

**DEMOCRATIZATION IN AFRICA: RETROSPECTIVE AND FUTURE
PROSPECTS**

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**On African Parliaments: Constitutional and Electoral engineering in Plural Societies.
(The case of Francophone African countries)**

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ABSTRACT

This paper will analyse the “institutions of political representation” - meaning electoral systems, political parties and parliaments - in Francophone African Countries (Benin, Cameroon, Central African Republic, Chad, Gabon Guinea, Ivory Coast, Mali, Mauritania, Niger, Republic of Congo, Senegal and Togo).

In such heterogeneous societies the design of the electoral system (constituencies, ballot, electoral rolls, mathematical formulas) and the structure of the Parliament (unicameral or bicameral) are crucial points for the demand of inclusion of minority groups, traditional authorities and opposition parties. Beyond the classical dispute over the electoral systems, which concerns the Proportional and the Majority System, the debate over the design of a suitable electoral system in a plural society should consider another issue, *id est* to which extent an electoral system should contribute to inter-groups accommodation, assuming what Lewis has stated, that “the surest way to kill the idea of democracy in a plural society is to adopt the Anglo-American electoral system of first-past-the-post”.

This study will focus on: the qualification of the franchise and the introduction of the Independent Electoral Commission; the reforms of the electoral laws, to include some elements of groups and minority representation (quotas, reserved seats for minorities, separate rolls, positive gerrymandering, combination of the Proportional System and the First-Past-The-Post systems); the design of the upper chambers to mirror the differences of the society, following ethnic, linguistic, religious, socio-economic and professional lines, as in the case of Burkina Faso, Cameroon, Senegal, Mauritania, Mali, and to include traditional authorities.

In conclusion, it will present some suggestions over the management of multi-party elections and the relation between democracy and traditional authorities, and will consider Parliaments as a place where social and political conflicts could be institutionalised. In particular, lower chambers empower people with political rights and training in democracy, while upper chambers could be crucial for the inclusion of traditional authorities and minority groups.

KEY WORDS: Francophone Africa - Representation - Electoral systems - Political Parties - Parliament - Second Chambers - Rights of Minorities.

*“A state aims at being, as far as it can be,
a society composed of equals and peers”*
Aristotle.¹

1. Preliminary remarks - Research aims

This paper will analyse the “institutions of political representation” - meaning electoral systems, political parties and parliaments - in Francophone African Countries, such as Benin, Burkina Faso, Cameroon, Central African Republic (CAR), Chad, Côte d’Ivoire, Gabon, Guinea, Mali, Mauritania, Niger, Republic of the Congo, Senegal and Togo. In this paper, the attention will be focused on the electoral systems created to regulate national elections, and not on the subnational elections such as provincial or local ones.

When speaking about “Africa” there is a great need of speaking precisely, and not generally. The African continent is made up of about fifty-three independent states, with different pre-colonial background and cultures, even if they share a common vision on the continent. The geographical area to be considered is the so-called “Francophone Africa”, which includes most of the African countries having French as an official language. This research does not take into consideration the former Belgian colonies (Democratic Republic of Congo, Burundi and Rwanda) and also excludes the case of Madagascar, due to its historical and cultural peculiarities. The former French colonies are thought to have some common characteristics as they have preserved the trend to a “constitutional mimesis” with the French Constitution, in the path of the constitutional heritage of the French revolution; the strong relation between the indigenous political parties and those of the colony, during the colonial era; and the economic and political relations. That is to say that this geographical area, even if in this paper is part of a comprehensive analysis, is in substance deeply heterogeneous and marked by profound cleavages and historical divergences [M’Bokolo, 1985; Fage, 2002; Meredith, 2005; Coquery-Vidrovitch, 2005].

The chronological span to be considered is 1989-2008. The *annus mirabilis* 1989, is taken as a conventional date for the commencement of the transitional and democratisation processes, in Africa as in Eastern Europe and Latin America. However, the object of this paper is not the transitional process, which remains in the background, but rather the more outstanding constitutional reforms introduced to reverse authoritarian regimes. It will focus on national Parliaments and will consider recent developments in constitutional and electoral laws and procedures, starting from the 1990s, when African countries commenced their path to

¹ Aristotle, quoted in Lijphart A., 1977, *Democracy in Plural Societies: a comparative exploitation*, New Haven, Yale University Press, p. 5.

democracy. Twenty years after the democratic revolution, the most difficult task is to preserve the achievements and to design more appropriate, responsive political institutions. It has been widely acknowledged that the written constitutional guarantees, established during the democratic transition of the 90s, have persuaded different political parties and social groups to engage in electoral and political competition, thus contributing in spreading a pluralistic approach towards decision-making. Reading the preambles of the constitutions of Francophone African countries, it is possible to appreciate the commitment to such values and principles as the protection of human rights, participation in political power, which seek to create distance from prior political regimes based on personal dictatorship, corruption, injustice and nepotism. At the same time, with the transition from a one-party to a multi-party system, Parliaments have discovered their representative functions. Hence, the African continent can be seen as a fertile laboratory in the creation of new constitutional paradigms and patterns; here we see intersections of European and Anglo-American constitutionalism with new creative, indigenous forms.

Considering the fact that the Constitutions are frequently object of reforms, amendments, or substitutions, it seems necessary to list the constitutional texts in force. The constitutional texts considered in this paper are the Constitution of Benin of 1990 [*Loi n. 90-32 du 11 Décembre 1990 portant Constitution de la République du Bénin*]; the Constitution of Burkina Faso of 1997 [*Loi N. 002/97/ADP du 27 janvier 1997*]; the Constitution of Cameroon of 1996 [*Loi n. 96-06 du 18 janvier 1996*]; the Constitution of the Central African Republic of 1994 as temporarily modified in 2003 [*Constitution of the Central African Republic adopted on 28 december 1994*]; the Constitution of Chad of 1996, as modified in 2004 [*Constitution du Tchad du 31 mars 1996*]; the Constitution of Gabon of 1991, as modified [*Constitution de la République Gabonaise, Loi N. 3/91 du 26 mars 1991, et ses modifications*]; the Constitution of Guinea of 1990 [*Loi fondamentale du 23 décembre 1990*]; the Constitution of Côte d'Ivoire of 2000 [*Constitution de la République de Côte d'Ivoire*]; the Constitution of Mauritania of 1991 [*Ordonnance n. 91.022 du 20 Juillet 1991 portant Constitution de la République Islamique de Mauritanie*]; the Constitution of Mali of 1992; the Constitution of Niger of 1999 [*Constitution du Niger du 18 Juillet 1999, promulguée par décret N° 99-320*]; the Constitution of the Republic of Congo of 2002 [*Constitution de la République du Congo du 20 Janvier 2002*]; the Constitution of Senegal [*Constitution de la République du Sénégal du 22 Janvier 2001*]; the Constitution of Togo of 1992 as modified in 2002 [*Constitution de la IV^e République du 27 Septembre 1992, révisée par la loi n° 2002-029 du 31 décembre 2002*].

