

RESEARCH ARTICLE

# A Critical Review of Law No. 2006-3 on Assets and Property Declaration in Cameroon

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## ABSTRACT

The adoption in 2006 of a law relating to the declaration of assets and property in Cameroon indicates and represents a new hope for the practical implementation of article 66 of the Constitution of the Republic of Cameroon. This article uses the doctrinal research methodology approach to critically assess Cameroon's Law No.3-2006 as an anti-corruption mechanism. Based on this assessment, I essentially argue and clarify that despite the noble intention of welcoming its adoption, there are inherent weaknesses including a continuous challenge to implementing or operationalising the law, the non-existent of the Assets and Property Declaration Commission. Furthermore, assets and property disclosure is still contemplated as a secret and the fact that the envisaged sanctions for non-compliance with assets and property declaration requirements do not constitute a sufficient deterrent to corruption. I conclude by proffering suggestions for improving the legal framework as a credible anti-corruption strategy.

**Keywords:** Assets declaration; anti-corruption; Constitution of Cameroon; transparency and accountability; Assets and Property Declaration Commission

## 1. INTRODUCTION

The 2000s will go down in history as the year when Cameroon joined the rest of the world in fighting corruption through the prism of the assets and property declaration regime. In addition to addressing issues of conflict of interests, this regime entails that elected and appointed government officials declare their assets and property as the case may be before and after their tenure in office. The obligation of these officials to declare their assets and property flows naturally from constitutional directives. In the case of Cameroon, it was first introduced in the *Constitution of the Republic of Cameroon, 1996* (the Constitution).<sup>1</sup> The implementation of this constitutional imperative was contingent upon the enactment of the requisite legislative framework to delineate the conditions and procedures for assets and property declaration.<sup>2</sup> On 25 April 2006, Law No.3-2006 relating to the *Declaration of Assets and*

<sup>1</sup> See article 66 of the Constitution of Cameroon, 1996.

<sup>2</sup> *Id.*

*Property* (Law No.3-2006) was adopted as a useful tool to address this issue within Cameroon's public administration. Its adoption received much fanfare among Cameroonians who consider it as representing a major step forward in giving substantive meaning to the constitutional requirement and in so doing combat corruption perpetrated by elected and appointed government officials who are obligated to declare their assets and property.<sup>3</sup>

Relying on the doctrinal research methodology approach, this article aims to critically review Law No.3-2006 as an anti-corruption mechanism. It systematically evaluates the intrinsic components of the law: the content, scope, sanctions for non-compliance, public access to declaration information, the Assets Declaration Commission, and filing of assets declaration to ascertain their use and relevance in supplementing the purport of the law and the overall governmental aim to combat corruption in Cameroon. While it is natural that the adoption of this law may have raised optimism and hope for the eventual operationalisation of the overdue constitutional imperative on the issues, such optimism seems to have died as the law is now only a shadow of itself and its operationalisation is, unfortunately, being barred by the lack of an enabling presidential. Put differently, its overall legislative intent is strongly undermined by a stalling presidential decree which for the last 12 years has failed to set the law into motion. The absence of this enabling decree, it is argued, raises concerns about the rationale for the adoption of the law and simultaneously portrays the practical limit of the effectiveness of the assets and property regime as a tool against corruption in Cameroon. Furthermore, the envisaged sanctions for non-compliance with assets and property declaration requirements do not constitute a sufficient deterrent to corruption. In this regard, the article essentially provides an analytical understanding of the status quo of the asset declaration regime in Cameroon with reference to it as an anti-corruption tool. The article is structured into five parts. The first part which follows this introduction provides a global historical account of and importance of assets and property declaration as a tool against corruption. The second part examines the assets and property regime in Cameroon. It proceeds to analyse the historical account of the adoption of the law before discussing its normative content and structure. In the third part, the article critically reviews the content of the law to determine whether it is living up to expectations and consequently demonstrates its weaknesses. The last part brings the article to a logical close and provides some recommendations.

## 2. HISTORICAL OVERVIEW AND RELEVANCE OF ASSETS DECLARATION

It is an incontrovertible fact that corruption is a general phenomenon confronting every country<sup>4</sup> and more so, its destructive impacts on the governance values of openness, transparency and accountability, good leadership integrity know no boundaries.<sup>5</sup> In other words, it is a stumbling block and a threat to the democratic values of good governance, transparency, and accountability. As confirmed by the World Bank, corruption has a disproportionate impact on the livelihood of the poor and most venerable segments of society.<sup>6</sup> The World Bank further asserts that corruption is a huge challenge to its continuous effort to end poverty by 2030 and for boosting shared prosperity for the 40 per cent of the poorest people in developing countries.<sup>7</sup> Fighting corruption has been, therefore, the major preoccupation of any democratic regime, including the government of Cameroon. However, the use of imprisonment and sanctions, among others, have over the years proved to be ineffective as corruption persists among government officials. In response to this defect, assets and property declaration systems are increasingly being used globally in conjunction with these other measures as a credible anti-corruption tool vital to fight corruption in the public service or more colloquially embezzlement of public funds and to detect unjustified assets and property<sup>8</sup> – an aspect that highlights its prominence. This prominence supports the view that a well-designed assets declaration regime is capable of effectively combating corruption and the perpetrators convicted for it.<sup>9</sup> Notwithstanding the lack of a unanimous appellation whether – assets declaration systems or assets and property declaration (as in Cameroon) or wealth disclosure of financial disclosure, or assets declaration and liability (as in Nigeria) or the declaration of interest systems, a general understanding of these varying nomenclatures is that assets declaration systems are undeniably the important element of building a country's successful anti-corruption strategy and accordingly rekindling the culture of integrity and honesty and openness in the public service. Although the evolution of assets declaration has been traced to the period after the Second World War,<sup>10</sup> it is nevertheless customary that the assets declaration has now become part and parcel of the international, regional, and increasingly domestic legal regimes. For example, the scope of the *Inter-American Convention against Corruption* of 1996 –

3 Charly Ndi Chia, *Cameroon: How Assets Declaration Can Nail Corruption*, <https://allafrica.com/stories/200604200260.html> (last visited July 27, 2022). Yerima Kini Nsom, *Biya Stalling Assets Declaration Law*, <https://cameroonpostline.com/biya-stalling-assets-declaration-law/%E2%80%8B> (last visited July 27, 2022).

