

## Maintenance of Peace and Order and the Enforcement of the Rule of Law by the State During the Ghost Town Operation in Kumba

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### **Abstract**

*The aim of this paper is to analyze the maintenance of peace and the rule of law by the state during the ghost town operation in Kumba. Notwithstanding all legal mechanism put in place to ensure that administrative authorities and the forces of law and order maintain peace and enforce the rule of law during situations that peace and order is perturbed, these authorities still fail. The resultant effect is that, public peace and the rule of law which are important tenets in every society are lost and this gives rise to anarchy. The objective of this paper is to examine the legal framework for the maintenance of peace and the rule of law, the main actors for peace enforcement as well as the aspect of requisitioning. The Methodology employed in this work is mainly empirical in nature and based on observation and experience. We also supported this methodology with the doctrinal research methodology that permits us to analyze various laws related to the field of study. Our findings reveal that, despite the measures put in place by the state to ensure the maintenance of peace and the rule of law during the ghost town operation in Kumba, there was still much failure on the part of the administrative authorities as well as the forces of law and order. We however recommend that, administrative authorities and the forces of law, order should always act fast before situations perturbing peace, and the rule of law goes beyond their control and competence.*

**Keywords:** Enforcement, Peace, Rule of Law, Ghost Town, Administrative Authorities

### **Introduction**

The enforcement of peace and the rule of law by the state is the responsibility of governmental services on behalf of the state. These services include; the administrative services, the forces for the maintenance of law and order and the judicial services. In the case of the ghost town operation in Kumba which commenced in February 2008. Regarding the administrative arm, the burden of this responsibility to enforce peace and the rule of law rested on the shoulders of the then S.D.O.<sup>2</sup> for Meme Division and the then D.O.<sup>3</sup> for Kumba central sub-division. For the forces for the maintenance of law and order, the police and the gendarmerie shouldered this responsibility under the authority of the then central police commissioner, and the then gendarmerie company commander.

As for the judiciary, the responsibility was that of the then president of the Meme High Court of blessed memory, the then president of the Kumba court of First Instance and the Learned State Counsel.

### **The Legal Framework for the Enforcement of Peace**

The legislative arm of the government puts in place the legal basis for the enforcement of peace. The state has equally put in place the necessary laws to assist the major stakeholders involved in the enforcement of peace.

Decree No 2008/377 of 12 November 2008 stating the responsibilities of heads of administrative units and that relating to the organization and functioning of their services, places the

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<sup>2</sup> SDO is the abbreviation for Senior Divisional Officer. He stands highest in hierarchy within a Division.

<sup>3</sup> DO is the abbreviation for divisional officer. He is the administrative head in a sub-Division.

forces for the maintenance of law and order at the disposal of the administrative authorities for use in conformity to the related text.<sup>4</sup>

On the other hand, Law No. 90/054 of 19 December 1990 relating to the maintenance of law and order, puts the administrative authority at the central stage. This law lays down the powers of administrative authorities in matters of peace maintenance. It clearly stipulates that the administrative authority must at all times and depending on the circumstances take the following measures within the framework of the operation for the maintenance of law and order, that is, the enforcement of peace:

- Control the movement of persons and goods;
- Requisition persons and goods according to the law;
- Requisition the police and gendarmerie to maintain or restore order;
- Take measures to detain persons for a renewable period of 15 days in order to fight banditry.<sup>5</sup>

Note that this particular power of 15 days of detention is the prerogative of the S.D.Os only, the D.Os do not have this competence. The administrative authorities are therefore supposed to collaborate with the heads of the forces for the maintenance of law and order when public order and peace is at stake, jeopardy or highly menaced and perturbed. In this wise, they have to call for the intervention of the police and the gendarmerie and at times the penitentiary service to restore peace in line with the texts in force.<sup>6</sup> These are the forces of the first category with the main role the enforcement of peace as their primordial mission. Note that the police and the penitentiary are civilian forces.

