

State Sovereignty and the Enforcement of Trade Unions' Rights in Cameroon: An Appraisal

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doi:10.63593/SLJ.2026.09.02

Abstract

This paper examines the tension between state sovereignty and the enforcement of trade union rights in Cameroon; in doing this, it situates the genealogy of the international protection of trade union rights in the context of the advent of the industrial revolution in the 19th century. While Cameroon has ratified key international labour organization (ILO) conventions guaranteeing the protection of trade of union rights, the problem remains the ineffective domestic implementation of these conventions. This research employs the doctrinal research approach in its analyses. Findings therefore reveal that, the State of Cameroon continue to rely on its sovereignty to curtail the practical enforcement of trade union rights as contained in the International Labour Code, by failing to keep its domestic laws *in tandem* with international obligations. We therefore submit that, Cameroon should exercise its sovereignty in a manner that reinforces its international obligation by aligning its national labour legislations with the ILO Fundamental Principles. This balance will enhance both State legitimacy and the socio-economic development of its labour force.

Keywords: state, sovereignty, enforcement, trade union, rights, Cameroon

1. Introduction

The earliest forms of labour relations were rooted in customary rules, social hierarchy, and master servant arrangements. In these traditional systems, work obligations were based on social status rather than legal protections. Workers had no recognized rights, and exploitation was common, particularly in agrarian societies where

labour was controlled by elites, chiefs, or feudal authorities.¹

During the colonial period, especially across Africa and other colonized regions, labour rights were virtually non-existent. Colonial administrations designed labour regulations mainly to strengthen resource extraction and consolidate political control.² This resulted in

¹ Gerry, R., et al. (2009). *The ILO and the quest for social justice*. ILO Publications, 10.

² *Ibid.*

forced labour, racial labour segmentation, and the absence of mechanisms through which workers could negotiate or challenges unfair conditions. The primary focus was economic exploitation, not workers protection.

The advent of the Industrial Revolution marked a turning point in the evolution of labour rights. The rise of mass factory work led to long hours, child labour, and unsafe conditions, prompting widespread social concern. Governments gradually introduced early factory laws to regulate hours, protect children and improve workplace safety.¹ Although limited, these reform laid the foundation for the recognition of labour as a social and legal issue deserving state intervention.

International protection of labour rights began formally with the establishment of the International Labour Organization (ILO) in 1919. The ILO introduced a universal framework for labour standards, including wages, working hours, safety, and the prohibition of forced labour. Its conventions encouraged states to legislate and progressively expand labour rights in line with global standards, marking a shift from domestic protection to international supervision.

At the end of World War II, labour rights were recognized as human rights within global human rights instruments. The Universal Declaration of Human Rights (1948) and later the International Covenant on Economic, Social and Cultural Rights (1966) affirmed the rights to work,² fair conditions, equal pay, the protection against exploitation. This era entrenched labour rights system and encouraged states to adopt labour code aligned with international norms.

Trade union rights emerged later than general labour protections and initially faced strong resistance from governments and employers. Early attempts to form workers associations were often criminalized, viewed as threats to political authority and economic stability.³ Throughout the 19th century, many states enacted anti-union laws that prohibited collective organization and strikes, reflecting a belief that unions disrupted

public order.

By the late 19th and early 20th centuries, workers collective struggles pushed governments to reconsider. As industrial conflicts intensified, states gradually legalized trade unions to channel worker grievances through structured negotiation rather than violent protest.⁴ Legal recognition of unions allowed workers to engage in collective bargaining, seek improved wages, and advocate for safe working conditions.

The protection of trade union rights gained international status with the ILO's adoption of core conventions on the freedom of association (Convention No. 87, 1948) and the rights to collection bargaining (Convention No. 98, 1949). These instruments established that workers have the right to protected unions from discrimination, retaliation, and undue restrictions.⁵

In the post-independence era, developing countries particularly in Africa incorporated trade union rights into National Constitutions and Labour Codes. Many newly independent states viewed trade unions as essential tools for socio-economic development and political participation. However, tension continued to arise between governments seeking control and unions demanding autonomy, resulting in fluctuating level of protection.⁶

In the contemporary era, the protection of trade union rights has become a central pillar of labour law systems worldwide. Unions today operate under Constitutional guarantees, statutory protection against anti-union discrimination, and international monitoring mechanisms. Despite remaining challenges such as employer's retaliation,⁷ informal employment, and political interference, the historical evolution reflects significant progress from criminalization to full legal and institutional recognition of trade unions rights.