4 Modimowabarwa Kanyane, *Accounting for Corruption in Government – Punitive versus Preventive Measures*, 8 AJDG 143, at 143 (2021). Adabayo Francis Alowolodu, *First Working Draft of a Protocol to the 2003 African Union Convention on Preventing and Combating Corruption (AUCPCC) on Private Civil Actions against Corruption with Comments and Background Notes*, 1 ROLACC Journal 1, (2020).

5 Diriba Adugna Tulu, *The Role of Assets Disclosure and Registration Law in Combating Corruption in Ethiopia: A Comparative Analysis with Hong Kong and Rwanda Legal Systems*, 1 J. Law Policy Glob. 1, 1-3 (2020).

6 World Bank, *Combating Corruption*, (2021), <https://www.worldbank.org/en/topic/governance/brief/anti-corruption> (last visited July 26, 2022).

7 *Id.*

8 Ranjana Mukherjee & Omer Gokcekus, *Officials' Assets Declaration Laws: Do they Prevent Corruption*, 325, <http://www.anti-corruption.org/wp-content/uploads/2016/11/Research-on-Corruption-Officials-asset-declaration-law-Do-they-prevent-corruption-R.Mukherjee-and-O.Gokcekus.pdf> (last visited August 2, 2022).

9 Tulu, *supra* note 6, at 1-3.

10 OECD, *Assets Declaration for Public Officials: A Tool to Prevent Corruption*, OECD PUBLISHING (2011), <https://www.oecd.org/corruption/anti-bribery/47489446.pdf> (last visited July 23, 2022).

though a soft law, employs the mechanism of assets declaration as a pragmatic way to prevent, detect, punish, and eradicate corruption.<sup>11</sup> It mandates state parties to set up institutional systems to strengthen domestic legal systems that compel public officials to declare their income, assets, and liabilities.<sup>12</sup> Although article 8 of the *United Nations Convention to Combat Corruption* of 2003 rather disappointingly contains a soft obligation on assets declaration, it requires states, including the government of Cameroon, to establish systems that oblige public officials to declare among others their activities, employments, investments, assets, and substantial gifts or benefits that may otherwise portray a substantial difference in their incomes as public officials.<sup>13</sup> Within the context of assets recovery, article 52(5) obligates member states to establish at the domestic levels effective financial declaration systems as well as sanctions for non-compliance. The section further obliges state parties to ensure collaboration between competent authorities and share relevant information that could assist in the investigation, claim, and recover of proceeds of offences. On its part, article 7 of the *African Union Convention to Combat Corruption* of 2003 which Cameroon is a signatory commits states to require “all designated public officials (such as those enumerated in article 66 of the Constitution and section 3 of Law No. 3-2006 below), to declare their assets at the time of assumption of office during and after their term of office in the public service”.<sup>14</sup> Within this context, the foregoing suggests that effectively addressing corruption requires an obligation on all elected and appointed government officials to continue to the extent possible, to declare their assets and property before assuming office and after their tenure in office. Ilias Lawal demonstrates this point clearly in the context of Nigeria, noting that before former President Umaru Musa Yar’Adua took the oath of office in 2007 he had to declare his assets and liability as per paragraph 11 of the Fifth Schedule of 1999 Nigerian constitutional imperative.<sup>15</sup>

It is evident from the above instruments that they provide the inevitable framework for action for states to use to tackle the scourge of corruption through assets declaration. It is, therefore, apposite that states are urged to consider enacting

national asset declaration legislation to buttress their commitment to making genuine efforts in eradicating corruption. Although it is possible that given different domestic situations and legal contexts, different countries may use different institutional setups and methods to enforce assets declaration rules and verification information, there is, however, a unanimous consensus that asset declarations are fast becoming a global instrument to enhance public sector transparency and accountability, promote integrity, and prevent corruption and illicit enrichment.<sup>16</sup> The fight against corruption, therefore, provides the need for consideration of detailed information on the value of a tangible asset declaration regime and how it is being implemented to effectively combat corruption as well as the historical background and rationale for adopting such a law. The World Bank notes that about 160 countries have adopted assets declaration laws as a way of combating corruption.<sup>17</sup> Assets declaration is being used to build integrity and many believed it can effectively combat corruption among government officials.<sup>18</sup>

Nevertheless, the central aim of the assets declaration includes but is not limited to increasing transparency and public trust in public administration; helping public institutions to avoid conflict of interests and monitoring wealth variation of individuals and politicians and thereby dissuading them from illicit enrichment.<sup>19</sup> As an anti-corruption tool, assets declaration serves to illustrate the inherent gross irregularities between the actual assets of a public official and their salaries. In Vietnam, the former government chief inspector’s, Tran Van Truyen, declaration of income and assets in 2014 revealed an appropriation of \$10 million, substantially inconsistent with his basic earnings.<sup>20</sup> Indeed, assets declaration is an indispensable accountability tool in public service, even though the quest for accountability has arguably been elusive within Africa’s public service.<sup>21</sup> Asset declaration regimes, therefore, aim to combine prevention and enforcement purposes in a way that promotes accountability.

The next section of this article examines the normative content and structure of Law No. 3-2006 to demonstrate its use and importance as an anti-corruption framework.

