1962 anti-subversion law (p. 215).

Takougang (1995) argues that there was a substantive democratic shift in Cameroon, because, for example, the independent newspaper *Le Messager* could openly demand the abolition of the centralised system of government, the installation of presidential term limits, and a review of the 1972 Constitution without censorship (p. 339). However, there is resounding evidence to the contrary. Just two weeks after the Mass Communication law was promulgated, the 209th issue of *Le Messager* was seized on the basis that it was a threat to public order and was inciting a revolution (Fombad 1995, p. 223; Nyamnjoh 2011, p. 96). The censorship and seizure were in response to an open letter titled 'Rigged Democracy' by Célestin Monda that criticised the President's claim to 'have brought [Cameroon] democracy and liberty' (National Coalition Against Censorship 1990). On January 18, Pius Ngawé and Célestin Monda were both suspended for six months and fined 300,000 CFA for contempt against the national assembly and the judiciary (Nyamnjoh 2011, p. 69; Refworld 1992). Despite Biya conceding that more press freedom was needed, he kept pre-publication censorship requirements and banning provisions in the 1990 Mass Communication law and its 1996 amendments. *Le Messager* was banned more than four times between 1990–1995, twice on the grounds that it did not fulfill the necessary pre-publication censorship requirements, and on the eve of the 1992 presidential elections (Nyamnjoh 2011, p. 66–68; Takougang 1995, p. 344). Issues of *Le Messager* were continuously seized: issue 222 for a dossier on financial mismanagement at the Advanced School of Mass Communication, issue 229 which reported on the government's war logic, and issues 231 and 233 which alleged President Biya armed Ebalé Angounou to eliminate political opposition members (Nyamnjoh 2011, p. 69). For his resistance against these repressive measures, Pius Ngawé was awarded the International Press Freedom award by the Committee to Protect Journalists in 1991, and the World

Association of Newspapers' Golden Pen of Freedom award in 1993 (Nyamnjoh 2011, p. 89–90).

III. Analysis: authorising proscription in Cameroon

The above genealogy of proscription in Cameroon demonstrates that proscription has been entrenched as the *modus operandi* of Cameroonian politics under French administration, and then under the presidencies of Ahmadou Ahidjo and Paul Biya. By analysing each law in turn, I have tabulated each proscription law mentioned in the genealogy with a comparison of its legalese (see table one below). I call this legalese—the phrases, which provide the legal grounds for proscription—'authorisations,' because they are permissive (by authorising or sanctioning the act of proscription) and explanatory (by justifying the act of proscription). I find that certain authorisations have endured from the French administration to contemporary Cameroon. The most common authorisations found were, in order of frequency, the proscription of an actor that (i) endangers territorial integrity, (ii) endangers the republican form of government, (iii) has the appearance of a combat group or private militia, (iv) disturbs the maintenance of public order, and (v) endangers national unity.

I first consider the combination of three authorisations: endangering territorial integrity, endangering the republican form of government, and having the appearance of a combat group or private militia. This combination of authorisations is maintained from the French law of January 10, 1936 into contemporary proscription law. Second, I consider the maintenance of public order as an authorisation for proscription, which has a colonial origin in the French press law of 1881. Finally, I look at the authorisation of national unity. Because it was added to the authorisation of endangering the republican form of government after decolonisation, I argue the 'endangering of national unity' is a product of postcolonial nation building. I find that these authorisations share similarities: each has a strong colonial legacy and provides the legal basis for proscription in emergency legislation. The latter similarity significantly increases the political

utility of proscription powers because of the exceptional nature of emergency regimes. For this reason, I consider the entrenchment of emergency powers in Cameroon as the entrenchment of proscription as the *modus operandi* of Cameroonian politics. I therefore consider the constitution-making process in Cameroon—the emulation of Charles de Gaulle's 'full powers' as the process which installed the reliance on proscription found in Cameroon.

Undermining territorial integrity, the republican form of government, or having the appearance of a combat group or private militia

The above authorisations are found individually in law no. 67/LF/19 of June 19, 1967 on the Freedom of Association under which organisations that 'have as their goal the endangering of the integrity of the national territory or form of government' can be proscribed. Under law no. 90/056 of 19 December 1990 relating to political parties, parties which (a) undermine national unity, (b) undermine the republican form of the state, national sovereignty, and national integration, or (c) advocate the use of violence and envisage the form of a military or paramilitary organisation can be proscribed.

However, the specific combination of the three has a colonial origin in the French law of January 10, 1936 – the law used to proscribe the UPC in 1955. The legalese was replicated twice again: in laws no. 60/52 of 7 May 1960 on the State of Emergency, or the 'Organic Law,' and law 90–47 of December 19, 1990 relating to the State of Emergency. Thus in each regime – the French administration, and the Ahidjo and Biya presidencies – these authorisations are repeated almost verbatim. Take these authorisations in the 1936 law, the 1960 law, and the 1990 law in turn:

In 1936, groups who met the following criteria could be dissolved:

1. Would provoke armed demonstrations in the street;
2. Or which, apart from companies preparing for military service approved by the Government, physical education and sport companies, present, by their military form and organization, the character of combat groups or private militias

3. Or which would aim to undermine the integrity of the national territory or to attack by force the republican form of government.

In 1960, the Minister of the Interior could, under a state of emergency, 'dissolve any association or existing group which provokes armed insurrections or presents, by its military form and organisation, the appearance of a combat group or private militia, or has the aim of endangering the integrity of the national territory, national unity or the republican form of government (Josephs 1978, p. 208–209).

Finally, under the 1990 law, the Minister for Territorial Administration can 'disperse any assembly or suspend any association which may provoke armed demonstrations or, by reason of its constitution or its military or paramilitary organization, may be equivalent to a combat unit or a private militia or may have the object of undermining the integrity of the national territory or the unity, the security or the republican character of the state (see law no. 90/056 of 19 December 1990).

The repeated authorisation found in the infamously-called 'weapon of mass dissolution' sustains a colonial legacy because it maintains the legalese of the colonial 1936 law and therefore justifies proscription for the same (colonial) reasons. The political utility of the 1936 law, and of this inherited combination of authorisations is demonstrated in two ways.

First, importing the 1936 law into Cameroon required special approval by the French Council of State, because Cameroon was a trusteeship territory and not a colony or 'overseas department' (Backes 2006, pp. 274–5; Rambaud 2015). The Council of State found it was applicable by virtue of the 1922 French mandate over Cameroon, and Article 4(A1) of the Trusteeship Agreement that affirmed the trusteeship would be administered 'in accordance with French law as an integral part of French territory' (United Nations 1946).[4] The special interest in determining the 1936 law applicable in Cameroon supports it perceives utility.

[4] The French administration used the concept of territorial integrity to subvert attempts at independence, and serve the 'greater France' project (Terretta 2013, p. 85). One such example is the Loi-cadre. Under the Loi-cadre, the French administration conflated Cameroon's trusteeship status with that of the colonies. Take, for example, the differential treatment of Cameroon and Togo. In the Loi-cadre, Cameroon and Togo were referred to as 'associated territories' of the French Union. However, the two territories were regarded differently: Article eight included the provision of independence for Togo, yet no independence was provided for Cameroon.