The following aspects should also be considered, linked both to the quality of the democratic and electoral process and to the guarantee of the fundamental human rights: the political instability which deeply affects this area, the geography of the conflicts, and the massive violations of fundamental rights, the repression of civil protests and demonstrations, and the limitation in the freedom of manifestation. To be added also, the repression of minorities, and the difficulty to accept electoral outputs, and the frequent use of violence, instead of the law, to resolve electoral controversies. The material conditions of the population, as the high rate of illiteracy, poverty, famine, diseases, informal dwelling, and inferior job, play a crucial role in the taking root of the democracy [Amnesty International, 2009].

The countries considered have shown different rates of and output in “democratic practice” which are frequently measured by the Freedom House. Moreover, according to the Freedom House, a number of countries could not be neither considered truly “electoral democracies” as the succession in power is mainly determined by force relationship and not by the electoral results, or elections are still organised in an illiberal context, as in the case of Burkina Faso, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Gabon, Guinea, Republic of the Congo, Togo [Freedom House, 2009]. That is why the political events of the last ten/fifteen years and the social context should be kept in mind to avoid a pure formalistic juridical analysis.

2. Theoretical background

An important achievement of the recent cycle of constitutionalism, started mainly at the beginning of the 90s, has been the constitutionalisation of the basic principles of liberalism and political pluralism, that is the translation into constitutional texts and laws of the basic principles of pluralistic democracy [Cabanis, Martin, 1999]. In all the constitutional texts considered, in fact, there are several constitutional clauses related to the discipline of the right to vote, the electoral system, the regulation of political parties, the parliaments and bicameralism, the rights of political minorities and opposition parties, while the introduction of an Independent Electoral Body has been put into effect with statutory laws.

The legal acknowledgment of political pluralism and multi-party system of government has taken place in different ways. Among these, for instance, is noteworthy the introduction of an explicit constitutional clause, as in the case of the Constitution of Burkina Faso of 1991, and the Constitution of Togo of 1992; or the abrogation of the clauses related to the one-party system; or the constitutionalisation of the status of political parties, as in the case of Benin [Cabanis, Martin, 1999].

However, even if the texts of the Constitutions describe a model of constitutional democracy, with the protection of fundamental rights, checks and balances, limitation of the executive power, and the independence of the judiciary, the political and social situation of the countries considered presents profound differences. This refers to the discrepancy between the “legal country” and the “real country”. Constitutional texts, in fact, have had a different impact on the regulation of political life, and protection of fundamental rights, in the last sixty years, moving to the paradox of a set of “constitutions without constitutionalism”. This expression, firstly used by Shivji to describe African constitutions, refers to a kind of situation in which, while formal constitutional and juridical guarantees are in force, there is neither commitment to the values of constitutionalism, as the limitation of power and the protection of fundamental rights, nor constitutional law enforcement. It stresses, moreover, that the simple existence of a written constitution, which lies at the core of constitutionalism, does not imply that it exists a form limited government and a system of protection of fundamental human rights [Shivji I.G., 1998]. To bridge the gap between “law in the books” and “law in action”, one should, moreover, consider several elements of the context, as the elements which directly influence the “political regime”, such as the party system [Lanchester, 2004], or other extra-judicial data or pre-judicial data, such as the sociological composition of the population, along ethnic, linguistic, religious, territorial or cultural cleavages [Rokkan, Lipset, 1967]. To bridge this gap, it might be considerably useful to remind Arend Lijphart’s definition of “plural society”. The so-called “plural societies”, called otherwise “heterogeneous societies”, “segmental societies”, “divided societies”, are defined by Arend Lijphart, as societies in which citizens are divided by sociocultural or ascriptive traits, called “segmental cleavages”. These cleavages may be of a religious, ideological, linguistic, regional, cultural, racial, or ethnic nature [Lijphart, 1977, p. 3]. As a result, political parties, interest groups and association tend to be organised along the lines of segmental cleavages [Lijphart, 1977, p. 4].

Therefore the central question that arises is: how is it possible to manage social differences and to find an adequate system of government, which can, at last, maintain stability and peaceful, in a diverse and divided society? The central point in the renewal of African political institutions has been the challenging of the so-called model of “African democracy” and to create new theoretical basis over which building up institutional design for African democracies.

The traditional model of “African democracy”, which has taken path in the post-colonial era, was based on the principles of consensual democracy. The necessity of the one-party system - conceived as the sole manner to reducing and appeasing social tensions, and achieving social and economic development - was justified, furthermore, as the sole manner to root democracy in African countries [Lavroff, 1978]. However, it has been demonstrated that these alternative political conceptions, that have dominated African political thought and constitutional engineering for years - as *consensus* and one-party system - have failed [Ntungwe Ndue, 1994].

The primary characteristic is that these countries are deeply affected by the French constitutional tradition, and the French institutional inheritance, in certain cases these countries have even directly translated and imported part of the 1946 and the 1958 French Constitutions. They are thought having imported the typical French institutional framework, concerning the Form of the State, the Form of the government, and the debate about the bicameralism. In particular, the French constitutional tradition, has inherited by the French revolution, has generally preferred a Form of Unitary and centralised State, instead of a Unitary and decentralised, or a Federal State; moreover - as acquired during the drafting process of the Fifth Republic Constitution's, that of the 1958 - the preference for the predominance of the Executive, in comparison with the Legislative Power; and, finally, the sentiment of lack of distrust towards the bicameralism, and in particular, towards the Second Chamber [Cadart J., 1990; Duhamel, 1994; Rousseau, Viala, 2004]. In particular, the last point, that of the debate about the bicameralism in the French constitutional tradition, will be analysed in the next paragraph.