11 Article 2(1 and 2) of the Inter-American Convention against Corruption of 1996. Doc No. 105-39, 35 ILM 724.

12 Article 3(4) of the Inter American Convention against Corruption of 1996.

13 Article 8(5) of the United Nations Convention to against Corruption of 2003.

14 Emphasis added.

15 Ilias B. Lawal, *Public Declaration of Assets in Nigeria: Conflict or Synergy between Law and Morality?*, 9 Afr. Hum. Rights Law J. 224, at 224 (2009).

16 Star, *Asset Declaration*, <https://star.worldbank.org/focus-area/asset-declarations> (last visited July 19, 2022).

17 *Id.*

18 OECD, *supra* note 10, at 10.

19 *Id.* at 12.

20 Gustavo A. Vargas & David Schlutz, *Opening Public Officials’ Coffers: A Quantitative Analysis of the Impact of Financial Disclosure Regulation on National Corruption Levels*, 22 Eur. J. Crim. Policy Res. 439, at 439 (2016).

21 Eric Ngumbi & Patrick Owiny, *From Paper to Practice: Enhancing Public Accountability in Africa Through Reform of Wealth Declaration System*, 1-2 (2021), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3579514](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3579514) (last visited July 20, 2022).

### 3. ASSETS DECLARATION IN CAMEROON

#### 3.1. Law No. 3-2006 Relating to the Declaration of Assets and Property

##### 3.1.1. Background to the Adoption of the Law

Shaped by the developments in international law and African law discussed above and informed by the constitutional directive under article 66 compelling specific appointed and elected government officials to declare their assets and property as a useful tool to address corruption in Cameroon's public administration, the government adopted Law No. 2006/003 to achieve this purpose. Article 66 of the Constitution stipulates that:

The President of the Republic, the Prime Ministers, Members of Government and persons ranking as such, the President and Members of the Bureau of the National Assembly, the President and Members of the Bureau of the Senate, Members of Parliament, Senators, all holders of an effective elective office, Secretaries-General of Ministries and person ranking as such, Directors of Central Administration, General Managers of public and semi-public enterprises, Judicial and Legal Officers, administrative personnel in charge of the tax base, collection, and handling of public funds, all managers of public votes and property, shall declare their assets and property at the beginning and the end of their tenure of office. The other categories of persons to whom the provisions of this article shall apply and the conditions of implementation thereof shall be determined by law.

It is evident from this constitutional provision that the Constitution provided the foundation for assets and property declaration in Cameroon as a useful way to combat corruption among elected and appointed government officials. Their proactive compliance with this constitutional imperative is crucial to ensure transparency and accountability in the management of these funds. The failure of these officials to declare their assets and property will be a violation of the Constitution. Despite explicit clarity of what constitutes assets in the normative provision of article 66, the general expectation is that it includes the money and any movable and immovable assets and properties that have been acquired by the stated officials before and after their tenure.

Although the Constitution provides broad categories of elected and appointed government officials who are required to declare their assets and property, this list is not exhaustive. The Constitution further stipulates the adoption of national legislation to give effect to the constitutional provision on assets declaration and to confer on such legislation the power to include additional categories of officials that are required to declare their assets and property. These additional categories

of officials are discussed and summarised in Table 1 below. However, it is safe to infer that the adoption of the law has the advantage to provide the foundation for building a highly effective assets declaration regime in Cameroon.

In addition to the development in international and regional frameworks discussed above, the enactment of Law No. 3-2006 can also be explained against the background of fast-growing corruption that rocks and continues to rock Cameroon's public administration. No one grounded in the debate about corruption in Africa would fail to recognise that Cameroon has been recently ranked as the first most corrupt in the world by the Global Corruption Indexes of Transparency International. It seeks to set a clear and concise legal basis for the collection of assets and property declaration. It is therefore important and necessary to assess its overall legislative intent, scope, and content to determine and demonstrate the difference between legislative prescription and the reality on the ground relating to its use in addressing corruption through the prism of assets and property declaration.

##### 3.1.2. Structural Analysis of Law No. 3-2006

A careful reading of the law reveals that it consists of four chapters (General Provisions, Condition of Assets and Property Declaration, Assets and Property Declaration Reception Commission, and Transitional, Miscellaneous Final Provisions) and 18 sections delineating detailed provisions about the scope and content of assets declaration, the categories of elected and appointed government officials required to declare their assets and property; the procedures and conditions for filing assets and income; the enforcement mechanism of assets declaration and assets disclosure information. Each of these sections is carefully examined below.

##### 3.2.1. The scope and Content of Assets Declaration

Section 1 underscores the overall purpose of the Act despite explicit avoidance of relevant governance principles. It provides that the Act is "enacted pursuant to Article 66 of the Constitution, relates to the declaration of assets and property". In other words, the Act was enacted to give effect to this constitutional imperative through clear conditions and procedures for the effective implementation of assets declaration. The above provision of section 1 implies the actual scope and content of the law is about the assets and property of top elected and appointed government officials. In consideration of the fact that elected and appointed government officials wield public functions in Cameroon, the exercise of which has led to embezzlement or misappropriation of public funds among some of them,<sup>22</sup> it is crucial that they declare their assets and property to ensure a system of check and balance and proper accountability in the governance machinery. While it is statutorily required that mandatory assets and property declaration by these officials include all their property,<sup>23</sup> it is important to mention that it also relates to movable and immovable property, tangible and intangible property whether these are in and/or out of Cameroon and belonging to either themselves, their spouses or minor descendants up to the first

<sup>22</sup> Since 2004 there have been numerous prosecutions of top government officials on account of corruption and embezzlement of public funds contrary to section 184 of the Penal Code.  
<sup>23</sup> Section 3(1) of Law No. 2006/003.