2. The Conceptualization of Trade Unions

Trade union rights in international law refer to the rights of workers and employers to freely establish, join, and operate organizations for the protection and promotion of their occupational

¹ Simon, D., & Wilkinson, F. (2005). *The law of the labour market*. Oxford University Press, 23-25.

² Brian, L. (2011). *Labour law's theory of justice*. Oxford University Press, 103-105.

³ *Ibid*.

⁴ Standing, G. (2011). *The precariat: The new dangerous class*. Bloomsbury, 1-10.

⁵ See R. Gerry *et al*. *Op Cit* at p. 11.

⁶ Bjorn, B. (2004). *African labour and development*. Zed Books, 14.

⁷ Sakhela, B. (2010). *A paradox of victory: COSATU and the democratic transformation in South Africa*. University of KwaZulu-Natal Press, 11-15.

and economic interests.¹ International law conceptualizes these rights as fundamental human rights closely linked to freedom of association, collective bargaining, social justice, and democratic participation in labour relations.² These rights are organized not only as labour standards but also as essential civil liberties necessary for protecting workers against exploitation and unfair labour practices.

At the international level, the International Labour Organization (ILO) provides the principal framework for the protection of trade union rights. The ILO Convention No 87 on Freedom of Association and Protection of Right to Organize, 1948 conceptualizes trade union rights as the freedom of workers and employers “without distinction whatsoever” to establish and join organization of their own choosing without prior authorization.³ This Convention emphasizes the independence of trade unions from States’ interference and guarantees their right to organize activities, formulate programmes, and to freely elect their representatives.

International human rights instruments also conceptualize trade union rights as fundamental human rights. Article 23(4) of the Universal Declaration of Human Rights (UDHR), 1948 states that “everyone has the right to form and to join trade unions for the protection of his interest.” Similarly, Article 22 of the International Covenant on Civil and Political Rights (ICCPR), 1966 guarantees freedom of association, including the right to form and join trade unions. The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 under Article 8 further recognizes the right of trade unions to function freely, establish national federations, and exercise the right to strike subject to lawful restrictions.⁴

International law conceptualizes trade union rights not merely as individual freedom but also collective rights essential for balancing the unequal bargaining power between workers and employers. To this end, Wedderburn argues that trade union rights are “collective human rights”

because they can only be effectively exercised through collective organization. Israel views trade union rights as indispensable tools for industrial democracy and social dialogue.⁵ Supporting these views we submit that the importance of trade unions in guaranteeing employment security cannot be overemphasized. Trade unions remain the watch-dogs of employment relations.

Away from the foregoing, it will suffice to make a clear distinction between trade unions and other constituted bodies, for conceptual clarity. Trade Unions differ from other associations because it is specially created to protect and promote the economic, social, and professional interests of workers/employers in relation to employment relations. In a strict labour context, a trade union is an organization formed mainly by employees or employers for the protection of their collective labour interests. By contrast, associations such as market women, students’ associations are usually formed for social, cultural, educational welfare, or community purposes rather than labour relations,⁶ and therefore cannot be considered as trade unions.

A major difference lies in their objectives and functions. Trade unions are primarily concerned with labour matters such as the negotiation of wages, working hours, terms and conditions of employment, collective bargaining, amongst other preoccupations. For example, a teacher union may negotiate salary increments or protest unfair dismissals. By contrast, market women association mainly focus on promoting cooperation among traders, providing financial assistance to members, settling market disputes, or organizing community welfare activities. Similarly, students’ associations aim at promoting discipline, leadership, educational development, sports, or cultural activities within schools. Supporting this view, Otto opines that trade unions cannot be synonymous to other types of associations since as there are “institutions of industrial representation” with a mandate to balance the unequal bargaining power between employers and employees.⁷

¹ International Labour Organization (ILO), *Convention No. 87 on Freedom of Association and Protection of the Right to Organize*, 1948.