Apart from the above decree and law, it is of paramount importance to x-ray an arsenal of laws that guide the conduct of the administrative authorities and the forces for the maintenance of law and order during periods of public disturbance. They include the following:

- Law no. 90/047 of December 19th, 1990, relating to the state of emergency;
- Law no. 68/LF/4 of 11<sup>th</sup> June 1968, bearing on the regime of requisition;
- Law no. 90/055 of December 19<sup>th</sup>, 1990, to law down regulations governing public meetings and processions;
- Decree no. 70/DF/264 of 4<sup>th</sup> June, 1970, relating to the internal security of the state;
- Decree no. 78/485 of 9<sup>th</sup> November 1978, fixing the powers and duties of the heads of the administrative units and structures and those appointed to assist them in the exercise of their duties as amended by Decree no. 2008/377 of 12 November,2008;
- Presidential instructions Nos. 02 and 12/CAB/PR of the 8<sup>th</sup> and 12 August, 1963.

### **The Main Actors for Peace Enforcement**

The main actors in the enforcement of peace are the administrative authorities and the forces for the maintenance of law and order. In the case of the Ghost Town Operations in Kumba that started in February 2008, the main actors included the S.D.O. of Meme Division, the D.O. of Kumba central Sub-Division and the territorial services of the police and the gendarmerie within Kumba town. That is to say, the Central Police Station and all its ancillary services: the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> District Police Stations of Kumba town, Fiango and Mbonge Road. The Gendarmerie Company and the

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<sup>4</sup> Article 54 of Decree No 2008/377 of 12 November 2008 stating the responsibilities of heads of administrative units and that relating to the organization and functioning of their services.

<sup>5</sup> Chapter 2, Section 2 of Law No. 90/054 of 19 December 1990 relating to the maintenance of law and order.

<sup>6</sup> These are mainly Decree No 2008/377 of 12 November 2008 stating the responsibilities of heads of administrative units and that relating to the organization and functioning of their services and Law No. 90/054 of 19 December 1990 relating to the maintenance of law and order.

Gendarmerie Brigade at up station Kumba. The “Peloton” service and the Penitentiary Service at up-station Kumba. By virtue of Decree No. 2008/377 of 12 November 2008, the forces for the maintenance of law and order are placed at the disposal of the administrative authorities for use<sup>7</sup> in conformity to Chapter 2, Section 2 of the Law on the Maintenance of Law and Order. This law lays down the powers of the administrative authorities in matters of the enforcement of peace, especially when it is perturbed like in the case of the ghost town operation in Kumba.

The forces for the enforcement of peace are immediately requisitioned by the administrative authorities in conformity to Section 2 of the above-cited law. Requisitioning was important in this particular case because the manifestation had gone wild with massive destruction of property especially governmental services and structures were burnt down and state money looted from some of them like the Meme Taxation centre and the Meme Divisional treasury where huge sums of money was looted. The amounts looted in those two offices were not disclosed to the public for reasons known to the government.

**Figure 1.2 Destroyed Taxation Centre Meme, Kumba**



Source: From author’s personal archives

**Figure 1.3 Destroyed Divisional Treasury, Kumba**



Source: From author’s personal archives

### **The Administrative Services**

The local administration in Kumba at the time had a major role to play to restore peace. They are the major actors because they put in motion the forces for the enforcement of peace to act. Without them, the forces are powerless especially in cases that degenerates and destruction takes central stage. The then S.D.O .and the D.O. should have been present with the forces to restore peace.

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<sup>7</sup> Article 54 of Decree No. 2008/377 of 12<sup>th</sup> November 2008.

The S.D.O. would have been the one to take the responsibility to sign the requisitions. Most often, all three types of requisitions are signed and handed to the forces but on the contrary, most administrative authorities are afraid to shoulder the responsibility alone. Most do not want to lose their positions.

It is alleged the then S.D.O. of Meme did not sign any requisition at all rendering the local police and gendarmerie powerless as they could not act leaving them with no option than to retreat to their respective bases to defend their offices that were equally targeted for attacks and destruction.

### **The Police**

The police are one of the forces in the enforcement of peace and in the case of Kumba, they were called upon to maintain peace and order. The maintenance of law and order is the traditional duty of the police and this makes them to be on permanent requisition to restore peace whenever it is disturbed.