Second, the combination of the three authorisations was embedded into emergency legislation. Emergency regimes function as a form of exceptionalism, creating a dual, selective legal system, and centralising power to the executive (Alzubairi 2017, p. 59). Moreover, Cameroon has been under a perpetual state of emergency since the Ahidjo administration (Kamga 2015, p. 308). By directly copying the legalese from the law of January 10, 1936 into emergency legislation, its political utility is maximised.

The maintenance of public order

The French, Ahidjo, and Biya administrations authorised proscription for the maintenance of 'public order.' This authorisation is found most frequently in press freedom laws, including the French law of July 29, 1881 on Press Freedom and Law no. 55–35 of May 27, 1959 on Press Freedom, and Law no. 90/052 of 19 December, 1990 relating to the Freedom of Mass Communication. In addition, secondary interpretations of law no. 66/LF/13 of December 21, 1966 on Press Freedom by Eko (2004), Ngangum (2019), and Ngwe Ali (2017) suggest the 1966 Press Freedom law, like the 1881 Press Freedom, 1959 Press Freedom and 1990 Mass Communication laws, practiced pre-publication censorship. However, the primary document could not be sources, so I cannot verify these claims. The application of these laws against the critical independent media suggest they share the same objective: to use pre-publication censorship and proscription to centralise public discourse and repress the critical independent media (Eko 2004, p. 131). This centralisation is mandated by the requirement to protect or maintain public order.

According to Abel Enyinga (1978), the 'responsibility' to maintain public order was transferred by the French administrations through decree no. 58–137 of December 30, 1958 (p. 100). This decree allowed the High Commissioner of France in Cameroon and the Prime Minister to issue a state of exception in response to, or in anticipation of an attack or foreign war, and that the High Commissioner could take 'all necessary measures' to safeguard public order (Kamga 2015, p. 294).

Instead, Article nine provided for 'institutional reforms, as well as the creation of provinces, provincial assemblies and provincial councils', or rather, increased decentralisation under the French Union.

Enyinga (1978) finds the Cameroonian government changed the original French meaning of 'public order' from those minimum conditions required to maintain a normal civil life to the maintenance of the political status quo (Enyinga 1978, p. 101). This change in meaning shifts the maintenance of public order to a protector of regime security. This is most evident in emergency legislation. Beginning under French administration, the Franco-Cameroonian government used the responsibility to maintain public order to legislate emergency powers under law 59/33 of May 27, 1959 on the maintenance of law and order (Kamga 2015, p. 294). The precedent for this was French, and colonial, found in the French Royal Ordinance of 17 November 1840; the French Presidential Decree of November 9, 1901; the French decree of 23 March 1921; and sections three and seven of the 1922 League of Nations Mandate, which gave 'special powers' to Britain and France to 'take all necessary measures' to 'maintain public order' (Kamga 2015, p. 292). The same responsibility authorised the consolidation and strengthening of emergency powers legislation in Cameroon by the Ahidjo and Biya administrations (Kamga 2015; Enyinga 1978; Terretta 2013, p. 173). The effects were immediate: in 1959 alone, Ahidjo declared a state of emergency in southern Cameroun, set up special courts in major cities, and banned six opposition newspapers (Awasom 2002, p. 10). He would go on to declare thirteen emergency regimes between June and October that same year (Kamga 2015, p. 298).

Now, the responsibility to maintain public order is written into emergency legislation under law no. 60/52 of May 7, 1960 on the State of Emergency, and Law No. 90/47 of December 19, 1990 relating to the State of Emergency.

National unity

After independence, the Cameroonian government began the process of nation-building to grapple with the artificial nature of African state borders and the confluence of ethnicities and tribal groups in Cameroon (Berman, Eyoh & Kymlicka 2004, p. 12). To Dickson Eyoh (2004), the post-Second World War era created a bias for 'national unity' and this became a powerful buffer against ethnic

political mobilisation and political instability (p. 96, 100). The need to secure 'national unity' served instead to excuse the creation of a highly authoritarian and centralised state (Berman, Eyoh & Kymlicka 2004, p. 18).

The importance of nation-building is supported by a distinction in the authorisations for proscription under French administration and as a postcolonial state. After independence, the 'national unity' authorisation was added to laws whose colonial predecessors included the 'republican form of state.' Take, for example, the law of January 10, 1936. This law authorised proscription against those who would undermine territorial integrity, the republican form of government, or have the appearance of a combat group or private militia. The postcolonial laws which adopted the same legalese, including law No. 60/52 of May 7 1960 on the State of Emergency, law No. 90/47 of December 19, 1990 relating to the State of Emergency, and law No. 90/056 of 19 December, 1990 relating to Political Parties, all added the protection of national unity to the protection of the republican form of state. This suggests that the 'republican form of state' authorisation was insufficient to ensure regime security from the challenges of decolonisation, but also remained politically useful enough to not be replaced entirely by the new authorisation.

The 'national unity' authorisation is also found in law No. 90/053 of 19 December, 1990 on the Freedom of Association. Notably, the authorisation is not present in the equivalent law from 1967, despite both laws requiring an 'authorisation system' for associations to be deemed legitimate. Law No. 67/LF/19 of June 19, 1967 on the Freedom of Association. 1967 freedom of association law, However, the 1967 law was used in the context of Ahidjo's 'ethic of unity' to proscribe groups with a tribal or clanic character. To Terretta (2014), the associations with 'clanic or tribal character' were considered by Ahidjo as 'contrary to national unity' (p. 196). The national unity authorisation was therefore applied, albeit discursively (Joseph & Lippens 1978, p. 116).

Similarly, although there is an absence of the 'national unity' authorisation in laws which use pre-publication censorship, Nyamnjoh (2011) argues that the selective application of pre-publication censorship indicates that 'national unity' is only achievable by the government and its supporters (p. 86). In fact, Article 5(2)

of the Constitution grants that the President of the Republic 'shall be the symbol of national unity.' As a result, any person in opposition to the President is consequently in opposition to national unity (Fombad 1995, p. 217–221; Nyamnjoh 2011, p. 86). For this reason, I suggest pre-publication censorship laws rely on 'defamation,' rather than on national unity, to proscribe critical media.

IV. Entrenching proscription as *modus operandi*: the emulation of French constitution-making

President Ahidjo strategically used the Constitution-making process to consolidate and strengthen emergency legislation inherited from colonialism (Kamga 2015). As a result, emergency regimes have become the *modus operandi* of everyday Cameroonian politics. Because proscription powers were coupled with emergency legislation, the same occurred with proscription. This entrenchment is largely due to the process of constitution-making, which emulated that of Charles de Gaulle and the birth of the Fifth French Republic.

Full powers, or *pleins pouvoirs*, were granted to Charles de Gaulle by the French National Assembly in response to the onset of the Algerian war (Kamga 2013, p. 340). Under full powers, de Gaulle promulgated Section 16 of the Constitution concerning a state of exception and made provision for the complete concentration of power to the President (Kamga 2013, p. 340). Under Section 16, de Gaulle could 'take measures required' if the 'independence of the nation, the integrity of its territory [or] where the proper functioning of the constitutional public authorities [was] interrupted' (Constitution of October 4, 1958). However, Section 16 was invoked only once by de Gaulle to contain a military coup in Algeria (Ní Aoláin & Goss 2006). In Cameroon, Ahidjo emulated de Gaulle and drafted the 1961, 1962, and 1972 Constitutions under full powers. As a consequence, the ensuring Constitutions consolidated emergency legislation (Kamga 2013, 2015), rejected political pluralism (Awasom 2002; Le Vine 1964), and centralised power to the executive (Bayart 1978; Kamga 2015). Consequently, the Constitution-making processes were characterised by haste, executive dominium, and the absence of checks, balances, and parliamentary input.