² *Ibid.*

³ International Labour Organization (ILO), *Convention No. 98 on the Right to Organize and Collective Bargaining*, 1949.

⁴ Universal Declaration of Human Rights (UDHR) 1948, Article 23 (4).

⁵ Wedderburn, K. W. (1991). *Employment rights in Britain and Europe*. Lawrence & Wishart, 56.

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<https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::P12100-INSTRUMENTS-312243>, accessed on 18/04/2026

⁷ Otto, K. F. (1977). *Labour and the law*. Stevens & Sons.

Some scholars ¹ criticize the traditional distinction between trade unions and others associations. They argue that modern economic realities have blurred the line between workers and informal traders. In many African societies, market women associations perform functions similar to trade unions by defending economic interests, organizing collective action, and negotiating with local authorities. Feminist scholars further criticize labour law for historically focusing on formal wages employment while neglecting women in informal sectors such as market trading. As a result, they argue that the narrow legal definition of trade unions excludes many vulnerable groups from effective labour protection.

Despite these criticisms, international law continues to maintain a distinction between trade unions and other associations based on the existence of an employment relationship and the specific role of trade unions in labour relations. Trade unions therefore remain specialised organizations created for the collective protection of worker's rights in the workplace.

3. The International Protection of Trade Unions

ILO Convention 87 on freedom of association and protection of the right to organize (1948) is the foundational international instrument that defines what trade unions are and how they should be treated by states. The convention does not give a rigid or technical definition of trade unions, instead it conceptualizes them through the rights and freedom they are entitled to enjoy.²

ILO Convention 87 conceptualizes trade unions as independent organizations created by workers or employers to promote and defend their occupational interests. Article 2 of same Convention provides that workers and employers, without distinction have the right to establish and join organization of their own choosing, without previous authorization. Wedderburn argues that convention 87 frames unions primarily as autonomous voluntary associations whose legitimacy comes from the free will of workers, not state approval.³ This fine point was aptly captioned by the European court of Human Rights in *Young, James and Webster v*

United Kingdom.⁴ In this case, Young, James and Webster had been employed for a long time by the British Rail without being union members. At a certain point, they all got a message to the effect that, if they did not join one of the limited numbers trade unions, they would be dismissed. The court held that there was a form of coercion that affected the essence of the freedom of trade unionism. Supporting this judicial position, Weiss argues that the convention protects the institutional independence of trade unions by prohibiting state interference in their internal affairs such as elections and administration. This ensures that unions are not mere extensions of the state.⁵

The convention views unions not only as associations of individuals but as collective actors essential for balancing power relations between employers and workers. Supporting this view, Mundlak argues that, the convention constructs unions as mechanisms for collective voice, enabling workers to articulate concerns that would be ineffective if raised individually. On same point, Hob submits that, freedom of association is inherently collective, meaning unions exist to exercise rights collectively rather than merely securing individual freedom.⁶ Trade Unions indeed functions as representative institutions that give workers a unified platform to advance their interests.

While ILO Convention 87 conceptualizes trade union rights as fundamental and autonomous, we submit that the effectiveness of this conceptual framework is limited by state-centric enforcement mechanisms. The reliance on moral persuasion rather than binding sanctions allows states to invoke sovereignty and public order to justify restrictions. From this perspective freedom of association under Convention 87 remains aspirational unless supported by strong domestic judicial engagement and political commitment.

ILO Convention 98 of 1949 conceptualizes trade unions primarily as independent collective entities created to protect workers from anti-union discrimination and to enable genuine

¹ Standing, G. (2011). *The precariat: The new dangerous class*. Bloomsbury, 32.

² Geraldine Van der, H. (2006). *Freedom of association: Digest of decisions and principles of the ILO Committee on Freedom of Association*. International Labour Office (ILO), 20.