The law provides that for the police to use arms in the maintenance of law and order they must be duly requisitioned in conformity with Law no. 68/LF/4 of 11 June 1968, bearing on the regime of requisition. What then is a requisition? A requisition is simply a written document addressed by an administrative authority to the forces for the maintenance of law and order to intervene in the enforcement of peace when it is perturbed or jeopardized. This is usually done in a manifestation that goes off-hand and becomes very destructive as was the case of the Kumba Ghost town operation.

This may likely necessitate the use of firearms by the forces for the maintenance of law and order. This is a major prerequisite for the usage of firearms. This accounts for the fact that despite the attack on the Special Branch Police Station of Kumba and the Fiango Police Post, the police with all the arms at their disposal could not defend their structures because they could not act *ultra-vires*. The then S.D.O. did not give them a duly signed “Special Requisition” that permits the use of the fire- arms. Consequently, they were using persuasive, dissuasive and preventive measures to quell down the rioting. Their efforts were very feeble as the crowd overpowered them burning down structures at the vicinity of the central police station Kumba like the Meme Divisional Taxation Centre and the Meme Divisional Treasury where state money was kept. These are sensitive point needing protection by the state but this failed. State authority was dragged to the mud as the safe of the Meme Divisional Treasury was shattered and forced opened with hammers and money looted. The rioters were fighting one another for money when they forced opened the safe. All the police officers retreated to their base to defend their offices. Despite that, the rioters succeeded to burn down the Special Branch Police Station as the police men watched helpless because they couldn’t use their fire- arms as they had no special requisition from the then Meme S.D.O.

In addition, it is widely intimated that they had instructions from their hierarchy that they should not use arms. You must certainly ask why the authority did not give them the power? Was it because the said authority was ignorant of the disposition of the law or was that bad faith? This question is answered later in this paper.

### **The Gendarmerie**

The gendarmerie is also one of the forces charged with the enforcement of peace and the maintenance of law and order. The gendarmerie company of Meme was involved as one of the main stakeholders to maintain peace during the ghost town operation in Kumba in February 2008. Like the police force, the gendarmerie also has as traditional mission the restoration of peace when it is disturbed.

They too can only use firearms as part of their “*modus operandi*” only with a duly signed requisition from the competent administrative authority. That is, the S.D.O. of Meme in this case. They too like their colleagues of the police had not any requisition. This rendered them powerless as

they too retired to their base to defend the gendarmerie company. The then company commander for gendarmerie defended his service by shooting several times in the air. This was however against the law because shooting with blank cartridges or in the air is forbidden in the routine maintenance of law and order or the enforcement of peace, by chapter 3, section 3(2) of Law No. 90/054 of 19 December 1990, Relating to the Maintenance of Law and order.<sup>8</sup>

### **The Different Categories of Forces for the Enforcement of Peace**

As aforementioned, the police and the gendarmerie are territorial services who are major actors in the enforcement of peace and the maintenance of law and order. They do this after receiving instructions from the administrative authority. In the routine maintenance of law and order, that is, when peace has not been disturbed or perturbed, they act without any instruction since this falls within their normal daily assignment.

However, in the circumstances and situations that peace and order is at stake and destruction has become the order of the day like the case in Kumba, they definitely need to act using a duly signed requisition. This is what gives them the authority to use firearms. This section is meant for the reader to understand why it was the army that came from the Tombel army unit to restore order and peace in Kumba meanwhile the local competent forces couldn't handle the situation that degenerated with each passing minute.

#### **The First Category Forces**

These are forces, whose major and main role is the enforcement of peace or the maintenance of law and order. They include the police and the gendarmerie that are territorially competent. In the case at hand, they are the central police station and all the district police stations, the gendarmerie company and the gendarmerie brigade. The police have territorial competence within the urban centers while the gendarmerie acts outside the urban centers. But in terms of the enforcement of peace, both services are competent to act within the urban periphery.

#### **The Second Category Forces**

The second category of forces are those forces that are deployed in times of serious problems. Mostly in situations where the first category of forces is unable to handle and when it goes beyond the capacity of the first category forces. This was the case in Kumba. These services in big cities include; For the police,

- The Mobile Intervention Unit (G.M.I.);
- The Special Rapid Intervention unit (E.S.I.R);
- The Special Operation Regiment (G.S.O) and

For the gendarmerie,

- The “*Peloton*,” and
- The *Escadron Mobile D’Intervention*.