In 1959, Ahidjo rejected calls for roundtable discussions to draft the Constitution for the Republic of Cameroon (Awasom 2002, p. 11). This was a rejection of political pluralism because the the UPC would be represented in the drafting and the roundtable was considered an opportunity for political reconciliation. Instead, Ahidjo proposed an emergency powers bill which vested him with full powers to govern by decree for six months, and appointed a forty-two-member committee to draft and approve the Constitution (Awasom 2002, p. 11). Le Vine (1964) summarised the proposal of the bill as 'the classic French formula of pleins pouvoirs' (p. 185). Despite intense resistance from parliamentary opposition, the emergency powers bill passed, the national assembly went into recess, and the Constitution was unanimously approved by an extra-parliamentary Constitutional Committee in no less than twelve sitting days and then by referendum (Awasom 2002, p. 20; Kamga 2015, p. 300). According to Kamga (2015), the Constitution was in truth drafted in one night by two French advisors, one French political scientist, and the French commander of the Gendarmerie in Cameroon, without any parliamentary input, 'as if in time of war' (p. 301).

The drafting of the 1961 Constitution was not unlike the first of 1960. President Ahidjo was again vested with full powers for six months to oversee a 'harmonious transition.' and negotiations were conducted outside of parliament (Kamga 2015, p. 303). The Constitution for the new Federal Republic of Cameroon was promulgated on September first, 1961 (Kamga 2015, p. 303). It strengthened the emergency power provisions from the previous Constitution that could now declare a state of emergency or siege for twelve rather than six months (Kamga 2015, p. 303). In addition, Ahidjo issued ordinance 62/OF/17 of March 12, 1962 which extended the provisions of ordinance 61/OF/5 of October 4, 1961 so that when a state of emergency was declared in any region, it was automatically applicable throughout the entire federal territory (Kamga 2015, p. 303). Between 1961 and 1972, Ahidjo issued 44 decrees to implement and extend states of emergencies in Eastern and Western Cameroon (Kamga 2015, p. 303–304). Because proscription laws were coupled with emergency legislation, this extension also strengthened proscription powers.

To promulgate the new Constitution of 1972 for the United Republic, Ahidjo was again granted full powers to legislate the country by decree for a twelve month rather than a six-month period (Bayart 1978, p. 89). To Bayart (1978), the 1972 Constitution intended to harmonise and centralise the administration of the federation through a unitary government and to maximise the power of the President (p. 89). The Constitution followed a referendum on May 20, 1972, which abolished the two-state federation (Kamga 2015, p. 305). The referendum was in clear violation of Section 47 of the 1961 Constitution, which prohibited 'any proposal for an amendment of the unity and integrity of the federation' (Kamga 2015, p. 305). It also lacked integrity and democratic value. Take, for example, the structure of the referendum: the only possible outcome was the abolition of the federation, as the only ballot responses available answered 'oui,' and 'yes' (Kamga 2015, p. 305). Consequently, the new Constitution installed a unitary government and, naturally, maintained the emergency powers and proscription powers from the previous Constitution.

V. Conclusion

In this chapter, I genealogically traced the evolution and practice of proscription powers in Cameroon. I find that proscription has been consistently used across political structures and security paradigms, regardless of the government, for the same political intention—to eliminate political pluralism. Take, for example, the French administration. The French colonists were concerned with maintaining the French influence in Cameroon as a *colony* rather than as a trusteeship. Their principal objective was to suppress political pluralism or challenges to the colonial state, and therefore need to use proscription powers against anti-colonial nationalist groups and grant political representation to pro-French groups. At independence, the Ahidjo government was concerned with the process of nation-building, which would ensure the political stability of the regime. Ahidjo's methodology was active: in his tenure, proscription laws were written and consolidated into governance through processes of Constitution-making and legal reform. For the Biya administration, the main obstacle to regime security was the push for democratic

reform. Biya needed to provide nominal democratic reform, but maintain the monopoly of violence and power. The focus was therefore to simultaneously maintain and strengthen the proscription laws from the Ahidjo and French administration and maintain the façade of democratisation.

Although the three political systems differ, the practice of proscription remains largely unchanged. By tabulating the laws discussed in the genealogy, I find that the authorisations for proscription are maintained throughout the evolution of proscription laws.

The authorisations also adapt according to differing political periods and security. Where authorisations do not sufficiently adapt, they are not replaced but added onto others to expand the applicability of proscription laws. For example, the 'national unity' authorisation was added to the protection of 'the republican form of government' after independence, to better serve the leaders of a post-colonial Cameroon with the process of nation building. In this way, proscription laws evolve, but their roots remain unchanged.

The authorisations are coupled with emergency legislation, which significantly increases the political utility of proscription regimes because of the exceptional nature of emergency powers. For this reason, I consider this coupling to be the method by which proscription is entrenched as the *modus operandi* of Cameroonian politics. I therefore consider the constitution-making process in Cameroon—the emulation of Charles de Gaulle's 'full powers' as the process which installed the reliance on proscription found in Cameroon. As a consequence of its entrenchment with emergency legislation, proscription in Cameroon is quick, effective, easily justifiable, centralised, and written to authorise an exceptional response to non-exceptional circumstances.

CHAPTER IV

Discussion

In the previous chapters, I investigated the evolution of proscription regimes in Cameroon, their importation from imperial France, and their consolidation into the Cameroonian national security architecture in the colonial and post-colonial periods. My findings show that proscription has been a persistent component of Cameroonian security politics in two respects. First, the proscription laws themselves remained largely unchanged in Cameroon, despite major changes over decades in security and political paradigms—from 19th Century French and British colonial administration, to reunification as a federal republic in the 20th Century, to the abolition of the federation and the creation of a unitary state, and finally the 21st Century era of the global 'war on terrorism'. My genealogical research in Chapter III substantiates this consistency by tracing the consistent over time 'legalese' used in proscription laws. Second, despite major changes in political and security paradigms, the motivations for proscription have remained unchanged. As my analysis of the 2014 Suppression of Terror law in Chapter II shows, this is because the leaders of Cameroon (colonial or otherwise) continue to seek the ability to govern in a way that ensures the security of the governing regime. Chapters II and

III illuminate the longevity of proscription laws, and the political intentions motivating the practice of proscription in Cameroon.

In this discussion, I situate my research in relation to the emerging scholarly literature on proscription and, specifically, argue that property of 'ductility' in proscription law – the thesis' signal theoretical claim – is a vital contribution to this literature.

I. Theoretical framework:

The theoretical framework I adopt conceptualises proscription as a colonial legacy. This contrasts with, and critiques, the frameworks which limit proscription to a product of post-colonial regimes after decolonisation, or a product of the post 9/11 security paradigm (for example, Hayes 2012; Josua 2020; Pokalova 2015; Sentas 2018).