Francophone African Countries have tended to borrow constitutional design from the “Mother country”, the France, in the wake of the independences, and have preserved an institutional mimesis with French constitutionalism. Therefore, the countries considered have introduced originally, the form of unitary and centralised State, which has deeply influenced the debate about the Second Chamber. Yves Mény has explored this relationship in his famous volume “*Les politiques du mimétisme institutionnel. La greffe et la rejel*”, assessing that the transfer of technology has been mostly, yet not only, leaded, in fact, by the international relations [Mény, 1993].

Another characteristic of political regimes has been the low level of power institutionalisation. The government is generally defined as the whole of formal institutions and bodies which stand at the head of the executive power, while “governance” is a wider term that embraces other actors and institutions. The governance “includes formal institutions and regimes empowered to enforce compliance, as well as informal agreements that people and institutions either have agreed to or perceive to be in their interest” [Hout, 2003, p. 259].

A challenge in improving governance is the institutionalisation of the political power. Institutionalisation, as defined by an authoritative French scholar, Pierre Avril, is the “codification which aims to transform any behaviour, praxis or constitutional convention with reference to political relations, in compulsory juridical rules, judicially enforced” [Avril, 1990, p. 118].

In sum, assuming that the sociological composition of the population should directly affect institutional design, two central issues will be examined in this paper: the question of the electoral systems and the design of political institutions, and in particular the ones of legislative power.

The Electoral laws lay at the core of constitutional systems and directly influent the way in which political institutions, as described in the constitution, function. Moreover, in conflict or post-conflict cases, constitutional and electoral design are key issue in peace-building.

The classical debate over electoral systems, as proposed by authoritative scholars has always been focused on the political consequences of the introduction of a majority system, rather

than a proportional one, in relation to the party system [Duverger, 1950; Bogdanor, Butler, 1983; Rae Grofman, Lijphart, 1986]. In fact, traditional analysis on the electoral systems has tended to theorize the influence of electoral systems on the number of parties and government stability [Bogdanor, 1983]. Beyond the classical dispute over electoral systems, which juxtaposes the Proportional and the Majority System, the debate over the design of a suitable electoral system in a plural society should consider another issue, that is to which extent an electoral system should contribute to inter-group accommodation [Horowitz, 1991], assuming what Lewis has stated, that “the surest way to kill the idea of democracy in a plural society is to adopt the Anglo-American electoral system of first-past-the-post” [Lewis, 1965].

In such heterogeneous societies the design of the electoral system, which comprehends key variables as the constituencies, ballot, electoral rolls, mathematical formulas (otherwise referred as electoral formula, ballot structure, and district magnitude, to express the the representatives elected by the district) and the structure of the Parliament (unicameral or bicameral) are crucial points for the demand of inclusion of minority groups, traditional authorities and opposition parties. Reynolds concurs that the electoral systems could become the key to resolve conflict in deeply divided societies [Reynolds, 1999]. The Journal of Commonwealth and Comparative Politics has been another important forum of debate over the issue [Bogaards, 2003].

Focusing, then, on African parliaments and on the composition of second chambers, a key issue is the representativity of the Parliament to guarantee a wider acknowledging of public institutions. African Parliaments, however, are suspended between “government” and “governance”, as Mohamed Salih has stated, to stress that the political process has always tended to escape juridical and constitutional procedures, or, what has been previously defined as the institutionalisation of the political power [Salih, 2005].

Turning the attention to the theory and practice of fundamental rights in Africa, which affect indirectly the discourse on electoral and institutional engineering, some important differences with the Western theory should be stressed. African scholars have always stated that there is no difference among the so called “generations of rights” - such as civil and political rights versus social, economic and cultural rights - and have put forward the theory of the inter-dependence of all the human rights, to say that is not sufficient to guarantee political rights, if people are living in indecent houses, have a subordinate or inferior job, have no access to higher education, and are used to lower hygienically condition. Moreover, the tension between “individual rights” and “group rights” has been set from another philosophical perspective, that of a community-based, rather than a solely individually-based society [Mbaye, 2002].

3. The qualification of the franchise

The right to vote has been widely recognised as a fundamental human right with the approval of the UN Covenant on Civil and Political Rights of 1966. The article 25, in fact, has stated that *“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions, to take part in the conduct of public affairs directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; to have access, on general terms of equality, to public service in his country”*.

The countries considered have made strong efforts to implement in their constitutions, the international standards franchise, following the definition of the “fair”, “free”, “equal”, and “secret” vote. The qualifications to vote are assessed on universally recognised legal requirements, such as citizenship, age, registration, full possession of civil and political rights [Rose, 1983; Lanchester, 1993].

The Constitutions considered have inserted special clauses to protect the right to vote. The sections referring to the right to vote are mostly drafted in the same manner: “*Le suffrage est universel, libre, égal et secret. Sont électeurs, dans les conditions déterminées par la loi, tous les citoyens des deux sexes, en âge de voter, jouissant de leurs droits civiques et politiques*”. This formula brings to mind the article 3 of the 1958 French Constitution.

The Constitution of Benin disciplines the right to vote in article 6, establishing that the suffrage is universal, equal, and secret, as does the Constitution of Burkina Faso, in articles 11, 12 and 33; the Constitution of Cameroon, in art. 2; the Constitution of the Central African Republic, in art. 46; the Constitution of Chad, in art. 6; the Constitution of Gabon, in art. 4; the Constitution of Guinea, in art. 2; the Constitution of Ivory Coast, in art. 33; the Constitution of Mauritania, in art. 3; the Constitution of Mali, in art. 27; the Constitution of Niger, in art. 7; the Constitution of the Republic of Congo, in art. 4; the Constitution of Senegal, in art. 3; the Constitution of Togo, in art. 5.