Note that Kumba had only the “Peloton” that took charge to defend the up-station, which is the seat of the government in Meme Division because the S.D.O. and the D.O. are all resident there. The Divisional Office down town had been burnt and the crowd was threatening to move towards the up-station to burn down the office of the S.D.O. and even his residence.

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<sup>8</sup> It provides that shooting with blank cartridges or in the air shall be forbidden.

**Figure 1.4 Destroyed D.O's Office Kumba Central Subdivision**



Source: From author's personal archives

### **The Third Category Forces**

The third category of forces is the force that does not fall within the two previous categories. They can be mobilized only in cases of grave danger and in cases that are above the 1<sup>st</sup> and 2<sup>nd</sup> category forces to handle. That is, chaotic and anarchical situations. The third category of forces therefore are the army, that is, the military composed of the land, air and sea forces (Infantry, artillery and naval), they also include the Rapid Intervention Battalion (BIR).

After the Head of State had undermined the situation, the entire nation was gradually grinding to a halt as seven out of the ten regions were already deep right up to the waist level in the ghost town operation. If the situation was left uncontrolled, the entire nation would have been engulfed in this spiral of demonstrations and riots. The damages caused to the state economy were enormous and the eroding of state authority was catastrophic. Yaoundé, the capital was threatened and the Head of State had no option than to make a state declaration ordering the forces to use “force” and restore order by all possible means. This meant that the forces could use their firearms without any requisition and this ushered the killing of many youths in big towns. In Kumba, three youths were killed, when they were shot down by the army unit from Tombel. It was in the wave of these shootings and killings that order was finally restored. Most of the later actions of the forces no longer respected the law on the maintenance of law and order. These orders were meant to enforce peace and restore the rule of law at all cost.

### **Types of Peace Enforcement**

There are generally three types of recognized peace enforcement namely, preventive, active and re-enforced peace.

#### **Preventive Maintenance of Order**

The preventive maintenance of law and order occurs in normal situations where there is no disturbance of peace. That is, the regular forces for the maintenance of peace or the enforcement of peace go about their normal routine assignments without any worry. The police and the gendarmerie go about their routine assignments normally: that is, they keep the peace by doing regular normal patrols, control and check vehicles, control traffic in large towns, carry out investigation of cases sent to them by the state counsel and so on.

#### **The Active Maintenance of Order**

The active maintenance of order involves a situation where peace and order has been disturbed and the forces are requested to come in and restore peace and order. The peace and order that has been disturbed has not degenerated to the extent that destruction takes central stage, hence the disturbance

of peace is not violent and destructive and the intervention of the forces is not met with violent and stiff confrontation. Active maintenance of order therefore involves a situation where the forces are actively in the field trying to restore peace but they meet with little or no resistance that they finally enforce peace without any major headache or loss of property and life.

### **The Re-enforced Maintenance of Order**

The re-enforced maintenance of order is a situation where peace has been greatly jeopardized and the forces for the maintenance of law and order find it difficult to restore peace because they meet with stiff resistance and confrontation in the act of restoration. In short, this is a situation where there is total disorder and anarchy as the case of the ghost town operation in Kumba in February 2008, where the forces found it difficult to restore peace as the crowd was wild, violent and very destructive. This type of maintenance of order if care is not taken often lead to loss of lives and property like in the Kumba case.

### **Requisition and Competent Authorities**

The use of the firearm, in the routine maintenance of order according to Law no. 90/054 of December 19, 1990, relating to the maintenance of Law and order is forbidden. This is stated at chapter 3, section 3(1) of the above-mentioned law which reads: “The use of arms shall be forbidden in routine operations for the maintenance of law and order....shooting with blank cartridges or in the air is forbidden.” However, tear gas, batons and other similar instruments may be used in case of the need to restore law and order.