³ Lord, W. (1998). Freedom of association and philosophies of labour law. *Industrial Law Journal*, 24.

⁴ Report of the European Commission of Human Rights; European Yearbook XX (1981), 520.

⁵ Manfred, W. (2020). *Labour law and industrial relations in Germany* (5th ed.). Kluwer Law International.

⁶ Guy, M. (2007). The right to organise revisited. *Kluwer Law International*, 23(3), 229.

collective bargaining.¹ The convention builds on the principle that, the employment relationship is structurally unequal, and therefore workers must act collectively to balance the power of employers. It guarantees workers the right not to be dismissed, transferred, or prejudiced because of their union membership or participation²; thereby framing trade unions as institutions essential for safeguarding workers collective autonomy. Accordingly, ILO Convention 98 represents the minimum international standard for the protection of trade union independence and effectiveness.³ This convention views union as “social regulators” whose role extends beyond representing workers, they help to maintain stability and legitimacy within labour markets.⁴ This perspective contrasts with a purely liberal understanding of unions as private association; instead the convention embeds them into the governance structure of employment relations.

It also ensures that workers should not be penalized for joining or forming trade unions and that employers should refrain from any discriminatory actions to undermine union activities as stipulated in article 2 of the ILO Convention 98.⁵ In *Demir and Baykara v. Turkey* the European Court of Human Rights in tandem with Article 11, affirmed the fundamental right of workers to engage in collective bargaining and take collective action to achieve that end.⁶ The case dealt with the right to organize and bargain collectively and also to provide adequate protection to workers, employers and trade union or workers organization from acts of interference by others parties.

A major analytical dimension of convention 98 lies in its protection against employer interference. Davies and Freedland argue that the convention adopts a structural approach, it is not enough for unions to exist, as they must be independent. The explicit prohibition of employer dominated “yellow unions” show that the ILO recognizes the danger of employer coercion undermining the legitimacy of workers representative.⁷ This illustrates that the convention protects not just the freedom to joint

unions but the capacity of unions to function as credible and autonomous institutions.

ILO Convention 98 conceptualizes trade unions as autonomous, representative, and structurally protected institutions essential for balancing employer power and enabling effective collective bargaining.⁸ Thus, the convention offers a robust framework that anchors trade unions within international labour law as critical mechanisms for protecting workers and promoting equitable industrial relations.

The Universal Declaration of Human Rights (UDHR) conceptualizes trade unions as an essential component of human dignity, social justice, and democratic participation. Article 23(4) explicitly states that “everyone has the rights to form and join trade unions for the protection of his interests,” establishing union rights as universal human rights.⁹ This provision recognizes that workers cannot individually secure fair wages, safe conditions, and equal treatment; instead, collective organization is necessary to protect their economic and social interests. By placing trade union rights within the UDHR, the United Nations acknowledges that workplace justice is inseparable from broader human rights protection.¹⁰

Commenting on the protection of trade union rights under the UDHR, Mantouvalou argues that the UDHR’s recognition of union rights highlights that individuals often need collective mechanisms to exercise autonomy and dignity in workplace. Similarly, Arthur contends that union rights in the UDHR mark a departure from purely individualistic liberal rights, acknowledging that workers face structural imbalances of power that require collective remedies.¹¹ Through this lens, trade unions are seen not as necessary institutions for correcting social and economic inequality.

Another analytical feature of the UDHR is that it frames union rights within the broader right to work Article 23(1) and the right to just and favorable condition of work Article 23(2). To this end, Alston argues that union rights cannot be

¹ <https://normlex.ilo.org>, accessed on 13/11/2025.

² Article 1 of ILO Convention 98 of 1949.

³ *Ibid.*

⁴ Harry, A. (1990). *Labour law and industrial relations*. Sweet & Maxwell, 112.

⁵ See article 2 of the ILO convention 98 on collective bargaining 1949.

⁶ (2008) ECHR 1345, (2009) 48 EHRR 54.

⁷ Mark, F. (2003). *The personal employment contract*. Oxford University Press, 10.