The legal age required is generally eighteen years old, as in Benin, Burkina Faso, Central African Republic, Chad, Mauritania, Niger, Congo, and Togo; while in Cameroon, Guinea, Ivory Coast, Mali, Senegal, it is twenty years old; and in Ivory Coast and Gabon it is twenty-one [ACE Electoral Knowledge Network, Comparative Data, 2008; IPU Parline Database, 2008]. In some cases, as in Niger, the marriage is an exception of legal age, and qualifies as meeting the voting requirement even persons under eighteen years old. [ACE Electoral Knowledge Network, Comparative Data, 2008]. Voter registration is mostly compulsory, and the authorities responsible for the registration vary from the Central government, especially the Minister of the Interior, as in Mauritania, and the Regional Government, as in Congo, and the Independent Commission, as in Benin, Burkina Faso, Mali, Guinea, Ivory Coast, Central African Republic, Togo.

The promotion of equal opportunities for women is strengthened by the punctual reference to “both sexes” in the majority of the constitutions considered. Furthermore, several categories of “non-citizens”, as foreign residents, are entitled to vote, as in Cameroon, where among voting requirements it is included the permanent domicile or residence for more than six months in the constituency; in Central African Republic electoral laws, which include residents for more than six months; in Chad, where the Constitution entails

in Mali, where citizens of other African countries, resident in Mali could be registered as voters; in Mauritania, where residents for a minimum of six months are entitled to vote; and in Togo.

Moreover, “citizens living abroad” are entitled to vote in Central African Republic, Congo, Mali and Senegal, as an acknowledgment of the important role they play in the domestic economy. In the case of Burkina Faso, persons resident in the country for more than ten years, such as employed foreigners, are entitled to vote [IPU Parline database, 2008].

From an historical point of view, the 1848 was a significant turning point for Francophone Africa, as in Europe. While universal male suffrage was being granted in France, the inhabitants of Senegal, which had a special administrative status, were first given the right to vote in 1848, though only a small minority of mostly white people were entitled to [Mille et al., 1901; Mbaye S., 1977].

4. The constitutional status of political parties

The Constitutions of the countries considered have inserted a specific clause which seems to be the exact translation of the 1958 French Constitution’s art. 4, as drafted before the 2008 Constitutional Reform, that states “*Les partis et groupements politiques concourent à l’expression du suffrage. Ils se forment et exercent leur activité librement. Ils doivent respecter les principes de la souveraineté nationale et de la démocratie. Ils contribuent à la mise en oeuvre du principe énoncé au second alinéa de l’article*

1er dans les conditions déterminées par la loi.” [Cabanis, Martin, 1999]. This is the case of art. 5, of the Constitution of Benin; art. 13, of the Constitution of Burkina Faso; art. 3 of the Constitution of Cameroon; art. 19 of the Constitution of the Central African Republic; art. 14 of the Constitution of Côte d’Ivoire; art. 6 of the Constitution of Gabon; art. 3 of the Constitution of Guinea; art. 28 of the Constitution of Mali; art. 11 of the Constitution of Mauritania; art. 9 of the Constitution of Niger; art. 4 of the Constitution of Senegal; art. 4 of the Constitution of Chad; article 6 of the Constitution of Togo. Furthermore, the Constitution of the Republic of Congo dedicates an entire chapter, the Forth, to the discipline of the political parties.

The necessity to reverse the authoritarian trends of the past has pushed towards the inclusion of several dispositions in order to recognise the multi-party system. The constitutional scholar, Joseph Owona, has classified the relationship between the State and the parties in the Constitution of African countries before 1990, into three categories. The first comprises all the countries which have acknowledged political pluralism, either spontaneous, or limited, as in the Constitution of Senegal and Burkina Faso of the 1970s. The second refers to the institutionalisation of a one-party regime, by law, or *de facto*. The third includes the constitutions which have no references to political parties [Owona, 1985].

The Constitutions of the 90s, then, have inserted a number of dispositions which protect, encourage and enforce political pluralism. Although there are several limitations, considered as instruments to protect “national unity”, which forbid the constitution of political parties based on racial, ethnic, or regionalistic ideas, and which challenge the basic values of the constitutional order, such as unity of the state, non-racial and non-sexist order, and neutrality to religion. The aims of these clauses are to protect fundamental values of the new constitutional order and avoid any kind of regional or group allegiances which could jeopardise the unity of the State [Cabanis, Martin, 1999]. At the core of these provisions lies the necessity to protect the unity of the State and the advance the process of nation-building.

For instance, the Constitution of Burkina Faso has inserted, in article 13.5, the prohibition of the constitution of political parties based on tribalist, regionalist, denominational, or racist grounds. In the same manner, article 9 of the Niger Constitution forbids the creation of any political movement based on an ethnic, regional, or religious program; as does art. 5 of the Chad Constitution; art. 13 of the Côte d’Ivoire Constitution, art. 1.13 of the Gabon Constitution; art. 3 of the Guinea Constitution; art. 28 of the Mali Constitution; art. 11 of the Mauritania Constitution; art. 53 of the Republic of the Congo Constitution; art. 4 of the Senegal Constitution; and art. 7 of the Togo Constitution [Table n. 1].

Table n. 1 - Political Rights in the Constitutions

Country	Right to vote	Political Parties	Limitation to Political Parties
Benin	art. 6	art. 5	-
Burkina Faso	art. 11 - 12 - 33	art. 13	art. 13.5
Cameroon	art. 2	art. 3	-
CAR	art. 46	art. 19	-
Chad	art. 6	art. 4	art. 5
Côte d’Ivoire	art. 33	art. 14	art. 13

Country	Right to vote	Political Parties	Limitation to Political Parties
Gabon	art. 4	art. 6	art. 1.13
Guinea	art. 2	art. 3	art. 3
Mali	art. 27	art. 28	art. 28
Mauritania	art. 3	art. 11	art. 11
Niger	art. 7	art. 9	art. 9
Republic of Congo	art. 4	art. 51 art. 52	art. 53
Senegal	art. 3	art. 4	art. 4
Togo	art. 5	art. 6	art. 7

Source: Elaboration of the Author

5. The reform of the electoral laws

The reforms of the electoral laws, to appease the “winner-take-all” effects of the First-Past-The-Post System, mainly started at the beginning of the 1990s. Westminster winner-take-all elections have shown their negative consequences in divided or conflictual societies. The Plurality, or First-Past-The-Post System, was “created” in Britain, and exported to the colonies of America, Africa and Asia, while Francophone African countries accepted the Majority, or Two-Round System, inherited from France [Butler D., 1983]. Yet, a precondition of the plurality system would be a homogeneous society. Bogdanor stated, in fact, that “It seems that a national culture unified both ideologically and ethnically may be a precondition for the successful working of the plurality and majority methods” [Bogdanor, 1987, p. 19].