The above section notwithstanding, the legislator has provided for the circumstances whereby the use of firearms is authorized by the administrative authority. This is provided for in section 4 of the above law, which states: “Notwithstanding the provisions of Section 3(1) above, the use of arms may be authorized by the administrative authority in the following cases:

- (a) When force and serious and widespread interference are used against the forces of law and order and
- (b) When fire- arms are used against the forces of law and order.”

In both cases, the use of arms shall be allowed only if the forces of law and order cannot defend themselves otherwise and only after several warnings through a loud speaker or any other means. However, arms may be used without requisition against persons involved in organized crime or against armed rebel groups. This is the case in the Far North region against the Boko Haram rebel group of Nigeria. The military is totally engaged in defending the territorial integrity of the nation by ensuring the security of its citizens through the enforcement of peace.

Despite the above provisions cited in Section 4(1a, b) and 4(2), fire- arms cannot be used without a duly signed and adequate requisition. Adequate in the sense that the requisition must be the type provided for by the law to use arms, that is a “special requisition” otherwise, the law catches up with the culprits. Note that sanctions are provided in chapter 4, section 6 of this same law with the penalties provided for in section 275<sup>9</sup> of the penal code. Therefore, what are requisitions and how are they used and who is competent to requisition?

Requisition according to the Cambridge Advanced Learners Dictionary,<sup>10</sup> means “to officially request or take,” for example, the army requisitioned all the cars and trucks they could find.

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<sup>9</sup> Section 275- “you must not kill”. The Cameroon penal code stipulates in section 275 that “whoever caused another’s death shall be punished with imprisonment for life.”

<sup>10</sup> Elizabeth Walter., (2008) Cambridge Advanced Learners Dictionary, 3<sup>rd</sup> Edition, Cambridge University Press, United Kingdom, P.1079.

Roberts's dictionary equally defines requisition as a written act in which a public authority assigns a particular mission to a military authority in the domains of law and order or the domains of the judicial police.

To the military, a requisition is a written request from the civil authority that puts into action the military in the domain of the maintenance of law and order. It is a vital legal instrument that permits the civil authority to request the assistance of the forces in certain circumstances when public peace and order is menaced, in order to permanently accomplish this primordial mission as an administrative authority to wit:

- The protection of persons and their property;
- The preservation of the security of the state;
- The maintenance of law and order be it preventive, active or operational and re-enforced;
- The establishment of public order when it is in disarray.

A requisition must imperatively follow a particular form and procedure and addressed to a competent military authority from a competent civilian authority giving him a particular legal mission that must be precise with a concise deadline. Note that all requisitions must be written, signed and dated and must respect the territorial competence of the two parties, that is to say, the civilian authority emitting the requisition on the other hand and the military authority receiving the requisition on the other hand, known in French as "*l'autorite requerante et l'autorité requise*." As earlier mentioned, the legal Framework for requisition is law no. 68/LF/4 of 11<sup>th</sup> June, 1968, on the Regime of Requisition.

### **The Principle of Requisition**

There are three main principles that must be respected in the cadre of the maintenance of law and order when requisitions are involved namely:

- The mission of civil defense in the maintenance of law and order or enforcement of peace is incumbent on the administrative authority that is responsible for its preparation and putting in place of the corresponding measures.
- The administrative authority can only bring in the military by virtue of a requisition. Note that the forces of the 1<sup>st</sup> category, that is the police and the gendarmerie are on permanent requisition by the administrative authority.
- The execution of requisition falls equally on the shoulders of the military authorities who are the only ones as technicians to judge the circumstances and means.

The other forces of the 2<sup>nd</sup> and 3<sup>rd</sup> categories intervene in the maintenance of order only on requisition by the competent civil authority. Equally, the civil servants of the penitentiary administration can be used in specific situations. This relates to article 2 of Decree No. 92/054 of 27/03/1992, on the Special Statute of the Civil Servants of the Penitentiary Administration, which states: "Required to carry weapons and wear uniforms, prison administration officials are part of the civilian elements responsible for maintaining order within prison establishments."