The foremost element to such conceptualisation is the genealogical analysis in Chapter III. This provides the empirical data that traces contemporary proscription laws to their roots in the domestic and imperial legislation of colonial powers—in the case of my genealogy, of France—and delineates their importation into Cameroon in the colonial period and their perpetuation into the post-colonial period. The genealogy found that the legalese of proscription laws (their lexical contents, phrasing and terminology) remains mostly unchanged in their lifespan from pre-independence to 2017. I call the legalese in proscription laws the 'authorisations' for proscription because have two functions: first, the authorisations delineate who the state can proscribe by specifying what the state must protect. For example, a common authorisation is to proscribe any actor which might threaten the territorial integrity of the state. This authorises the proscription of any secessionist movement, including the Anglophone movement in Cameroon. Second, the authorisation is permissive because the state can justify an illiberal proscription because of the need to protect what the authorisation dictates. This is the first theoretical contribution of the thesis.

The second theoretical contribution of this thesis is the concept of ductility, which I use to discern the function of the authorisations for proscription, to

understand how they have endured across the pre-modern and modern eras. However, the key function of the ductility concept is to understand the enduring motivations for proscription. Ductility extends Fatima Alzubairi's (2017, 2019) theoretical framework of a colonial rationale, which refers to the logic and methods relied upon during colonial imperialism by the ruling powers (Alzubairi 2017, p. 22). Ruling within a colonial rationale is dependent on laws and methods whose properties serve to prevent and punish anticolonial threats and enhance the security of administrative regimes. Consequently, the political desires and security of the colonial state are prioritised over that of its citizens. Ductility is a purposefully 'rigidised flexibility' or ambiguity in law that is inherited from the colonial importation of law into Cameroon. In the case of proscription laws, the authorisations for proscription are ductile. A ductile law will have a purposeful ambiguity of terms in its legalese that is used strategically by leaders *to rule within a colonial rationale* and ensure their regime security. As this legalese is imported and perpetuated between different regimes, the objective of ruling in the colonial rationale is also inherited and perpetuated.

In summary, my theoretical framework is as follows:

1. Proscription laws were imported into Cameroon by imperial France. These laws contained legalese that permitted the proscription of actors that presented security threats to the colonial administration. These are the colonial authorisations for proscription.
2. The colonial authorisations for proscription served the interests of the colonial state, which was to rule in a way that ensures regime security. This is ruling within the colonial rationale.
3. Proscription laws are ductile because they have (a) undergone the process of policy diffusion, (b) have a purposeful ambiguity of terms, and (c) perpetuate the colonial rationale. Because of their ductility, they can be used by any legislator for the specific purpose of ruling within the colonial rationale.

4. The proscription laws were maintained by the Cameroonian state post-independence. The colonial authorisations for proscription remain mostly unchanged.
5. Because the authorisations for proscription remain mostly unchanged, contemporary proscription laws continue to serve the interests of the colonial state, which is to rule within the colonial rationale.
6. The colonial rationale is therefore perpetuated through ductile proscription laws.

II. Proscription and the designation of threat

The empirical evidence gathered in this thesis reflects and adds to the emerging research on the illiberal use of proscription instruments, the use of proscription to (re)affirm state sovereignty, and state motivations for normalising proscription as a key tool in their national security architecture for the purposes of regime security.

Tim Legrand (2021) refers to proscription as 'a ritual of sovereignty' which was used historically by Britain as a tool of sovereignty and political control over its colonial and domestic jurisdictions (p. 417). The contemporary form of this historical tool is found in the UK Terrorism Act 2000, which was globalised in the urgent response to Resolution 1373 after the September 11 attacks. According to Legrand (2021), this act of policy diffusion globalised both the UK Terrorism Act 2000's definition of terrorism and the tool's intention to preserve state sovereignty (p. 419). This instrument—originally designed to preserve British sovereignty and resist democratisation in colonial territories—is now used globally by governments as a national security instrument (Legrand 2021, p. 419). Proscription affirms state sovereignty by signaling the proscribed group as a threat and removing it from the polity. To Jarvis and Legrand (2020), this demonstrates the constitutive power of proscription to construct an organization as a threat and therefore warrant its proscription. Jarvis and Legrand's (2020) analysis draws attention to the possibility of the discourse of threat, or the construction of enemies, as a necessary precursor for proscription, because this process designates which actors merit proscription,

and under which circumstances actors do not. However, their approach is limited to the United Kingdom and can be strengthened by the addition of further cases, especially in a postcolonial context.

Examining Cameroon, the empirical focus of this thesis, reveals that proscription also lends legitimacy to the construction of (legitimate) political opposition or dissent as threats, which in turn (re)affirms sovereignty and regime security. This is reflective of Jarvis and Legrand's (2020) study of Britain but draws attention to the differences specific to Cameroon's post-colonial context. Two prominent differences are useful to consider: First, in the proscription of the independent media, the authorisations used to justify and defend pre-publication censorship, seizures, and banning included the need to maintain public order, to punish the propagation of false information, and to punish defamation. Because only the critical media, not the state-owned media, was considered guilty of these crimes, the government constructed legitimate political dissent as illegitimate. The authorisation of defamation was particularly powerful. Because the Constitution grants that the President of the Republic 'shall be the symbol of national unity,' defamation against the President is constructed as threatening to national security. This affirms the sovereignty of the President's utterances and removes democratic accountability between the executive and the media.

Second, the proscription of groups with 'an exclusively tribal or clanic character' under law 67/LF/19 of June 19, 1967 on the freedom of association reflects the use of proscription in a specifically post-colonial context. Because the challenges of stabilising and consolidating an independent postcolonial government was exacerbated by the need to manage ethnic conflict and diversity, any disruption to the ethnic balancing of the administration needed to be repressed immediately (Berman, Dickson & Eyoh 2004, p. 14). By proscribing tribal groups, Ahidjo could adopt a model similar to the French model of assimilatory citizenship, expecting all citizens to adhere to a model of 'national unity' (Berman, Dickson & Eyoh 2004, p. 17). This model was bitterly resisted by the UPC, and now by Anglophone groups, because it legitimised what was—and continues to be—a largely illegitimate government. The thesis therefore extends Jarvis and Legrand's (2020) analysis into a postcolonial context, and illustrates the utility and importance of the

designation of threat, and the construction of actors as threatening to state security, to proscribe actors that threaten regime security.

In my genealogical research, I found that proscription powers were coupled with emergency legislation by the Franco-Cameroonian government. These emergency powers were constitutionalised, and each following administration strengthened them when a new Constitution was promulgated. Tia Dafnos (2019) argues that in Canada, addressing contemporary indigenous resistance as a 'state of emergency' is a manifestation of an enduring 'colonial emergency,' which enables pre-emptive and military interventions against legitimate political movements (p. 380). Dafnos' (2019) analysis stems from Neocleous' (2008) analysis of the liberalization of emergency powers. To Neocleous (2008), emergency powers have become normalised not just in fascist states, but in liberal democracies for economic regulation, class power, and colonial domination (p. 57–58). Their normalised use by liberal has legitimised the use of emergency powers in non-exceptional circumstances to ensure regime security, rather than the security of state citizens from external threats (p. 56–58). To Neocleous (2008), the constitutionalisation of emergency powers was 'liberalism's gift to the modern state,' because it facilitated the normalisation of a perpetual state of emergency (p. 58). An example of the detrimental effects of Neocelous' 'gift' is the perpetual state of emergency found in Cameroon. This demonstrates the foundational role proscription serves in Cameroon's security architecture, because each administration strengthened and entrenched proscription powers by coupling them with constitutionalised emergency powers.