It should be remarked, furthermore, that the Majoritarian system has been undergoing a deep crisis even in the Anglo-saxon world, especially in the United Kingdom. A special Commission, for instance, was instituted, in the United Kingdom, to explore alternatives to the First-Past-The-Post electoral system, while a number of proposals have been calling to extend Mixed Member Proportional System to the House of Commons [Reynolds, 2006; Turpin et al., 2007]. In the United States there has been a wide movement to challenge the effect of the FPTP system in relation to the underrepresentation of the African-Americans and Latino-Americans. Notwithstanding the colour-blind ethos of the constitution, the Supreme Court has put forward the practice of taking into consideration the race as a criteria for districting purposes, in the wake of the Voting Rights Act of 1965 [Pildes, 2008]

From a theoretical point of view, recent studies have acknowledged three main Electoral Systems Families, defined as Plurality-majority, Mixed Systems, and Proportional, which can help in analysing Francophone African cases [Reynolds, 2006; Reynolds, Reilly, Ellis, IDEA, 2008].

Among the considered countries of Francophone African Region, the sole country which has maintained the pure First-Past-The-Post System is the Côte d’Ivoire. The countries characterised by the Majority System, or Two-Round System (TRS) are Central-African

Republic, Gabon, Mali, Mauritania, Republic of Congo, and Togo. However, Mali has experienced a particular form of TRS in multi-member districts, called Party Block Vote (PBV). A number of countries have introduced different variations of the Mixed Electoral Systems family. These systems are mainly designed following the so-called “Parallel (Segmented) System”, a type of Mixed System, which is generally composed by the elements of the Majority/Plurality system combined with elements of the Proportional System that, however, run independently, which means that PR elements does not compensate for any disproportionality arising under majority/plurality system [Reynolds, Reilly, Ellis, IDEA, 2008]. The countries which have departed from the French tradition and have adopted a pure Proportional System, without any formal threshold, are Benin, Burkina Faso, and Niger [Table 2]. However, Mali and Senegal have experienced a particular form of Mixed System, defined the Party Block Vote [Vengroff, 1994; Vengroff, in Reynolds, Reilly, Ellis, IDEA, 2008]. While the very Constitution of Guinea prescribes, article 50, prescribes that 1/3 of the representatives should be elected with First-Past-The-Post System, and that the 2/3 are elected with PR List System, in a unique national constituency.

The introduction of the Mixed Member Proportional System in several African countries, which stresses the effort to design a specific “electoral system for African countries”, is a practical demonstration of the departure from the “*mimétisme*” approach. The “institutional mimetism” - an approach which tends to analyse African Political Institutions and Constitutional engineering trough the lens of the similarities and dissonances with the European models, based on the fact that institutional mechanisms have been imported in Africa from Western countries - has shown its limits in understanding the nuances of African institutional and constitutional choices [Mény, 1993; Du Bois de Gaudusson, 2009].

Another of the most outstanding electoral reforms, in the recent years, has been the introduction of the Electoral Commissions as “Electoral Management Bodies” to remove the electoral management authority from the Executive, better from the authority of the Minister of the Interior [Aivo, 2007]. All the countries considered have introduced an Independent Electoral Commission through legislative sources, while none has previewed a Constitutional status [Wall, Ellis et al., IDEA, 2006]

Table n. 2 - Electoral Systems

Country	Electoral System	Family Type	Legislature size
Benin	List PR	Proportional	83 seats
Burkina Faso	List PR	Proportional	111 seats
Cameroon	Parallel	Mixed	180 seats
Central African Republic	TRS	Plurality/Majority	105 seats
Chad	Parallel (PBV)	Mixed	155 seats
Côte d'Ivoire	FPTP	Plurality/Majority	225 seats
Gabon	TRS	Plurality/Majority	120 seats

Country	Electoral System	Family Type	Legislature size
Guinea	Parallel	Mixed	114 seats
Mali	TRS	Plurality/Majority	147 seats
Mauritania	TRS	Plurality/Majority	81 seats
Niger	List PR	Proportional	113 seats
Republic of Congo	TRS	Plurality/Majority	137 seats
Senegal	Parallel (PBV)	Mixed	150 seats
Togo	TRS	Plurality/Majority	81 seats

Source: International IDEA - IPU Parline Database - ACE Electoral Knowledge Network.

5.1. Political representation of minorities

Although the theory of the democratic government, founded on the principle of the sovereignty of the people, requires the universal suffrage and the formal equality of the representation, heterogeneous and deeply divided societies have shown the need to consider another element: the inclusion of the minorities in the political sphere. As Reynolds has stated, in fact, “the inclusion of minorities in representative bodies is a necessary, if not sufficient, condition of conflict prevention and longer-term conflict management” and “The electoral system chosen to constitute any elected body will have a significant impact on the access that minorities have to parliamentary representation” [Reynolds, 2006]. Electoral laws, then, are key institutional and legal means to foster minority parliamentary representation. The International law has provided a number of normative documents to justify the necessity of the participation of minorities in government and has introduced several mechanisms for the political inclusion of minorities in central government.

Generally speaking, “minorities” could be defined either as a group numerically inferior to the main national group which forms part of the population, or as a group which, even majoritarian, has always been characterised by a position of cultural and political subordination [Capotorti, 1979].