### **The Civil Authorities Bestowed with the Powers to Requisition**

Not all the administrative authorities are competent to requisition the military to restore law and order. The law limits these powers to the Senior Divisional Officers, the Regional Governors and the Head of State. The Divisional Officers do not have the competence to requisition the military despite the fact that some Divisional Officers do commit this error in places where the military bases are implanted under their jurisdiction such as Tombel and Ekodo-Titi Sub-Divisions in the South West Region.



This is completely against the text and any problem that crops up in the course of the exercise is shouldered by the boss of the military. The authorities bestowed with the powers to requisition the military are:

- The Head of State, commander- in- chief of the armed forces, competent to mobilize without requisition all the forces of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> categories in the situation of an invasion or war and in the situation of a generalized uprising putting into peril the integrity of the state. A good example of such instances is the case of the ghost town operation in February 2008 and the present case of the Boko Haram of the Northern part of Cameroon.
- The Regional Governors, with delegation of powers from the head of state or without delegation of powers from the head of state in cases of absolute necessity with an immediate “*compte- rendu*” to the Head of State. Here, the Head of State uses the Legion Commander of the Gendarmerie and the Military Regional Commander.
- The Senior Divisional Officers, with delegation of powers from the Regional Governors or without delegation of powers in cases of absolute necessity with immediate “*compte- rendu*” (account) to the hierarchy. Here the military authority receiving the requisition is the Company Commander for the Gendarmerie and the Commander of any military unit found within his area of competence. In the current case of the ghost town operation in Kumba in February 2008, it should be the S.D.O. for Meme and the Company Commander for the gendarmerie, Meme in Kumba and the “Peloton.” As reiterated earlier, the Divisional Officers are not given this competence to requisition the forces of the 2<sup>nd</sup> and 3<sup>rd</sup> categories unless they pass through their boss the Senior Divisional Officer.

Note that, a requisition is a must when arms have to be used in the enforcement of peace and it must be correctly used otherwise, law no. 68/LF/4 of 11<sup>th</sup> June 1968 on requisition provides for sanctions. The following should be taken note of as far as requisitions are concerned:

- Two parties are involved. The civil authority on the one hand (the emitter of the requisition) and the military authority on the other hand (the receptor of the requisition);
- A request formulated in the form of an instruction from a competent civil authority to a competent military authority;
- Has a definite procedure, content and form;
- Must imperatively be written, dated, and signed by the competent civil authority respecting the territorial competence of the two parties;
- The request or instruction must be precise with a legal mission and definite deadline.

**Table 1: Civil Authority (Administrative Authority)**

<b>The Civil Authority</b>	<b>The Requisition</b>
Emitting authority of the requisition: 1. The Governor 2. The S.D.O.	-Must be legally competent; -Must follow the procedure; -Mission requested must be legal, precise within a deadline, i.e., time frame; -Must be written, dated and signed; -Must respect territorial competence of both persons

**Table 2: Military Authority (Forces of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Categories)**

The Military Authority	The Requisition
1. Receptor of the requisition; 2. Legion commander gendarmerie; 3. Military regional commanders; 4. The company commander gendarmerie; 5. The <i>peloton commander</i> ; 6. The <i>Escadron commander</i> ; 7. The <i>ESIR commander</i> ; 8. The <i>G.S.O. commander</i> etc	-Verifies the competence of the emitting civil authority; -Verifies the procedure, form and content in conformity to the Law No. 68/LF/4 of 11 <sup>th</sup> June 1968. -Verifies the legality of the instructions or request as per above cited law, its precision and time frame; - Ensures that the request is written, dated and signed by the competent civil authority; -Ensures the respectability of territorial competence of both the civil and the military authorities.

### The Different Types of Requisitions

The law provides for three types of requisitions namely, general requisition, particular requisition and special requisition.