degree.<sup>24</sup> Although the law failed to define what exactly constitutes movable and immovable, tangible and intangible assets and property for the purpose of section 1, it is hoped that these relate to all assets and property that could potentially illustrate the actual difference between their actual earnings and a substantial accumulation of assets during and after their tenure in office either hidden under their names, their spouses or their dependent children names as the case may be. Moreover, such declaration must include all benefits enjoyed by the elected or appointed government officials, their minor descendants or beneficiary ascendants and interest they hold in any private company except household and personal equipment.<sup>25</sup>

### 3.2.2. The Obligation to Declare Assets and Property

The question that arises from the above is who should declare their assets and property, or does it apply to everyone, including petty traders? Even though no global uniform standard exists on the categories of officials who must declare their assets, it must, however, be pointed out that like the international and African regional frameworks discussed above, domestic legislation is clear on this issue. They both identify specific government officials who are either elected or appointed to top government positions and have partial or absolute control over the management of public funds to declare their assets and property. Section 2 of Law No. 3-2006 makes no exception to this category of officials outlined by article 66 of the Constitution with varying levels and responsibilities. In terms of section 2(1), these categories include high-ranking government officials occupying high government portfolios such as the President of the Republic of Cameroon; the Prime Minister, members of governments and persons ranking as such; the President and members of the Bureau of National Assembly; the President and members of the Bureau of the Senate; members of parliament; senators; all holders of elective offices; secretaries-general of ministries and persons ranking as such; directors of Central Administration; general managers of public and semi-public enterprises; judicial and legal officers; personnels of government services in charge of the tax base, collection and handling of public funds and budget control and all managers of public services votes and property.<sup>26</sup>

In addition to this list, section 2(2) expands the categories of officials obligated to declare their assets and property to include the President of the Economic and Social Council; ambassadors; rectors of state-owned universities; government delegates of urban councils; board chairpersons of public enterprises; Chairperson of Tender Board; governors and senior divisional officers; President of Trade Chambers; managers of projects funded externally and/or with state subsidies; officials in charge of administration and judicial

liquidation; officials of public administration establishments and state-owned corporations up to the rank of director; and central administration officials ranking as Central Administration Director. Furthermore, the law explicitly provides that any authorising officer in an association or private body as the case may be and who receives public funds either in the form of donations or subventions must also undertake to declare their assets and property at the beginning and end of their tenure in office.<sup>27</sup> While it is also vital that a system of check and balance be placed to monitor the wealth, assets and property of these officials, the law also provides the possibility and importance of monitoring those of their spouses, children, and dependent children and/or any other close relative and household members.<sup>28</sup>

### 3.2.3. Filing and Verification of Assets Declaration and Property

An important feature of any asset declaration including Cameroon's Law No. 3-2006, is the provision of a requirement for filing or collection and verification. While filing of declaration is important if the law is to serve its purposes and encompasses the conditions and procedures to assist the concerned officials to submit their declaration, verification enables the determination of the accuracy of the declaration statement by the declarant. Such verification provides the foundation of making the integrity of the assets declaration system. A 2011 Report by the OECD outlined different types and methods of verification that can be used for asset declaration.<sup>29</sup> To ensure the effectiveness of the assets declaration regime, it is important that public officials submit their declarations and the contents verified to avoid false declarations and amendments of some information where this is lacking or missing. In contrast, if the required officials in terms of section 3 above are aware that the declaration is never verified there is the likelihood that they would make false declarations and the system will consequently accumulate a large number of inaccurate declarations thereby undermining the normativity of section 1 of the law.

Chapter II of Law No. 3-2006 titled "Conditions of Assets and Property Declaration" addresses how and when the concerned officials contemplated in section 3 are to make their declarations. Although it is given that the submission schedule for declaration of assets can be when the concerned official takes office either shortly or after or annually and when they leave office,<sup>30</sup> it is appropriate that submission be made before assuming and after leaving office. The submission of declaration within this time frame makes it possible to monitor the interest of a public official from the time they assume office and to ascertain that information about their declaration is being updated at regular intervals. It is for this reason that section 4 stipulates that the officials enumerated in section 3 above are expected to file for their declaration of assets and property within 90 days following their election or appointment and 60

24 Section 3(2) of Law No. 2006/003.

25 Sections 3-4 of Law No. 2006/003.

26 See section 2(1) of Law No. 3-2006.

27 Section 2(3) of Law No. 3-2006.

28 See section 3(2) and (3) of Law No. 3-2006.

29 See OECD, *supra* note 10, at 72-73.

30 *Id.* at 68.

days after their tenure in office.<sup>31</sup> The 90 days deadline is contingent upon the establishment of the Asset and Declaration Commission,<sup>32</sup> which unfortunately has not been done. However, in terms of the law, it is also an express requirement that the declaration of assets and property must be reviewed and updated within 30 days after the first submission.<sup>33</sup> It is apposite to infer from the foregoing that assets and property declaration of this nature is prima facie synonymous or akin to tax compliance, the failure which will result in the crime office of tax evasion punishable under applicable relevant law. However, the responsibility to collect and verify the accuracy of declarations by the declarants is vested in the Asset Declaration Commission, discussed below.

### 3.2.4. The Asset Declaration Commission

Before analysing the envisaged function of this Commission, it is important to understand how it is structured.