The goal of political representation of minorities in lower chambers could be reached by the inclusion of some elements of groups and minority representation, known as “affirmative action mechanisms”, such as quotas, reserved seats for minorities, separate or communal rolls, positive gerrymandering, and the combination of the Proportional System and the First-Past-The-Post systems [Reynolds, 2006; Reynolds, Reilly, Ellis, IDEA, 2008]. However, the first step to enlarge and open political community is through the definition of the criteria of acquisition

of the citizenship. Beyond the design of the electoral systems, in fact, a central point in the inclusion of minorities in political life is linked to the rules and criteria defined to achieve national citizenship, which automatically give access to the right to vote and to the right to stand for public offices, and which *per se* offers a means to open political community to minority groups [Palermo, Woelk, 2008]. Therefore, in the cases where, among the criteria required to be entitled to vote, it is listed the “permanent residency” - as in the case of Cameroon, Central African Republic, Mali, Mauritania, and Togo - it means that the participation in political life is extended to “non-citizens”, who generally constitute a bulk of minority groups.

All the countries considered have introduced a common national electoral roll. Even if considered as a legal instrument among the so-called “affirmative action mechanisms” in electoral law, the Separate or Communal Roll could be also interpreted as an instrument to legalise discrimination among groups of people, as the historical experience of South Africa has shown.

The Proportional system is considered *per se* an instrument for the protection of minorities. As a result, some empirical cases have previewed a very low threshold or have even provided an exception to the established threshold to facilitate minority groups competition [Palermo, 2008]. This means that countries which have adopted the proportional systems, as Benin, Burkina Faso, and Togo have implicitly recognised the minimum standard required to foster minority parliamentary representation. The relationship between the population and the allocation of seats, in order to put into effect the constitutional principle of the “equality of the representation”, however, should be constantly revised, to avoid the phenomenon of the “malapportionment”. Widely defined as “the discrepancy between the shares of legislative seats and the share of population held by geographical units” [Lijphart, 1986; Lanchester, 2004], the malapportionment has the effect of twisting the output of electoral results. That is to assume that the vote of some citizens weighs more than the vote of other citizens [Samuels et al., 2001].

Majority systems, on the contrary, require special measures to maintain the equal value of the vote. The more critical problem is the drawing of the electoral single-member constituencies, which can be designed along territorial criteria or along sociological or political criteria. Moreover the artificial drawing of constituencies to favour a party, or a group of the population has proved to be a traditional technique used to exclude minority participation. This phenomenon, known as gerrymandering, could be reversed and used to foster minority representation, becoming a “positive gerrymandering”. The drawing of electoral constituencies following the cleavages of a plural society, indeed, risks to affect the process of national integration, contributing in strengthen subnational allegiances [Russo, 1998].

The phenomenon of malapportionment has brought important consequences in the case of Benin, in stressing the inequality of the vote between the internal region of Atacora, and the Atlantic department, while the necessity to take into consideration the sociological basis of the constituencies has been a critical point in Cameroon, due to the mixed nature of the electoral system, and has been recently challenged in front of the Supreme Court [Kobila, 2008].

The mechanisms introduced to juridically guarantee minority representation, as reserved seats for groups and quotas, are known in the case of Niger. The 1996 Niger’s electoral law has previewed a quota of eight reserved seats for the national minorities, out of the total of 83 National Assembly seats, in order to promote the inclusion of the nomadic groups, and in particular the Tuareg, in national institutions, to foster the process of pacification of the country and to resolve Tuareg rebellion, leaded in the Northern region [Reynolds, 2006].

6. The design of the upper chamber

The African countries have shown an opposite trend with respect to the European countries in the phenomenon of bicameralism. In fact, if in most of the European countries the second or upper chamber seems to have lost its original significance and it is encountering different ways of reform, bicameralism has found a fertile ground in African countries. All the countries considered, excluding Central African Republic, Chad, and Guinea are members of the Inter-Parliamentary Union, an international organisation of the world's parliaments, which provides research and data on the elections and the composition of parliaments, and aims to promote professional development of parliamentary staff.

The reason of the revival of bicameralism could be found in the need to include in Parliament the different groups of the society, to legitimate and to wide the social base of the political institutions. Furthermore, bicameralism has been seen as a means by which traditional authorities could become part of the central State institutions. Indeed, in the democratic framework for the Political Institutions, the design of the lower chambers is pacific, since based on universal suffrage and direct election. What is more controversial and problematic is the design of the second or upper chambers.

Generally speaking, in historical and in contemporary constitutional experiences, second chambers have been designed either as a means to include the representation of subnational entities at the central level of power, as in the case of the Federal states, or to preserve some kind of hereditary representation and legitimation, or to represent different parts of the society, following professional and economic categories, or ethnic groups. The design of the upper chamber, then, admits the possibility to reproduce the differences in society, following ethnic, linguistic, religious, socio-economic and professional lines. [Luther et al. 2006].

Moreover, the French constitutional tradition is mostly linked and more familiar with monocameralism, considered a truly genuine instrument of democracy and a way to express national sovereignty and national unity, even if the 1958 Constitutional framework, as the previous ones, has defined a bicameral Parliament. The role of French Senate has been constantly object of reflexion and debate [Duhamel, 1994; Sénat de France, 2000].

From a theoretical point of view, the concept of descriptive or existential representation requires to design political institutions, among which Parliaments and second chambers, to mirror the society. The descriptive representation allows also to keep into consideration the sociological composition of the society in designing political institutions and it assumes that more representative political institutions are a necessary condition for the pacific and democratic development of divided societies [Friedrich, 1963; Pitkin, 1967; Reynolds, 1996; Reynolds, 2006]. The sociological composition of the population can be drawn along two different criteria, even if from the point of view of the theory of the representation, it is not pacific. The representation along the professional and economic categories, generally refers to the concept of corporative representation while the representation along ethnic or linguistic lines, is mainly defined as sociological representation, even if there are significant differences and nuances among the Authors, and the very notion of "descriptive representation" or "sociological representation" entails several theoretical and practical problems [Sartori, 1995; Pitkin, 1967; Reynolds, 2006; Kymlicka, 1995 and 2000; Kobilá, 2008; Lanchester, 2006].

The central point is, indeed, the importance stressed on the necessity of taking into consideration the sociological basis of the population in designing the second chambers, assuming that the lower ones elected with universal and direct suffrage, as a corollary of the democratic organisation of the State.