- i. **General Requisition:** This type of requisition is used in normal situation when there is no trouble, that is, there is no breach of public peace and order and the forces go about their normal routine duties. It constitutes a preliminary major for the future mobilization of the troops as provided in the general protection plan (provisionary measures).
- ii. **Particular Requisition:** Particular requisition is necessary when there is a breach of public peace and the forces are requisitioned to restore the enforcement of order. It has as objective to request the troops with a precise and definite mission within a given time frame. However, in case of urgency, that is, “*force- majeure*”, it is not necessarily preceded by a general requisition because it renders legitimate the displacement of troops and the use of “tear gas grenades, rifle butt shots, batons and other similar instruments” but it does not suffice to permit the use of arms.
- iii. **Special Requisition:** Special requisition is used when situations are out of control and the forces of law and order cannot control the situation. That is to say, the situation becomes violent and destructive like the case of the ghost town operation in February 2008. It has as main objective the use of arms in extreme violent situations where law and order are at peril and all other measures have been exhausted.<sup>11</sup>

### Sanctions on M.O. and Requisitions

Law No. 90/054 of 19/12/1990 on the Maintenance of Order provides for sanctions on its non-respect contained in section 5. It provides that, offences committed in violation of the provisions of section 3(1) and 4 shall be punished with the penalties provided for in section 275 of the penal code.<sup>12</sup> Even the law simplifying the criminal procedure in respect of some offences that is law No. 90/045 of 19/12/1990, equally provides for sanctions.

<sup>11</sup> Sections 4(2) and 5 of Law No. 90/054 of 19 December 1990, on the Maintenance of Law and Order.

<sup>12</sup> Section 275 of the Penal Code of Cameroon is on Murder, which is a felony punished with life imprisonment.

Sanctions for the non-respect of the law on requisition are also provided in in same and are punishable by Articles 128<sup>13</sup> and 129<sup>14</sup>.

The illegal displacement and employment of the forces and the non-respect of a requisition by the forces (for example a commander who refuses to execute a requisition from an administrative authority) is sanctioned by Article 10 of Law no. 68/LF/4 of 11/06/1968 (JORFC 1968, P.30 *suplementaire*).

### **The Enforcement of the Rule of Law by the Government**

The role of the government in enforcing the rule of law is very paramount. This is done through the services of the judiciary and those called upon to implement the laws. The gendarmerie and police services are also major stake holders like the judiciary in the implementation of the rule of law. The independence of the judiciary in this respect is very important. How the independence of the Cameroonian judiciary is a mere sham especially as all judicial officials are appointed and relieved of their functions by the executive.

The National Judicial Council is headed by the Head of State and head of the executive. This makes the judiciary in Cameroon answerable to the executive that appointed them, thus the independence of the Cameroon judiciary is just a mere slogan and for the rule of law to be very effective, the judiciary should have absolute independence.

Another factor that dampens the rule of law in Cameroon is corruption. The fight against corruption spearheaded by The National Commission on Anti-Corruption (CONAC) and the Operation Sparrow-Hawk has made some remarkable strides but the gangrene is still very persistent in our system. Much work still needs to be done as far as the fight against corruption is concerned. The heads of the police and the gendarmerie are also appointed by the executive. Cameroon is in a system where the executive wields extra-ordinary powers.

Another tenet of the rule of law is that the law should apply to all its citizens, that is, there should be no bias, fair treatment of all before the law, the presumption of innocence. No arbitrary arrest and long detention without fair trial. Mbu, A.N.T,<sup>15</sup> talks about the rule of law in Cameroon as “no one is entitled to take the law into his hands.” This is an abridged argument by a democratically elected government; its meaning is that there is no moral right to disobey the law. In fact, in America the statement may be put thus; representative government affords the opportunity to secure redress the of grievances and the constitution secures enormously wide opportunities to speak, publicize, persuade, and demonstrate without undermining the force of law.

There is no objective that out-weighs the rule of law in a community governed by law. The rare cases are when there is no freedom of speech and representative government; then the rule of law may justifiably permit disobedience to the law.” Furthermore, Mbu, A.N.T, expounds on the rule of law and argues that, “we in Cameroon are in a state of law”. All that it means is that the state is not lawless and that there is equality before the law for everybody. These are the essential principles of the rule of law. The law must have a material content applicable to every citizen in any given

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<sup>13</sup> Article 128: The illegal displacement and employment of the troops is punished by imprisonment of 3 to 10 years and a fine of 20,000 CFAF to 200,000 CFAF.

<sup>14</sup> Article 129; non-respect of requisition by the forces: is punished by imprisonment from 6 months to 2 years. A commander of the forces who refuses to execute a requisition from the administrative authority.