⁸ <https://tradefordecenwork.ilo.org>, accessed on 14/11/2025

⁹ <https://www.ilo.org>, accessed on 14/11/2025

¹⁰ *Ibid.*

¹¹ Virginia, M. (2012). *The right to strike: A comparative perspective*. Bloomsbury Publishing, 16.

isolated; they are part of an interconnected system of socio-economic rights.¹ The UDHR therefore conceptualizes trade unions as tools through which these broader rights become realizable without the ability to organize collectively, the rights to fair wages, equality and protection from exploitation would remain theoretical rather than practical.

The international covenant on economic, social and cultural rights (ICESCR) of 1966 provides one of the most comprehensive international protection of trade union rights. Article 8 expressly recognizes the right of everyone to form and join trade unions of their choice, the right of trade unions to function freely, the right to establish federations and confederations, and the right to strike.² This makes the ICESCR the first binding global treaty to elaborate the full scope of union freedoms as essential for ensuring decent work, social justice, and democratic participation in economic life. Through article 8, the covenant integrates trade union rights into the broader framework of socio-economic rights, linking freedom of association to human dignity and equality in the workplace.³

According to Alston & Goodman, the ICESCR understand trade unions not merely as voluntary associations but as collective mechanisms through which workers can exercise their rights to fair conditions of work.⁴ This reinforces the idea that workers' rights are indivisible from collective action. Alston further argues that without the ability to organize collectively, the rights guaranteed under article 7 such as fair wages, safe working conditions and equal remuneration cannot be effectively realized.⁵ Thus article 8 functions as the operational backbone of socio-economic rights.

Trade union rights under ICCPR arise primarily from article 22, which guarantees the rights to freedom of association, including "the right to form and join trade unions for the protection of their own interests." Although the ICCPR is typically seen as a civil and political rights instrument,⁶ Nowak opines that article 22 extends to socio-economic dimensions because

the ability of workers to organize is essential for the exercise of many civil liberties.⁷ The Human Rights Committee (HRC) has consistently affirmed that the rights to form and join trade unions is a core component of democratic participation, meaning state must actively protect individuals from interference, including from employers.

Article 22(2) provides that trade union rights may only be restricted if such restrictions are prescribed by law and necessary in a democratic society to protect interest such as national security, public safety or public order. These restrictions must meet strict proportionality requirements.⁸ States therefore cannot impose blanket ban on union activities, or use national security as a pretext to suppress legitimate workers organization.

The ICCPR imposes both negative obligations on states. Negatively, state must not interfere with workers ability to form, register, and operate unions. Positively, states must actively protect workers against interference by private employers, including union discrimination and intimidation.⁹ The human rights committee has repeatedly held that states must ensure accessible legal frameworks enabling union to function independently, democratically and without undue bureaucratic obstacle.

The African Charter on Human and Peoples Rights of 1981 provides a foundational though somewhat restrained framework for the protection of trade union rights in Africa. The key provision is Article 10(1), which states that "every individual shall have the right to free association provided that he abides by the law." This article implicitly covers the right to form and join trade unions. In addition, article 11 complements trade union activity, while article 15 guarantees the right to work under equitable and satisfactory conditions, reinforcing the broader context in which trade unions operate. Together, these provisions suggest that the Charter recognizes trade union rights as part of collective labour freedoms, even if it does not explicitly mention "trade union" in detail terms like some

¹ Philip, A. (1990). Worker's rights as human rights. *Human Rights Quarterly*, 486.

² <https://academic.oup.com>, accessed on 18/11/2025

³ *Ibid.*

⁴ Philip, A., & Goodman. (2013). *International human rights* (3rd ed.). Oxford University Press, 245.

⁵ A. Philip, *op cit* at, p. 490.

⁶ <https://www.ohchr.org>, accessed on 19/11/2025

⁷ Manfred, N. (2006). *UN Covenant on Civil and Political Rights: CCPR commentary*. N.P. Engel Verlag, 120.