In Francophone African Countries, there has been a wide movement of reflections and debate over the issue [Cabanis, Martin, 1999]. The cases of Burkina Faso, Cameroon, Mali, Mauritania,

and Senegal are noteworthy. It should also be added that these second chambers generally conceived with an unequal status, in comparison with lower chambers, do not have the same powers and participate in legislative process and executive oversight in different manners. These chambers mainly function as advisory bodies. The aim of these chambers is, however, mainly representative as to provide a national forum for public consideration of issues, where different categories of citizens can put forward sectional interests and needs [Sénat de France, 2001; 2002].

6.1. The cases of Burkina Faso, Cameroon, Mauritania, Mali, and Senegal

The “Forum des Sénats du monde”, a monitoring office of the French Senate, could be considered an important tool in the study of the second chambers, and offers a wide field of analysis over the composition and functioning of the world’s upper chambers, updated to the more recent constitutional reforms and political events.

Among the countries considered, only the minority has shown an attachment to the monocameralism, and that for different reasons. The countries which have experienced a bicameral Parliament are: Burkina Faso, Cameroon, Chad, Gabon, Mauritania, Mali, Republic of Congo, Senegal, and Togo. These countries could be classified into three categories: the ones which have previewed in the constitution and have put into operation the second chamber (Gabon, Mauritania, Mali, Republic of Congo, and Senegal); the countries which have previewed, put into operation and then abolished the second chambers (Burkina Faso and Chad); and the countries which have previewed a second chamber but have not yet put it into operation (Cameroon and Togo). Among these cases, it seems of particular interest the examples of Burkina Faso, Cameroon, Mauritania, Mali, and Senegal [Table n. 3].

The constitutional reform of 2000 introduced in Burkina Faso a particular kind of Second chamber, which has been abolished in January 2002. The “*Chambre des Représentants*” du Burkina Faso was composed by 162 members, of which 90 were chosen in their quality of representatives of the Provincial councils, and the other 72 were representatives of the different groups of the society. In particular, the composition previewed quotas of representatives per different groups of the civil society, as religious minorities (protestant, catholic, majoritarian muslims, and minority islamic communities as the Sunni community and the Tidjania community, a Sufi brotherhood); trade-unions, company and traders unions, associations of students, consumers, retired persons, women, disabled persons, traders, NGOs operating in the protection of Human Rights and the Environment, agricultural associations, sport and arts authorities; citizens leaving abroad. Moreover, there were not only representatives of the civil society, but also representatives of the military institutions, paramilitary organisations, and a quota of members appointed by the Executive power, in the person of the President of the Republic. A chamber conceived, thus, to represent and include a wide range of powers and authorities, as political, economic, social, cultural and military powers, to provide a national conference as representative as possible and legitimated. This chamber, however, was conceived mostly as an advisory body, with specific powers of intervention, even if not of veto, in sensitive matters as citizenship, civil rights and fundamental freedoms, issues of private and customary law, as marriage and succession.

The debate about bicameralism, in Cameroon and in Mali, should be linked with the wider, yet still not in force, process of decentralisation of the State. The renewal of the Form of the State, from a unitary-centralised towards a unitary-decentralised state, would make the representation of territorial communities in the Second Chamber, as a logical and consequential choice.

Notwithstanding this, the Second Chamber of Cameroon, representative of the territorial communities, as part of the wider decentralisation process - as previewed by art. 14 of the 1996's reformed Constitution - is still not in force. Cameroon is a multiethnic country with two official languages inherited from the double european colonisation, French and English, and a multitude of unofficial languages spoken by the different ethnic groups, mostly divided among the region of the North, the Centre and the South, and decentralisation is considered as a crucial step towards the pacific management of multinationalism. However, the administrative reform, with the introduction of subnational or territorial entities, the regions, has not been yet brought about [Dongmo et al., 2005; Kobila, 2008]. On the contrary, the 1992 Constitution of Mali, at art. 59, describes the Parliament as composed by a sole chamber, albeit it disciplines another constitutional body with representative functions, the "*Haut Conseil des Collectivités*". The High Council has been conceived as an advisory body, while there has been a calling to transform the Council in a full legislative body, with institutional representation, integrated to the Parliament, as an upper chamber [Sénat de France, 2008].

The *Majlis al Chouyoukeh*, the Senate of the Islamic Republic of Mauritania, is composed by 56 members, ex art. 46 of the Constitution, elected in representation of regional and local communities, and citizens leaving abroad. The Senate has some powers in legislative process, to initiate, and to amend legislation, and in executive oversight. However, Mauritania has encountered a deep political crisis, lead in a *coup d'état* in 2008, that has affected the constitution. The Senate of Senegal, finally, has been restored in 2007, with the approval of the *Loi du 31 janvier 2007*, and is composed by 35 representatives of the territorial communities, and 65 appointed by the Executive, in the person of the President of the Republic. The peculiarity of the Senegal constitution is having insert a special quota in representation of women, as two fifth, or the 40% out of the total of the seats, protected in the constitution, article 60-1, as introduced by the reform of 2007.

Table n. 3 - Structure of Parliaments

Country	Structure of Parliament	Second Chamber	Criteria of composition	Remarks
Benin	Monocameral	-	-	-
Burkina Faso	Monocameral	Chambre des Représentants (162 seats)	Corporative Representation	Abolished in 2002
Cameroon	Bicameral	Sénat	Territorial representation	Not in force
CAR	Monocameral	-	-	-
Chad	Bicameral	Sénat	Territorial representation	Abolished in 2004

Country	Structure of Parliament	Second Chamber	Criteria of composition	Remarks
Côte d'Ivoire	Monocameral	-	-	-
Gabon	Bicameral	Sénat (91 seats)	Territorial representation	Equal Bicameralism
Guinea	Monocameral	-	-	-
Mali	Monocameral	-	-	Haut Conseil des Collectivités Advisory Body
Mauritania	Bicameral	Majlis-al-Choyouk (56 seats)	Territorial communities	3 seats reserved for citizens leaving abroad
Niger	Monocameral	-	-	-
Republic of the Congo	Bicameral	Sénat (72 seats)	Territorial representation	-
Senegal	Bicameral	Sénat (100 seats)	35 elected by the Departments + 65 nominated by the Executive	2/5 seats reserved for women + 3 seats reserved for citizens leaving abroad
Togo	Bicameral	Sénat	2/3 Territorial communities + 1/3 Members nominated by the Executive	Not in force

Source: Forum des Sénats du monde - IPU Parline Database.