III. The colonial rationale

State motivations for proscription are best understood by understanding *who* is designated as a threat, *what* the state determines is necessary to protect, and *how* the designated threat endangers or challenges what needs protection. In Cameroon, there is a consistent need to protect regime security, because the state experiences a high level of democratic fragility. The need to consistently protect regime security aligns with Ngangum's (2020; 2021) argument that Cameroon is not a failed

democracy, but instead a highly successful semi-authoritarian regime (2020, p. 238). Semi-authoritarian regimes allow a certain level of political freedoms to mimic democratic institutions, but mix these liberal traits with authoritarian control of the media, electoral manipulation, and the repression of political dissent (Ngangum 2020, p. 12; Ottaway 2004, p. 3). The objective of a semi-authoritarian regime is to prevent any substantive change in the governing of the state (Ngangum 2021, p. 238). I consider wanting to maintaining a semi-authoritarian state system as equivalent to wanting to rule within the colonial rationale, which serves the authoritarian ambition of state leaders, and ensures regime security. In Cameroon, this is understood using the tabulated data I presented in Chapter III.

Under French colonial administration, the targets of proscription law—the designated threats—were the Union des Populations du Cameroun (UPC), and anti-colonial, nationalist, or African journalists. These targets threatened the basic tenants of the colonial administration. The UPC, by advocating for the reunification of the French and British Cameroons and decolonisation, threatened the territorial integrity of French Cameroun. In addition, the anti-colonial or African journalists created dissent and mobilised anti-colonial sentiment, which challenged the security and legitimacy of the colonial administration. These threats were reflected in the authorisations for their proscription: to defend territorial integrity, the republican form of government, and public peace, and to punish defamation and the propagation of 'false' information.

The UPC and the critical independent media—the actors advocating for independence—were targeted by the independent, post-colonial Ahidjo administration. The punishment of the actors that pushed for independence *by the regime they supported* illuminates that proscription is a tool of defense for the executive against any destabilising forces, regardless if those forces were once supportive. Because these groups (and tribal groups) could destabilise the ethnic and power balances of the administration and create dissent, the authorisations for proscription again reflect what needed protection: national unity, territorial integrity, public order, the form of government (note that this is no longer the 'republican' form of government), and to protect against tribal or clanic groups.

The Biya administration also designated groups that could destabilise the regime as threats, because any political opposition party, Anglophone civil society group, and the critical media could challenge the legitimacy of Biya's electoral successes, the façade of multipartyism, the territorial integrity of the reunified republic, and the stability of a regime facing political dissent in the form of protest movements and political violence. What necessitates protection and authorises proscription again reflects these threats: operating contrary to the Constitution, undermining territorial integrity, national unity, defamation, the republican form of state.

The empirical data demonstrates that there is little to no progression on what Cameroonian leaders deem needs protection—only what is deemed threatening changes according to political context. The authorisations for proscription therefore reflect the enduring objective of wanting to maintain rule within the colonial rationale, which is fitting for a semi-authoritarian state. When authorisations do change, or new ones appear, it better enables ruling within the colonial rationale. For example, when 'groups of a tribal or clanic character' were added to the legalese of law 67/LF/19 of June 19, 1967 on the freedom of association, this facilitated better control over the ethnic balance of the government, and therefore to the stability of the Ahidjo administration. As I found in Chapter II, the colonial rationale is mediated across three dimensions: the domestic, vertical, and horizontal (peer). I will now consider Cameroon's normalisation of proscription to rule within the colonial rationale, in reference to the 2014 Suppression of Terror law.

First, it is critical to note that the Suppression of Terror law does *not* contain proscription powers. It was used in conjunction with pre-existing laws to declare the Cameroon Anglophone Civil Society Consortium (CACSC) and Southern Cameroon National Council (SCNC) 'null and void' under ministerial order no. 00000009/A/MINATD/CAD. Indeed, the only law which contained proscription clauses was law no. 90/053 of 19 December, 1990 on the freedom of association. The other laws used in the order, including the Suppression of Terror law, provided support for the proscription of the organisations '…for their purpose and activities which are contrary to the Constitution and liable to jeopardise the security of the State, territorial integrity, national unity and national integration.' The Suppression

of Terror law was used to arrest the CACSC president barrister Nkongho felix Agbor-Balla and CACSC secretary general Dr Fontem Aforteka'a Neba after they signed a statement calling for non-violent protesting (Amnesty International 2018). The leaders were then charged under the Suppression of Terror law for fostering hostility against the government, secession, civil war, propagation of false information, collective resistance and the incitement to take up arms, and charged with the death penalty (Amnesty International 2017).

In isolation, the Suppression of Terror law fulfills the standard defense of regime security as prescribed by Pokalova (2015) and Josua (2020), who found that protest-proofing and domestic dissent was a central driver for the adoption of counterterrorism legislation both pre- and post-9/11 (p. 482; p. 6). Here, the desire for regime security, to maintain the legitimacy of the government, and to repress political opposition make up the domestic dimension that facilitates the colonial rationale. Because the Suppression of Terror law did not include proscription powers, the argument that proscription is a product of the post-9/11 security paradigm does not apply. This is because those powers *already existed* and were already accessible to state leaders. Instead, the use of proscription in conjunction with exceptional counterterrorism legislation supports my argument that proscription is normalised as a foundational instrument in Cameroon's security arsenal. Unlike the coupling of proscription instruments with emergency powers legislation, proscription powers did not need to be strengthened by the Suppression of Terror law—the freedom of association law was enough to authorise the proscription. Instead, the contribution of the Suppression of Terror law was to further justify an exceptional response to a non-exceptional circumstance—another authorisation to continue ruling within the colonial rationale. Because the counterterrorism paradigm is globally sanctioned the international community, and supported by, for example, the mutual evaluation system used by GABAC, the Suppression of Terror law is an example of the vertical and peer dimensions which mediate ruling within the colonial rationale. Through this analysis of the Suppression of Terror law as *not* a proscription law, we can see the efficacy of the colonially inherited authorisations for proscription. I explain the longevity and efficacy of the authorisations through my concept of ductility.

IV. Ductility

In Cameroon, although the actors that are designated as threats have changed, what merits protection—regime security—has not. This is reflected in the continued use of certain authorisations for proscription from the colonial administration into the contemporary political period, and the continued proscription of political actors which challenge regime security. This includes minority groups, opposition parties and the critical independent press. From my investigation of proscription and governance in Cameroon, I make two claims about the ductile properties of proscription instruments in Cameroon:

I. Claim 1: The authorisations for proscription perpetuate ruling within the colonial rationale because the legalese which comprises them is ductile.