#### 3.2.4.1. Status and Structure

Section 7 of Law No. 3-2006 encapsulates in precise and clear terms that the Commission shall be composed of seven members, although the composition appears to cast doubts on the impartiality and independence of the functioning of the Commission, as they are bound to reserve in secrecy all information about assets and property declaration during the performance of their duties.<sup>34</sup> However, like most French-speaking African countries with civil law systems, which rule by presidential decrees,<sup>35</sup> the same is also true of Cameroon and in the context of assets declaration. Law No. 3-2006 provides that the President of the Asset Declaration and its seven members shall be appointed by a presidential decree. The word of section 7(2), therefore, seems to betray the real intention of the framers of the law and consequently its overall legislative intent. According to section 7(2) the “commissioners shall be appointed by a decree of the President of the Republic, for a 5- (five-) year terms of office, renewable once, where necessary. They may be replaced in the same form, in the event of death, resignation or gross misconduct”. It then proceeds, rather redundantly and copiously, to indicate how these members shall be designated: a chairperson appointed by the President of the Republic, two personalities by the President of the Republic, another personality appointed by the President of the National Assembly, a personality appointed by the President of the Senate, a State Inspector, representing the Supreme State Audit Service; two representative of the Supreme Court, including one of the Audit Bench and a representative of the Association of Notaries.<sup>36</sup>

Law No. 2006/003 establishes a statutory basis for the standards of elected and appointed government officials’ ethics that is rooted in strengthening their ethics, accountability, and transparency in the management of public affairs. Like other appointed officials require to adhere to the code of ethical leadership, section 7(3) obligates the commissioners before assuming their duties to take an oath before the Supreme Court to execute their functions with objectivity and integrity and to keep secret all information about the asset and property declaration.

Not with standing the above, commissioners of the Asset Declaration Commission are not excluded from the constitutional and statutory obligation to declare their assets and property. In this regard, section 7(4) requires these commissioners like all other top elected and appointed government officials to mandatory declaration of their assets and property before and after assuming office under the (supposed) conditions and procedures envisaged in section 4 above. But what then are their functions?

#### 3.2.4.2. Functioning of the Commission

The proper functioning of the Commission concerning assets declaration is an important aspect to help translate all legislative intentions into action. Chapter III titled “Assets and Property Declaration Reception Commission” deals with the functions of this relevant institution in overseeing assets and property declaration. Its specific mandate is to receive, explore, and preserve assets and property declaration files by relevant elected and appointed government officials.<sup>37</sup> In other words, the Commission acts both as an enforcement mechanism for, and as a receptor of assets declaration files. Once an elected or appointed official has declared his/her assets and property, it is the responsibility of the Assets Declaration Commission to notify the declarant through any written means and the declarant must acknowledge receipt of such communication within 45 days, failure of which shall be deemed a refusal to declare assets and property.<sup>38</sup> As a counter-measure to criminal activity, the law empowers the Assets Declaration Commission to forward all the declarations to the relevant judicial authority whenever required. This means that information about an official under criminal investigation could be forwarded to a court of law for investigation or determination of the crime. Section 8(3) reiterates the issues of confidentiality and obligates the commissioners to observe the highest confidential standards in the execution of their duties. This confidential clause suggests that the commissioners are not bound to disclose any information about the asset and property declaration of an official except where such disclosure is required as a counter-measure to criminal investigations and if

31 Section 4(1) of Law No.3-2006.

32 Section 12.

33 Section 5 of Law No. 3-2006.

34 Section 7(5) of Law No. 3-2006.

35 For details on ruling by decree in the civil law system, see Otto Kirchheimer, *Decree Powers and Constitutional Law in France under the Third Republic*, 34(6) Am. Political Sci. Rev. 1104, 1104-1123 (1940).

36 Section 7(1) of Law No. 2006/003.

37 Section 6 of Law No. 3-2006.

38 Section 8(1 and 2) of Law No. 3-2006.

requested by judicial authorities.<sup>39</sup> In enabling the Commission to properly perform its functions, the law requires the Commission whenever in doubt of the authenticity of a declaration by a declarant to request the competent state bodies to investigate the actual status of the official concerned.<sup>40</sup>

Nevertheless, the organisation and functioning of the Commission is restricted to the promulgation of a presidential decree<sup>41</sup> and this has still not been promulgated.

### 3.2.5. Sanction for Non-Declaration

Sanctions are a necessary way to deter non-compliance with statutory prescriptions and to ensure that violators respect the rule of law. In the context of assets declaration, sanctions provide the inevitable tool to promote and ensure disciplined compliance with the legislative obligation to declare assets. This means as postulated by Mathew Jenkins that an asset and property declaration regime like Law 2006/003 would be well placed to provide a realistic chance and work as a sufficient deterrent to corruption and illicit enrichment if it is embedded with strong sanctions against non-compliance with asset and property declaration.<sup>42</sup> A credible threat of sanctions against Cameroon's elected and appointed officials is therefore required if the sanctions requirement contained in the law is to be truly effective. Issues such as late submission, non-submission of assets and property as well as the false declaration of assets and property should be criminalised.<sup>43</sup> However, Law No. 3-2006 contains rather disappointing sanctions against the non-declaration of assets and property. Section 15 states in clear and concise terms that any holder of an elective office, such as those mentioned in section 2 above, who either fails to declare his/her assets and property or makes a false declaration shall not be eligible for election at the end of his/her tenure of office.<sup>44</sup> Appointed officials who fail to declare their assets and property shall be dismissed from their offices subject to compliance with the appointment procedures.<sup>45</sup> In the case of an appointed manager of public property and funds, who makes a false declaration, in addition to being dismissed from his/her position, such an official will not be eligible to occupy any of the positions mentioned in section 2 for 5 years.<sup>46</sup> Finally, the law prescribes for suspension where the expenditure of an officer authorizing public funding or anybody that receives donations or subventions fails to declare their assets and property.<sup>47</sup>