8. Conclusions

In conclusion, the paper would like to put forward some suggestions regarding the management of multi-party elections and the role of parliaments, within the debate about democracy and plural societies. Moreover, since the countries considered were all part of the French colonial Empire, the debate about the parliamentary institutions and bicameralism should be contextualised in the relationship between Francophone African Countries and the former Mother country. As shown previously, all these countries are still deeply influenced by

the french constitutional tradition, which might not be helpful to resolve the problems of pluralism and multinationalism. That is to say that the French institutional framework, and in particular the traditional one of the unitary State, which implies a controversial and not even necessary role of the Second Chamber, is not suitable to challenge the request of taking into consideration the sociological composition of the population, in such multicultural countries.

It is generally recognised that in democratic States the design of lower chambers is pacific, since based on universal suffrage and direct election. What is more controversial and problematic, is the design of the second or upper chambers.

A number of countries considered in this research have shown a preference for the unicameral system, in the path of French tradition, both for institutional reasons, as they are mainly unitary or non-federal countries, and because of material conditions, such as limited geographical area and small population (especially if compared with other African states such as Ethiopia, Nigeria, and South Africa), and for lack of economic and human resources. Looking at the structure of the upper chamber, then, the experiences of Senegal, Burkina Faso, Mauritania, Mali, and Cameroon are noteworthy. In particular Cameroon and Mali have tried to renew the institutional organisation of the State, departing from the rigid label of the unitary and centralised form of state, and introducing territorial autonomies. Therefore, the composition of the Second Chamber would become automatically that of the a “chamber of the regions or communities”, along the institutional representation. The decentralisation of the State, in fact, would render the composition of the Second Chamber more logical and consequential as it would base the representation upon decentralised institutions.

Moreover, the historical experience of Burkina Faso, even if it has failed, could be considered as an example of the demand of African societies to imagine something different from the traditional, *rectius* european or french, way to design second chambers.

This example clearly shows the demand of taking into consideration sociological basis of the political institutions. Moreover, the case of Burkina Faso has shown the demand of representation per groups and not only per persons, and the demand of the respect of traditional, historical and cultural features of the country. This assumption means that it is not sufficient to consider the centrality of the individual, but it should also be considered the different sections of the people, organised along ethnical, religious, linguistic, regional, professional, or social lines.

The need to decompose the unity of the State, following the awesomeness of corporatist or federalist suggestions, however, would not mean implicitly to “dissolve the State”, but could be suitable to recreate a new contract among the social groups. Inter-group relations and subnational identities, generally referred to the phenomenon of tribalism, in fact, have been a sensitive key issue in African plural societies [Kymlicka, 2004]. Tribalism - defined by Gonidec as a set of behaviours dictated more from the attachment to the ethnic, linguistic, or cultural group than from the attachment to the State - tends to influence the electoral behaviour and political life, creating a sort of *a priori* allegiance, and induces to consider elections as a form to express social identity more than political choices [Gibson, 2003].

The discourse on political parties, then, became crucial since it is related to the translation of social cleavages into the political community. Nevertheless, the fact of having inserted clauses to limit political pluralism to protect a number of assumed constitutional values could still sound as an authoritarian attempt to threaten the multi-party system and democracy.

Parliaments, indeed, are proposed as a place where social and political conflicts could be institutionalised, going beyond the French constitutional mimetism. In particular, lower chambers are seen as a place where empowering people with political rights and training in democracy, while upper chambers could be crucial for the inclusion of minority groups, territorial communities and traditional authorities.

To reply to the demand of “a truly genuine democracy for Africa” it should be stressed that Parliaments have been part of the traditional political management of the pre-colonial regimes. In fact, in pre-colonial Africa, there were different kinds of Councils which were placed side by side the Chief. Parliaments, indeed, are not only “an invention of the Western countries”, but there were some kind of participative, collegial and deliberative institutions, alongside the responsible authorities even in pre-colonial Africa [Salih, 2005; Friedrich, 1963; Sen, 2006]. What has been imported from Western countries, nevertheless, is the institutionalised corpus of parliamentary practices and juridical instruments, the ones which regulate the relationship between the executive and the legislative powers, such as the rules of the legislative process, the motion of confidence and censure, the internal organisation in commissions, and the executive oversight.

It should not be neglected that behind the solemnity of the formal principles of the constitution there are electoral laws and codes, and that the different electoral techniques of constituencies drawing, district magnitude, authorities responsible for registration of voters, constituencies drawing or boundary delimitation, ballot printing, deeply affect the concept of the equality of the representation, the real incidence of the people in the choice of the government, and in last request the quality of the democracy. Moreover, in weak democracies, the behaviour of the political elite is still a determining factor in preserving the democratic quality of the system. It should be neglected, in fact, the necessity to hold accountability and responsibility of the government and public representatives, which is difficult to root. All the countries considered are facing a constant lack of accountability of the Government and the public representatives.

One should also consider that the majority parties still control more than the absolute majority of the seats of parliaments, notwithstanding the constitutional and electoral reforms, and the formal protection of the parliamentary status of the opposition. While the influence of the surrounding issues of the electoral systems, such as the legislation ruling access to the media, the funding of electoral campaigns and political parties, are still determining factors in assessing the quality of the elections. Moreover, psychological matters related to the behaviour of the political elite, mutual confidence among political actors, and difficulty in accepting electoral results, affect directly political and electoral praxis. As the South African scholar, Tom Lodge, as pointed out, to conclude, in the democracies of new generation, political institutions are more open to the interpretations made by single political leader, than to be enacted as described in the constitution. That is to mean that the political forces interpretation of the institutions still prevails over the constitutional and juridical mechanisms [Lodge, 2002].

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