⁸ *Ibid.*

⁹ Olivier de Schutter. (2010). *International human rights law: Cases, materials, commentary*. Oxford University Press, 320.

international labour organization conventions. This clause gives states wide discretion to restrict association rights through domestic legislation, which can undermine the very essence of trade union freedom¹. This position has been criticized for allowing excessive limitations, noting that governments can enact restrictive laws such as burdensome registration requirements or prohibitions on strikes while still claiming compliance with the Charter. This weakens the enforceability of trade union protections across many African states.²

Another major critique concerns the lack of explicit recognition of core trade union rights, such as the right to strike, collective bargaining, and protection against anti-union discrimination. Unlike ILO Convention 87 and 98, the African Charter does not clearly articulate these elements. This omission creates interpretative gaps, leaving the African Commission on Human and People Rights to fill in the details through its jurisprudence.³ While the Commission has, in cases like *Media Rights Agenda v. Nigeria*⁴ and through its interpretative guidelines, expanded the understanding of association rights, critics argue that reliance on judicial interpretation rather than clear textual guarantees reduces legal certainty.

The enforcement mechanism under the African Charter has been criticized as relatively weak. The African Commission can issue recommendations but lacks strong binding authority, and although the African court on Human and People' Rights strengthens enforcement, not all states have accepted its jurisdiction. Viljoen highlight that this institutional weakness limits the practical protection of trade union rights, as states may ignore or delay implementation of decisions without significant consequences.⁵

The African Charter recognizes trade union rights indirectly through the right to association and related freedoms, but its broad limitation clauses, lack of specificity, and weak enforcement mechanisms have led many scholars to conclude

that its protection is incomplete and vulnerable to state abuse.

4. Cameroonian Legal Frameworks on the Protection of Trade Unions

4.1 The Cameroon Constitution of 1996

The 1996 Constitution of the Republic of Cameroon guarantees fundamental freedoms, including freedom of association, which underpins trade union rights. Article 37 explicitly recognizes the right to form associations, including trade unions, without prior authorization, as long as their activities do not contravene the law. This provision reflects Cameroon's commitment to international standards as contained in ILO Conventions 87 and 98. This constitutional guarantee forms the legal foundation for the creation, registration, and operation of trade unions in the country.⁶

According to Fomete, this provision is crucial for balancing state authority and workers' rights; ensuring employees can organize without fear of retaliation. The Constitution, however, allows for some restrictions in the interest of public order, which has been criticized as potentially undermining the effectiveness of trade union protections.⁷ In *Mbah v Cameroon*,⁸ where Mr Mbah a civil servant and leader of a workers association, participated in union activities by defending civil servants rights. He was arrested, detained and suspended by the Cameroonian authorities for taking part in union meeting that criticized the government, his unions activities were labelled "subversive". He brought the case before the African Commission alleging violation of Freedom of association and of expression. The Commission held that Cameroon violated Article 10 on freedom of association and Article 11 on freedom of assembly. It reminded Cameroon that, because of Article 45 of the Constitution, the African Charter and ILO principles override domestic laws.

While these laws aim to maintain public order, they often curtail union autonomy, particularly for civil servants.⁹ Courts in Cameroon have

¹ Heyns, C., & Killander, M. (2013). *The African human rights system*. Martinus Nijhoff Publishers, 24.

² Ssenyonjo, M. (2009). *Economic, social and cultural rights in international law*. Hart Publishing.

³ Murray, R. (2019). *The African Charter on Human and Peoples' Rights: A commentary*. Oxford University Press.

⁴ Comm. No. 224/98, 2000.

⁵ Viljoen, F. (2012). *International human rights law in Africa* (2nd ed.). Oxford University Press.

⁶ Nanga, M. T. (2015). *Droit du travail camerounais*. Presses Universitaires Africaines, 56.

⁷ Fomete T. (2014). *Droit du travail et relations professionnelles au Cameroun*. Yaounde, Presses Universitaire de Yaounde II, 24.

⁸ Communication No. 39/90.2004 (17th Activity Report), accessed on 26/11/2025.

⁹ Communication No. 39/90. 2004 (17th Activity Report). (2004).

occasionally upheld the state's restrictive measures, reflecting a tension between constitutional guarantees and practical limitations.