This is evidenced by the three criteria for ductility I presented in Chapter I. Ductility is first predicated on the diffusion of legalese. In Cameroon, this is found through the diffusion of legalese and the practice of proscription originating in imperial France, which I traced back to the Laws of January 10, 1936 on Combat Groups and Private Militias and of July 29, 1881 on Press Freedom. These laws were transferred into Cameroon by the French administration and form the basis of proscription legalese in Cameroon. My genealogy shows that the legalese of the law of January 10, 1936 was transferred temporally and spatially across each political paradigm encountered in Cameroon's pre-colonial, colonial, and post-colonial history: from the French empire, to French Cameroun, to reunification as a federal republic, to the abolition of the federation, and in contemporary Cameroon.

Second, ductility requires a purposeful ambiguity of terms. My genealogical analysis found that the legalese in proscription laws were not made more specific since their transfer into Cameroon. In fact, the opposite is true: where a colonially inherited term was changed, it was made *more* ambiguous. For example, the Ahidjo

administration altered the authorisation for proscription that an actor 'attack the republican form of government' to 'endangering the form of government.' By removing the *republican* nature of the state, and introducing the more ambiguous verb 'to endanger' (which could be ideologically, physically, or economically), this authorisation becomes more ambiguous. This allows for the selective application of proscription, because the same wrongdoing by different actors can be criminalised differently according to whether the wrongdoer is deemed a threat to the regime; this selectivity is fundamental to governing within the colonial rationale. My use of the criteria 'purposeful ambiguity' rather than 'flexibility' is deliberate, because the final criteria for ductility is to perpetuate the colonial rationale. As a consequence, the term flexibility is unsuitable because flexibility denotes the ability to be used by any legislator, for any purpose. Ductility then becomes a 'rigidised' flexibility—a purposeful ambiguity—because it can be used by any legislator (as evidenced by the transfer of authorisations for proscription into each administration) but for a specific purpose—to rule within the colonial rationale.

The final and most critical criteria for ductility is the perpetuation of the colonial rationale. In Chapter II, I established that the current Cameroonian government governs within the colonial rationale. In addition, Chapter III presented exhausting evidence in favor of successive governing administrations use of the same rationale, by delineating who the targets of proscription were, the desires of the Cameroonian government to repress any destabilising factors to ensure regime security, and the overt reliance on proscription by each administration. This is supported by my understanding of the colonial rationale as mediated by the domestic, vertical (global) and horizontal (peer) dimensions. In the domestic dimension, proscription regimes have strongly facilitated the mechanisms of exceptionalism, centralisation and militarism. For example, by proscribing the critical independent press, elements of centralisation and exceptionalism are found because the administration can centralise discourse by eliminating political dissent or opposition in the media by constructing the proscribed press organs as threatening to the public order, for example. In addition, the ambiguity of terms allows the laws to be applied selectively, which creates a duality in the legal system

by which wrongdoers can be criminalised normally or exceptionally. The selective nature of criminalisation leads to consequences including self-censorship by journalists, further centralising the political discourse. Elements of militarism are also found in the coupling of emergency powers with proscription laws, and the use of military courts as an exceptional response to wrongdoing. The global and horizontal dimensions mediate the neocolonial influences, which I conceptualise in Chapter I as a contemporary manifestation of the mechanism of economic expansion and reform. Because international and peer-state groups including the UNCTC, FATF and GABAC implicitly approve of the illiberal consequences of proscription regimes, the regime security of governing administrations can be secured by governing within the colonial rationale. Each mechanism of the colonial rationale has extensively used proscription to facilitate it, and therefore relied on the authorisations for proscription inherited from the colonial administration. As a consequence, the authorisations which are inherited and maintained limit what should be protected to the elements that were critical to the stability of the *colonial* state, and that are protected by ruling within the colonial rationale.

II. Claim 2: The property of ductility is a colonial legacy.

This claim is supported when scrutinising the nature of 'new' authorisations for proscription, that were introduced by Cameroonian governments after independence. My data has found that new authorisations do not appear because the existing ones were no longer effective. If this were the case, colonially inherited authorisations would not have been transferred across continents and maintained by successive governments. Their maintenance instead supports their utility or political salience. Instead, my evidence suggests that new authorisations appear because of external and internal influences that present more ways to maintain ruling within the colonial rationale. Take, for example, the proscription of the CACSC and SCNC. The 2014 Suppression of Terror law was a response to the UN Resolution 1373 and the post-9/11 counterterrorism security paradigm. Even though the Suppression of Terror law does not contain proscription powers, it was

used to support the proscription of the CACSC and SCNC. In Chapter II, I theorised that the colonial rationale was mediated along three dimensions (domestic, global, horizontal/peer), and the counterterrorism security paradigm presented opportunities to better entrench and consolidate rule within the colonial rationale along them. On a domestic level, it is reductive to assume that a genuine threat of terrorism was not a reason for adopting counterterrorism legislation, and Cameroon was experiencing this genuine threat because of Boko Haram activity at the time. Studies support this: Poklalova (2015) found that before September 11, the presence of a genuine threat of terrorism was the greatest influence on counterterrorism legislating (p. 491). To Josua (2020), the principal domestic driver for counterterrorism legislating between 2003–2007 was unprecedented terrorist attacks (p. 6). However, between 2014–2017, when Cameroon adopted the Suppression of Terror law, the principal domestic driver was protest proofing for regime security, and the principal regional and global drivers were great power influences (Josua 2020, p. 6). These are also phenomena in the domestic and vertical dimensions of the colonial rationale because political dissent is a challenge to regime security and the post-9/11 counterterrorism response encouraged the adoption of counterterrorism laws. These drivers were bolstered by the implicit approval given by peer-states in GABAC. By constructing a moral equivalence between Boko Haram and the Anglophone movement, other peer group states approved of the proscription on the grounds of counterterrorism and facilitated the colonial rationale on the horizontal dimension. Another 'new' authorisation was the proscription of 'associations having an exclusively tribal or clanic character' in law No. 67/LF/19 of June 19, 1967 on the Freedom of Association. The postcolonial government had to manage (disputing) ethnic or tribal groups living within arbitrary colonial boundaries in a postcolonial setting and managing the Bamileke conflict (the continuing nationalist struggles). By creating the authorisation to proscribe groups with a tribal or clanic character, the Ahidjo administration could better eliminate political and ethnic opposition and fully repress the nationalist movement (see Terretta 2013, 2014). However, although these proscriptions relied on the 'new' authorisations, the proscriptions also used authorisations from colonially-inherited proscription laws. Ministerial order no. 00000009/A/MINATD/CAD,

which proscribed the CACSC and SCNC, used law no. 90/053 of 19 December, 1990 on the freedom of association, and the 1967 Freedom of Association law also authorisation the proscription of groups which '[had] as their goal the endangering of the integrity of national territory or form of government.' This provides evidence that the colonially inherited authorisations still contain utility and political salience, and that the additional reason for proscription on the grounds of counterterrorism was not added because the pre-existing authorisations had lost any utility.