### 3.2.6. Public Access to Disclosure

Granting public access to relevant information about the assets and property declaration of the officials required to declare their assets is a more important feature of the assets declaration regime since it helps to foster its credibility and effectiveness. The relevance of transparency and accountability in assets and property declaration cannot be overemphasised. It is a necessary aspect of enhancing public trust and confidence in the top government elected and appointed officials. However, the law does not envision public access to assets declaration information, nor does it permit commissioners of the Assets Declaration Commission to disclose any information about their activities and on people's assets declaration.<sup>48</sup> Furthermore, the law contains a key confidentiality clause on assets declaration. On which the central issue at stake is whether or not public access to such information violates the right to privacy of these officials or poses substantial threats to their security.<sup>49</sup> However, this confidentiality clause is the antithesis of the dictate of a democratic society which should in principle promote and enhance openness, honesty, compassion, sobriety, and uphold the highest possible ethical conduct concerning assets and property declaration. Upholding these democratic values enables the enhancement of public confidence and trust in the integrity, objectivity, and impartiality of government's officials in the executive of their duties and management of public funds. Commissioners are further bound to remain reserved and secret in all matters or part thereof on assets and property declaration after the performance of their duties.<sup>50</sup> The law explicitly restricts the publication or disclosure of the records of the Assets Declaration Commission in any form or means.<sup>51</sup> This restriction suggests that the records of the Commission relating to vital information about the assets and property of elected and appointed government officials is treated as confidential as possible and the public is under no obligation to request such information. The provision of section 11(2) apparently hinders transparency and accountability and raises the question of whether the government and its ruling political elites are truly committed to promoting openness in the management of public funds. It is, therefore, surprising how the government of Cameroon balances considerations of privacy and personal security with the public interest in transparency and accountability in the context of assets declaration.

39 Section 8(4)

40 Section 9(1) of Law No. 3-2006.

41 Section 7(6) of Law No. 3-2006.

42 Mathew Jenkins, *Income and Assets Disclosure: Topic Guide*, 6 (2015), <https://knowledgehub.transparency.org/guide/topic-guide-on-interest-and-asset-disclosure/download> (last visited July 19, 2022).

43 Also see Mukherjee & Gokcekus, *supra* note 8, at 3.

44 Section 15(1) of the Law.

45 Section 15(2) of the Law.

46 Section 15(3) of the Law.

47 Section 15(5) of the Law.

48 Section 7(3) of the Law.

49 Ruxandra Burdescu, Gary J. Reid, Staurt Gilman & Stephanie Trapnell, *Income and Asset Declaration: Tools and Trade-Offs*, xi (2009), [https://www.unodc.org/documents/corruption/Publications/StAR/StAR\\_Publication\\_\\_Income\\_and\\_Asset\\_Declarations.pdf](https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication__Income_and_Asset_Declarations.pdf) (last visited July 28, 2022).

50 Section 7(5) of the Law.

51 Section 11(2) of the Law.

The table below recapitulates the foregoing information.

**Table 1:**  
**Overview of the Normative Provisions of Law No. 3-2006 in Cameroon**

| <b>Categories of officials required to declare assets and property</b>                                                                                                                                                                              | <b>Relevant provision</b> | <b>Filing of declaration</b>                                                                      | <b>Items to be declared</b>                                                                                                                    | <b>Ever declared</b>                                                                                                                                                                                                | <b>Sanctions for non-declaration</b>                                                                                                                            | <b>Public access to disclosure</b>                                                               | <b>Operation-alisation of the law</b>                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <b>1. Executive:</b> <ul style="list-style-type: none"> <li>▪ President of the Republic, Prime Minister, members of the Government, and all persons ranking as such</li> </ul>                                                                      | Section 2(1)              | 90 days after their appointment and 60 days after their mandate, (section 4 of Law No. 2006/003). | all assets and property of public officials including tangible and intangible property, movable and immovable property in Cameroon and abroad. | No. There is no institutional mechanism in place. The Assets and Declaration Commission is not operational. Its organisation and function are contingent on an enabling presidential decree which is still pending. | No punitive sanctions, only administrative (i.e., non-eligibility of an official or dismissal from office in the event of non-compliance or false declaration). | No. Declaration of assets is highly secretive, and this impairs transparency and accountability. | No. The enabling presidential decree as per section 17(2) is still pending. |
| <b>2. Lawmakers:</b> <ul style="list-style-type: none"> <li>▪ President and members of the Bureau of National Assembly</li> <li>▪ President and members of the Bureau of the Senate</li> <li>▪ Members of parliament</li> <li>▪ Senators</li> </ul> | Section 2(1)              | As above                                                                                          | As above                                                                                                                                       | No                                                                                                                                                                                                                  | No                                                                                                                                                              | No                                                                                               | No                                                                          |
| <b>3. Judiciary:</b> <ul style="list-style-type: none"> <li>▪ All judicial and legal officers</li> </ul>                                                                                                                                            | Section 2(2)              | As above                                                                                          | As above                                                                                                                                       | No                                                                                                                                                                                                                  | No                                                                                                                                                              | No                                                                                               | No                                                                          |
| <b>4. Civil and other public servants:</b> <ul style="list-style-type: none"> <li>▪ Other government officials</li> <li>▪ President of the Economic and Social Council</li> <li>▪ Secretaries - generals of ministries</li> </ul>                   | Section 2(2)              | As above                                                                                          | As above                                                                                                                                       | No                                                                                                                                                                                                                  | No                                                                                                                                                              | No                                                                                               | No                                                                          |



| Categories of officials required to declare assets and property                                                 | Relevant provision | Filing of declaration | Items to be declared | Ever declared | Sanctions for non-declaration | Public access to disclosure | Operation-alisation of the law |
|-----------------------------------------------------------------------------------------------------------------|--------------------|-----------------------|----------------------|---------------|-------------------------------|-----------------------------|--------------------------------|
| ▪ All holders of elective offices                                                                               |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Ambassadors                                                                                                   |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Rectors of state-owned universities                                                                           |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Government delegates of urban councils                                                                        |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Board chairperson of public enterprises                                                                       |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Provincial governors and senior divisional officers                                                           |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ President of trade chambers                                                                                   |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Managers of projects funded externally and/ or with state subsidies                                           |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Officials in charge of administration and judicial liquidation                                                |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Officials of public administrative establishments and state owned corporations up to the rank of the director |                    |                       |                      | No            | No                            | No                          | No                             |
| ▪ Central administration officials ranking as Central Administration Director                                   |                    |                       |                      | No            | No                            | No                          | No                             |
| 5. Others<br>▪ Spouses, children, and dependent children of all of the above officials                          | Section 2(2)       |                       |                      | No            | No                            | No                          | No                             |

#### 4. CRITICAL REVIEW

Despite the overwhelming provisions on assets and property declaration, there are inherent weaknesses that need to be addressed if the law is to achieve its overall legislative intent when it will be operationalised.