<sup>15</sup> Mbu, A.N.T., (1993), *Civil Disobedience in Cameroon*, Imprimerie Georges Freres, Douala-Cameroon, P.17.

instance. Every citizen is therefore expected to obey the law. Obedience to the law is therefore founded on political authority.’ How possible therefore was the implementation of the law by the government during the ghost town operation in Kumba in February 2008?

### **The Implementation of the Rule of Law during Ghost Town Operations**

The implementation of the rule of law during the ghost town operations was a sham. The judiciary and the forces for the implementation and enforcement of the rule of law could not do their job as was expected of them. The rule of law was therefore jeopardized to a very great extent that the hooligans took the laws into their hands and started burning buildings. In Kumba for example, the situation went off-hands, as so many buildings were set ablaze. The Brasseries Depot of Fiango was burnt down, as well as the Police Post at Fiango market, the Taxation Centre, the Treasury, the Special Branch Police Station, the Delegation of Basic Education and the Inspectorate and the Divisional Office of Kumba Central Sub-Division were all burnt. All these buildings that were housing strategic governmental services were burnt down. This portrayed the extent to which the rule of law was undermined and the weakness of the government in front of the situation to enforce peace and restore the rule of law.

The Kumba society therefore during the ghost town operation became a lawless society where there was no rule of law as people could not go about their businesses peacefully. Roads were blocked and people harassed. The burning of tyres in nearly all the major road junctions was a common phenomenon around the town. All these were done with the judiciary and the forces for the maintenance of the rule of law watching. There was a total breakdown of peace and the rule of law. The situation exposed the judiciary and the forces. The judiciary themselves could not go to their offices let alone judge the pending cases. All activities were brought to a halt and the situation was only remedied with the arrival of the army from Tombel after the speech from the Head of State instructing that “force” should be used to restore peace and state authority. The army then shot and killed three persons in Kumba and the situation was calm because people were afraid to die. They left the streets and retired to their homes. Some people have attempted to ask the question whether this line of action is in keeping with the rule of law or against the rule of law. The use of arms in the enforcement of peace is regulated by Law No. 90/054 of 19/12/1990 On the Maintenance of Law and Order. Where all the conditions provided for in chapter 3, section 4 of this law fulfilled before arms were deployed and was there a duly signed “Special Requisition” from the competent administrative authority?

These questions have remained without answers till date but the reality is that people lost their lives as a result of that action. Did the administrative authority, that is, the Meme S.D.O. have the competence to requisition the army unit of Tombel found in a different division out of his competence? Who then requisitioned the army unit from Tombel? The regional governor, by then His Excellency Eyeya Zanga Louis or they acted on their own in that state of confusion that prevailed in Kumba at the time of the ghost town operation?

## **Conclusion and Recommendations**

### **Conclusion**

Despite the legal and institutional mechanisms put in place to ensure that peace is enforced during periods of turbulence, there are still some loopholes especially in the area of enforcement and the consequence is a breach of the rule of law. Laws have been enacted to touch different aspects such as the law on the powers and duties of the heads of the administrative, the law on the maintenance of law and order, the law on state of emergency, the law on the regime of requisition, the law laying down regulations governing public meetings and the law on the internal security of the state. The

issue is not on the availability of laws but it is on the application of these laws. The authorities in charge of enforcing peace and the rule of law which are the administrative authorities, the police and the gendarmes are either look warm or inexperienced to apply these laws and this has left many problems unsolved.

### Recommendations

Recommendations are made to the administrative authorities as well as the forces of law and order to the administrative authorities, it is recommended that, a special commission should be created by them to handle matter of this magnitude. This commission should be composed of members of the administrative units, members of the security units, members of the local council, local chiefs and heads of the aggrieved rioters. This commission will serve as a medium for dialogue from which probable solutions may be easily sought. In some cases, unrest will be totally prevented.

To the forces for the maintenance of law and order, it is recommended that they should get themselves versed with the laws. This is so because, most of them hardly know the laws relating to operations of this nature, and tis leaves them dumbfounded when situations of this magnitude arise, special seminars should therefor be organized to school them these aspects.

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