However, I do not argue that these 'new' authorisations are always ductile, because despite them facilitating new ways of maintaining rule within the colonial rationale, they do not meet all criteria for ductility. In the case of the 1967 Freedom of Association law, this authorisation may not have not been utilised for enough time, and has not yet had the opportunity to be transferred across administrations and regime types—especially in cases such as Cameroon, in which leaders remain in power for many decades. However, even this reason is limited. In the case of the 1967 Freedom of Association law and the proscription of groups due to their 'tribal or clanic character,' the succeeding Biya administration did not maintain the 'new' authorisation. Instead, the following freedom of association law in 1990 reverted back to the pre-existing, colonially inherited (ductile) authorisations. There was a shift in political context because Biya introduced multipartyism and the nationalist struggles had been mostly quashed, and ethnic tensions and disputes were mostly managed by a system of clientelism. However, the ambiguity terms 'having an exclusively tribal or clanic character' may have proven useful, yet from the data I was able to gather, the authorisation to proscribe tribal or clanic groups was not used again. In comparison, the similar authorisation to proscribe groups with the 'character of combat groups or private militias' is still used in contemporary Cameroon. An investigation into the origins of the 'new' authorisation was beyond the scope of this thesis, so this claim can be possibly refuted if it was used in the British-administered Southern Cameroons.

In contrast, the proscription of the CACSC and SCNC, supported by counterterrorism concerns *does* meet the criteria for ductility. Counterterrorism policy diffusion has occurred globally, notably because of the requirement to

introduce domestic legislation mandated by UN Resolution 1373 (for example, Neocleous 2008, Legrand 2021). In addition, there is an overwhelming literature critiquing the absence of a universal definition of terrorism for its illiberal conseuqneces, and of the ambiguity of the term terrorism (for examples, see Ahmad 2001, Imade 2021, Muller 2008, Stein 2003, Stump & Dixit 2013, Richards 2014). Finally, counterterrorism policy perpetuates a colonial rationale in several ways. First, it creates an exceptional duality in the legal system, because the Suppression of Terror law criminalises wrongdoings already punishable in the Cameroonian penal code (see Chapter II for detail). It aids in the centralisation of power because it has successfully repressed political opposition and dissent, notably the Anglophone civil society organisations and its leaders. It holds elements of militarism because of its employment of military courts to try wrongdoers. Critically, counterterrorism policy is in many ways also a colonial legacy because the requirement to legislate was mandated by neocolonial powers, and these powers perpetuate the colonial rationale by implicitly approving of illiberal consequences if the requirements of the neocolonial security agendas are fulfilled. Of course, the Suppression of Terror law is not a proscription law. This indicates, however, that the property of ductility is not unique to proscription legalese and could exist in other types of security instruments, insofar that the said instrument meets the criteria for ductility.

Considering why the Suppression of Terror law meets the criteria for ductility as in the colonially inherited authorisations, the notable similarity (not found in 1967 'tribal or clanic character' authorisation) is the role of implicit approval by the global and horizontal dimensions of the colonial rationale. In the case of colonially inherited authorisations, this legalese was inherited from the French administration which maintained close ties to the independent Cameroonian government and followed their style of assimilatory governance (Berman, Eyoh & Kymlicka 2004, p. 17). In addition, peer states were undergoing the same process and managing similar transformations. To Berman, Eyoh & Kymlicka (2004), African states were facing a 'quadruple transformation… [negotiating] ethnic diversity at the same time as they [were] building state capacity, democratising political systems and liberalising economic institutions' (p. 15). The close ties

between former colonial power and independent government, and the commonalities in political situations granted this implicit approval for the illiberal consequences of maintaining regime security and stability. The implicit approval of the illiberal consequences of counterterrorism legislating have been discussed extensively in Chapters I and II, notably globally by international organisations including the UN and FATF, and horizontally through mutual evaluations systems such as GABAC. These structures of implicit approval are colonial because they facilitate a governance within the colonial rationale: that protects elements that ensured the stability of the *colonial* administration, not elements that protect a democratic, liberal state, making ductility a colonial legacy.

V. Conclusion

My research argues that proscription should be conceptualised as a colonial legacy, rather than the product of post-colonial governments or the post-9/11 counterterrorism security paradigm. This is evident for two reasons. First, because the proscription laws themselves were imported into French Cameroun by the colonial administration. Consecutive governments, including after independence, maintained the same colonial proscription laws, and the legalese remained unchanged or was transferred into new proscription instruments. Second, proscription regimes in Cameroon are a colonial legacy because the proscription laws that were inherited, consolidated, and strengthened have perpetuated a colonial-style of governance. This occurred because the inherited legalese that authorises proscription is ductile. The authorisations limit what merits protection to regime security. Despite the flexibility of this legalese that enables it to be transferred temporally and spatially, and used by any legislator, it is a rigidised flexibility: it protects elements that ensured the stability of the *colonial* administration, not elements that protect a democratic, liberal state. Because these authorisations have remained largely unchanged, they have facilitated and enabled Cameroonian leaders to justify ruling within the colonial rationale, and to use proscription as a critical tool to pursue this style of governance.

CHAPTER V

Conclusion

Throughout this thesis, I presented a theory that conceptualises proscription regimes as colonial legacies, rather than the products of postcolonial governance or the global response to the attacks of September 11, 2001. To develop such a theory, my first chapter constructed a theoretical framework premised on Fatima Alzubairi's (2017, 2019) framework of the imperial-colonial rationale (the 'colonial rationale'). I presented my concept of ductility as a property of law which serves to facilitate the ability to rule within the colonial rationale. As such, my arguments have the following implications:

First, the genealogy I presented in Chapter III found that the authorisations for proscription have remained largely unchanged since their importation into Cameroon by the French colonial administration. These authorisations specify what elements need protecting by the state, and therefore what is deemed threatening to those elements. The designation of threat is therefore limited by legalese. If this legalese does not change, as in the case of Cameroon, there is little hope of shifting what is defined as threatening. Because the legalese is colonial, then the threat will

be what challenged the colonial state, and in a world of many 'new' threats—climate change, the Russian-Ukrainian war, cyber insecurity, climate migration—states should not be identifying threat based on what was threatening to France in the 1950s. The French colonial administration focused on threats to internal security—a focus which is incompatible with the prioritisation of the security of state citizens. Citizens become a threat to national security, and this focus is perpetuated into current security politics.

Second, this work conceptualises proscription and its illiberal consequences as historical *and* modern colonial legacies, because colonial and neocolonial influences both facilitate the ruling within the colonial rationale. In Chapter IV, I argue this because the Suppression of Terror law also fit the criteria of a ductile law, and it is not inherited from French colonialism unlike the other ductile laws I considered. Because the concept of ductility provides specific criteria with which to evaluate laws, my analysis could recognise that the implications of both policies are the same: to facilitate governance within the colonial rationale. By extension, I can posit that neocolonial legacies are at least as effective as colonial legacies at perpetuating the colonial rationale.

Third, Chapter II outlined two dimensions of the neocolonial perpetuation of the colonial rationale: the global and the horizontal or peer-state. These dimensions create systems that implicitly approve of ruling within the colonial rationale and its illiberal consequences if the illiberal laws adhere to the security agenda of neocolonial powers. My findings point to the structural consequences of international security's governance, in which western states are centralised as 'security makers' and non-western states are forced to align to their pre-existing legal and political norms. The thesis illustrates the need to reconsider the utility of systems of mutual evaluations that measure state compliance to UNSC Resolution 1373.