The first weakness relates to the categories of elected and appointed government officials obliged to declare their assets and property. Although section 2 contains an elaborate list of elected and appointed government officials who are required to declare their assets and property, some officials are omitted, and it is unclear why this is so. As evident from Table 1 above, the law failed to include army generals who manage public funds for security reasons. Furthermore, the scope of application of the law is restrictive to assets and property. It omits gifts, substantial benefits, and investments owned by these officials from which there could be a substantial conflict of interests concerning their functions and the declaration of their assets. Relatedly, the law failed to compel public officials to return their stolen wealth and any other benefits that reveal a substantial difference from their actual income.

Another and perhaps most concerning weakness as seen in Table 1, is the fact that the law is still not being implemented. In other words, the full rigour of the law is yet to be tested and none of these officials has ever declared their assets, including the President especially considering his numerous re-elections,<sup>52</sup> despite the constitutional imperative. This non-operationalisation or implementation makes the law to suffer from too much procrastination. It is reported that in 2008, the Vice Prime Minister in Charge of Justice wrongly anticipated in the excitement that the law would be fully operationalised in 2009.<sup>53</sup> This lack of implementation is due, in part, to the absence of the promulgation of an enabling decree under section 17, which gives the President of the Republic unfetter power to operationalise the law. This section stipulates that “decrees of the President of the Republic shall, as and when necessary, define the conditions of implementation of this law”.<sup>54</sup> Without this decree, it is apparent that the law will never be implemented and so too its relevant provisions. The increasing absence of this decree over the years pre-empts pressure from the designated government officials to declare their assets and property as mandated by the Constitution and Law No. 3-2006. Indeed, it is very much surprising that over 16 years since the enactment of the law, the President of the Republic has not thought it necessary to enact the relevant decree to define the conditions and procedures to implement

the law. This begs the question: Why would the law be enacted to give effect to article 66 of the Constitution and still be retrained by a presidential decree? It is therefore unconvincing and unrealistic for the effective operation of the law to be withheld by a presidential decree. The clear absence of this decree or the impossibility of its future promulgation raises concern about the potentiality of the law in fulfilling its constitutional mandate. In other words, the absence of this decree means that the law is as good as non-existent and so is its underlying purpose, to compel elected and appointed government officials to declare their assets and property as a useful way to fight corruption in Cameroon’s public administration. Indeed, there is currently no operational government body to oversee the implementation of the normative provisions of the assets declaration law<sup>55</sup> or article 66 of the Constitution. Institutions such as the Asset Declaration Commission created under section 6 of the law are contingent on the proper functioning of the conditions and procedures for assets declaration under section 17(2). If Law No. 3-2006 was implemented and periodic reports on assets declaration filed to the relevant authority, perhaps there would have been much transparency and accountability in the management of public funds in Cameroon and a simultaneous reduction in the misappropriation of public funds which seems to continue unabatedly as a way of life among public officials. With corruption stalling Cameroon’s socio-economic development, it would have been better if the law is operationalised, and this provision complied with. The reason for this is that excesses from such declarations could help reinforce the provision of social services to Cameroonians.

Furthermore, effective operationalisation of the law would have enabled the Special Criminal Court (SCC) to make a useful connection between assets declaration and misappropriation of public funds in its numerous decisions on this issue and thereby give an adequate juridical interpretation, meaning and relevance to the substantive provision of section 2 of the law as well as article 66 of the Constitution.<sup>56</sup> This would have provided a pragmatic approach to combating public sector corruption by elected and appointed political elites in Cameroon. Lest this is thought as being unrealistic, it is highly improbable that the category of elected and appointed officials under article 66 of the Constitution and section 2 of Law No. 3-2006 will ever be compelled to declare their assets and property and proactively help the government to fight corruption in the public service. If this presidential decree is not

52 President Paul Biya has been re-elected 5 times in 1992, 1997, 2004, 2011, and 2018.

53 Yerima Kini Nsom, Biya Stalling Assets Declaration Law, CAMEROON POSTONLINE (2009), <https://cameroonpostline.com/biya-stalling-assets-declaration-law/%E2%80%8B> (last visited July 28, 2022).

54 Section 17(2) of Law No. 3-2006.

55 IMF Country Report, *Request for Three-Year Arrangement under the Extended Credit Facility and the Extended Fund Facility-Press Release; Staff Report; Staff Statement; and Statement by the Executive Director for Cameroon*, 21/18 (2021), <https://www.imf.org/en/Publications/CR/Issues/2021/08/10/Cameroon-Requests-for-Three-Year-Arrangements-Under-the-Extended-Credit-Facility-and-the-463635> (last visited June 21, 2021).

56 Until now, none of the numerous decisions on misappropriation of public funds has made a useful connection between assets declaration and misappropriation of public funds within the context of the role of the judiciary in fighting corruption in Cameroon.

forthcoming, it remains to be determined why was the law enacted in the first place and why was the provision of article 66 included in the Constitution if it cannot be respected and applied? Is it that these officials, including the president, are afraid to be exposed by the law such that they do not want to galvanise the necessary political will to set the law into motion? It is apposite to infer and rightly that the absence of the enabling decree to set the law into motion overtly demonstrates the practical limit of the assets declaration law in Cameroon before its operationalisation. In forging pragmatic synergy between law and practice of assets and property declaration in Cameroon, there is an urgent need for the President of the Republic to ensure that the law is operationalised. The purpose of enacting the law should not be undermined or forgotten.

Apart from stalling the effective operationalisation of the law, the operation and functioning of the envisaged Assets and Property Declaration Commission is also barred by a presidential decree and it is unclear how this Commission will execute its duties. Like the Law, it is safe to argue that the Commission is non-existent since the necessary modalities to define its mode of operationalisation have not been defined by the President and worst its members have not been appointed.<sup>57</sup> Moreover, even if the mode of operationalisation was defined, as demonstrated in the composition of the members of the Commission above, they are not independent in the execution of their duties. They must report to the President who appointed them. Political allegiance has engulfed the public service such that it is customary for political appointees and elected officials to protect the President's interest than the state's interest. It is common to hear ministers, governors, and other top government officials shower praises on President Paul Biya through declarations like "we thank the head of state" in interviews on national televisions. Such praises, it is argued, are meant to show allegiance to the President in return for a continuous stay in power and dwindling of public funds.

Moreover, the law is embedded in secrecy and does not promote transparency and accountability concerning the assets and property declaration by elected and appointed government officials. It is an explicit requirement under section 7(3) that the "Assets and Property Declaration Commission shall ensure the confidentiality of the information received and of its discussion with the declarant". This requirement suggests that the work of the Commission is cloaked in absolute secrecy and its members are committed to keeping their malpractices away from public scrutiny. Thus, even the media is excluded from accessing the Commission's proceedings and decisions.<sup>58</sup> The issue of secrecy could be explained by the fact that there is no access to information legislation in Cameroon. However, in consideration of the fact that Cameroon has signed and ratified the UNCCC

and the AUCCC, it is reasonable that the law would have included a provision compelling commissioners to declare valuable information on assets declaration to the public. This information would enable the public to know and possibly have trust in designated officials required by section 2 to declare their assets and property and accordingly promote and enhance transparency and accountability as a tool of good governance in Cameroon's public administration and the fight against corruption.

Furthermore, although the law provides for sanctions for non-compliance with assets declaration about ill-gotten wealth, the secretariat has no teeth, and the failure to declare assets is deeply rooted in institutional weakness. The provision on sanction for non-declaration or making a false declaration remains largely a wish list than a viable approach to ensure effective declaration of assets and property. Instead of providing for a punitive approach to non-compliance with assets and property declaration, the law adopts an administrative approach to sanctions, namely that the concerned officials will be dismissed or non-eligible for public function in the event of false declaration or non-compliance with the requirement to declare assets. In addition to the prescribed sanctions, it is recommended that they should be complemented by strong punitive measures that would guarantee strict compliance with the legislative requirement to periodically declare assets and property and accordingly help combat corruption among top elected and appointed officials in Cameroon's public service. The same scenario is seen with article 45 of the Constitution which grants supremacy of all duly ratified international treaties and conventions such as those relating to assets declaration over national law but with the proviso that "except the other party ratifies the said convention or treaty". This proviso exonerates the government of Cameroon from any meaningful commitment and engagement with the assets and property declaration as a tool to fight corruption. From this perspective, it is therefore, unclear why the government would commit to such international treaties and conventions without undertaking to implement its obligations domestically. One noticeable obligation from these conventions is the requirement on states including the government of Cameroon, to enact relevant domestic legislation on the declaration of assets and property and not to withhold the same with an enabling decree.

In the likely event that the full rigour of Law is never realised, embezzlement of public funds by the elected and appointed supposedly to declare their assets may no doubt continue unabatedly. Such continuation would further pre-empt respect for democratic values of transparency and accountability and consequently fuel corruption.

<sup>57</sup> Nsom, *supra* note 3.

<sup>58</sup> Kini Nsom & Clovis Atatah, *Cameroon: Assets Declaration Shrouded in Secrecy*, <https://allafrica.com/stories/200603200817.html> (last visited July 20, 2022).

## 5. CONCLUSION

This article has successfully demonstrated the relevance of assets declaration as an evolving important tool used to combat corruption in the public service, even though the practice may be different in different countries and jurisdictions. As shown in this article, the main determinant of Cameroon's Law No. 3-2006 is to prevent illicit enrichment among elected and appointed government officials as well as the identification and prevention of conflict of interests when performing their duties. While it is possible that the law is well advanced in this pathway its implementation is still constrained by a presidential decree. Such restraining makes achieving the underlying objective of the law futile. Furthermore, the overall effect cannot be assessed or tested as it is not yet operationalised. Until the enabling decree under section 17(2) is promulgated then can we possibly determine whether the institutions created by the law and its underlying purpose give substantive meaning to article 66 of the Constitution. At this juncture, the law seems akin to an ineffectual document, lacking the power to bring about tangible consequences. Whenever the envisaged presidential decree is promulgated and the law is operationalised, it would be appropriate for future research to assess its effectiveness or usefulness as a tool in combating corruption in Cameroon.

Against the foregoing, it is recommended that the scope of the law should also include army generals, in addition to extending its sphere to gifts, donations, substantial benefits and investments by elected and appointed government officials. Furthermore, the government of Cameroon needs to summon the necessary political will and set into motion the law to achieve the purpose for which it was enacted. It is further recommended that the government of Cameroon should refrain from this habit of enacting incomplete laws. Additionally, the sanctions for non-compliance with assets declaration should be revised to include imprisonment, the independence of the Assets and Declaration Commission in the execution of its duties as well as its compulsion to disclose information to the public to promote and ensure transparency and accountability. Finally, the law needs to promote and ensure transparency and accountability with assets declaration.

### **Disclosure of interest**

The author has no competing interests to declare.