This leads naturally into areas for further research. Although I take my analysis of French colonial influence as good evidence to believe my arguments, I do not take this thesis to contain a full view of the colonial legacies of proscription in Cameroon. Simply, it was far was beyond the scope of the thesis to also evaluate

the British and German colonial influences, which limits my argument. My study is in service of my primary aim: to develop a framework that conceptualises proscription as a colonial legacy, and I consciously tempered claims that, for example, an authorisation was entirely 'new,' a British or German colonial origin might be found that challenges my argument. My choice to inquire into French colonial influence was motivated by the Anglophone movement against the 'francophonisation' of the reunified Cameroons and strong evidence I found in my initial case study research. In addition, there is some existing research of the British origins of proscription already, notably by Tim Legrand and Lee Jarvis.

Likewise, another limitation is that ductility was only examined and theorised in the context of Cameroonian proscription law. The focus on proscription law was motivated by the significant increase in proscription legislation after the War on Terror and the promulgation of UNSC Resolution 1373. The case of Cameroon presented an anomaly because proscription had been used extensively since the colonial period, and the Suppression of Terror law – the law enacted in response to Resolution 1373 - only occurred in 2014, thirteen years after September 11. Consequently, the two claims I make about the ductile properties of proscription instruments in Cameroon – that the authorisations for proscription perpetuate ruling within the colonial because the legalese that comprises them is ductile, and that ductility is a colonial legacy – is informed by the Cameroonian colonial context. A significant area for possible research is therefore to continue refining the concept of ductility in variable legal and colonial contexts. This invites a future comparative analysis with, for example, states that were not colonised, to better evaluate the colonial versus neo-colonial influences that motivate the maintenance of colonial proscription laws and legalese.

I also do not take this thesis to assert that the ductile properties of proscription laws are the sole drivers of the continued use of proscription for illiberal purposes in Cameroon. It was beyond the scope of the thesis to investigate competing theories, such as ineffective governance, path dependency, or strategic self-interest. This thesis instead presents rigorous genealogical evidence in services of its aim to conceptualise proscription as a colonial legacy. However, my findings in Chapter II that the colonial rationale is mediated along the domestic, global, and

horizontal or peer-state dimensions offers a starting point for consideration of these competing theories. For example, consider GABAC, the mutual evaluations system I presented in Chapter II. By promoting the compliance of Cameroon to UNSC Resolution 1373, and excusing the illiberal proscription of Anglophone civil society groups, peer-states approve of, and facilitate, legislation by states that aims to secure the regime security of leaders. Further research of such implicit approval presents an avenue for a study of strategic self-interest or agent-centred analysis as other possibilities that explain the longevity of proscription.

A more thorough inquiry into the economic relationships between France, Britain and Cameroon would strengthen and better develop the concept of ductility. Out of the four mechanisms of the colonial rationale, it was beyond the scope of the thesis to inquire deeply into economic expansion and reform, because I chose to reorientate this focus onto neocolonial influences. By comparing colonial and neocolonial economic relationships, we could better evaluate the strengths of the three dimensions that mediate the colonial rationale.

Finally, there is a rich area of research in the horizontal or peer-state dimension of the colonial rationale. More research could understand if this relationship is exclusively regional or would also function between similar states that are geographically distanced. By analysing the mutual evaluations reports of all peer-states in GABAC, a possible transnational function might be found if the mutual evaluations protect the authoritarian ambitions of leaders in all members of the group. In this thesis, I hope to have contributed to the literatures on proscription and its illiberal consequences. I explored the interweaving tensions between the struggles of postcolonial governance, the struggle for self-determination and the soft-power influence of neocolonialism. I constructed a framework which considers proscription laws as legacies of colonialism insofar that they facilitate governance within the colonial rationale and, consequently, prioritise the security of the state over that of its citizens. It is my ambition that this framework reconceptualises the utility we attach to proscription laws as instruments of counterterrorism and national security, because they limit the possibility of governance that respects democracy, the freedom of expression, and self-determination.

Appendix

Table I: authorisations for proscription in Cameroon

Period	Law	Target/reference	Authorisation	Function
Colonial (French Cameroun)	Law of January 10, 1936 on Combat Groups and Private Militias	UPC	• Territorial integrity • Provoke armed demonstrations • Character of combat groups or private militias • Attack the republican form of government	Proscription
Colonial (French Cameroun)	Law of July 29, 1881 on Press Freedom	Anti-colonial, nationalist, or African journalists	• Public peace • Propagation of false information • Defamation	Pre-publication censorship, proscription.
Colonial (French Cameroun)	Law no. 55-35 of May 27, 1959 on Press Freedom (copy of 1881 Press Freedom law)	Anti-colonial, nationalist, or African journalists	• Public peace • Propagation of false information • Defamation	Pre-publication censorship, proscription.
Post-independence (Ahidjo)	Law 59/3 of May 27, 1959 on the maintenance of Law and Order	UPC	• Association is considered a threat to public order • Association incites threats to public order	Emergency legislation
Post-independence (Ahidjo)	Ordinance No. 60/52 of 7 May, 1960 on the State of Emergency	UPC	• Territorial integrity • Provoke armed demonstrations • Character of combat groups or private militias • Attack the unity, security, or republican form of government • Undermine territorial integrity	Emergency legislation

Post-independence (Ahidjo)	Law no. 66/LF/13 of December 21, 1966 on Press Freedom Amended five times: Decree No. 69/LF/13 of November 13, 1969; Decree No. 73/6 of December 6, 1973; Decree No. 76/27 of December 14, 1976; Decree No. 80/18 of July 14, 1980; and Decree No. 81/244 of June 22, 1981.	Critical independent media	[law not found].	Pre-publication censorship
Post-independence (Ahidjo)	Law No. 67/LF/19 of June 19, 1967 on the Freedom of Association.	Ethnic opposition groups	• Associations having an exclusively tribal of clanic character • Set up for an illicit cause of objective, contrary to the laws or good customs • Have as their goal the endangering of the integrity of the national territory or form of government	Proscription
Post-independence (Biya)	Law No. 90/056 of 19 December, 1990 relating to Political Parties	UPC, MRC, SDF, CPP	• Undermine the territorial integrity • Undermine national unity • Undermine the republican form of the state, national sovereignty, and national integration • Advocate the use of violence and envisage the form of a military or paramilitary organisation • Receive subsidies from abroad	Proscription

			• Promote belligerence between components of the nation or between countries.	
Post-independence (Biya)	**L**aw No. 90/052 of 19 December, 1990 relating to the Freedom of Mass Communication	UPC, MRC, SDF	• Breach of the public order	Pre-publication censorship
Post-independence (Biya)	Law No. 90/053 of 19 December, 1990 on the Freedom of Association.	Critical independent media	• Operate contrary to the Constitution • Undermine security, unity or national integration • Disturbs public order • Conflicts with public policy; public order, health, and morals; national security • They have not completed the necessary formalities • Defamation	Proscription
Post-independence (Biya)	Law No. 90/47 of December 19, 1990 relating to the State of Emergency	Political opposition	• Territorial integrity • Provoke armed demonstrations • Character of combat groups or private militias • Attack the unity, security, or republican form of government Undermine territorial integrity	Emergency legislation, proscription

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