Article 45 of the Cameroonian constitution of 1996 also plays a vital role in the protection of trade union rights in Cameroon by establishing the legal framework for the implementation of international human rights and labour conventions. This article provides that international treaties, agreements, and convention that have been ratified by Cameroon once published take precedence over national laws in case of a conflict between the two. This means that Cameroon is legally bound to implement the provisions of international treaties including those related to fundamental labour rights.

4.2 The Cameroon Labour Code of 1992

The Cameroon Labour Code of 1992 provides a legal framework for the protection of trade unions, grounded in the principle of freedom of association and influenced by international labour standards, particularly ILO Conventions No 87 and 98. At the core of this protection is Section 3 of the Labour Code, in line with article 2 of ILO Convention 87, guarantees workers and employers the right to form and join trade unions of their choice without prior authorization. Section 6 of the same Labour Code makes registration a condition *sine qua non* for the validating trade unions in the country, practice has equally shown that, it is only through registration that trade unions can be legally recognized in the country. Despite these drawback provisions, the Labour Code is significant because it operationalizes constitutional rights, providing mechanisms for collective representation, union elections and registration procedures.¹

The Labour Code allows unions to operate; it imposes restrictions aimed at maintaining public order and ensuring the continuity of essential services. Article 153, for example, regulates strikes and allows the state to intervene under specific circumstances. Nanga criticize these restrictions as potentially undermining the autonomy of trade unions, particularly in cases

where the definition of essential services is broad and ambiguous.²

Courts in Cameroon have occasionally enforced Labour Code provisions in ways that both support and limit the enforcement of trade union rights. Nanga highlight that judicial interpretations often favor state or employer interests, creating tension between *de jure* rights under the Code and *de facto* exercise of union freedoms.³ Comparative analyses with ILO Conventions 87 and 98 suggest that Cameroon's legal framework is generally compliant but require stricter enforcement mechanisms. According to Mbiah, these mechanisms often suffer from limited resources, lack of independence, and administrative inefficiencies, which weaken their ability to effectively enforce trade union protections.⁴

The Labour Code also provides safeguards against anti-union discrimination. Section 28 prohibits employers from considering union membership or activities in decisions related to recruitment, promotion or dismissal, while Section 30 protects workers' representatives by requiring prior authorization from the labour inspector before they can be dismissed. These provisions are intended to shield union members and leaders from victimization and ensure the independence of trade union activities. Ndzi have criticized the weak enforcement of these protections, noting that employers often circumvent them through subtle or informal practices, thereby undermining their effectiveness in practice.⁵

The State of Cameroon has ratified ILO convention 87 on freedom of association and convention 98 on collective bargaining, which give workers' the right to establish and join organization of their own choosing without interference by public authorities,⁶ and ensure that workers through their trade unions can negotiate employment terms with employers.⁷ The reading of section 3 of the Cameroon Labour Code lends credence to this. However, drawing inspiration from the case of *SYNES v. Dr Dorothy Limanga Njuema*,⁸ where the National Union of Higher Education Teachers (SYNES) organized strikes in demand of better working conditions

¹ Fomete, *op cit at*, P. 40.

² Nanga, *op cit at*, P. 65.

³ *Ibid.*

⁴ <https://www.ilo.org>, accessed 27/11/2025.

⁵ Ndzi, G. (2017). *Collective bargaining and employment relations in Africa*. Routledge.

⁶ Article 2 of the ILO convention 87.

⁷ *Ibid*, see also ILO convention 98.

⁸ Suit No. CASWP/L.11/2007M/2008.

and academic freedom at the University of Buea, the then vice chancellor of the University of Buea responded by suspending and dismissing union leaders, cutting salaries and deploying security forces to intimidate them.¹ SYNES challenged these actions in court, citing violations of the 1992 Labour Code and international conventions. SYNES further took the matter to the Administrative Tribunal of the ILO and a judgment in favour of SYNES was entered and the Administrative Tribunal of the ILO further asked the State of Cameroon to amend its National laws to be *in tandem* with those of the ILO in a bid to aid the country comply with its international law obligation. The SYNES case further depicts the violation of trade union rights in the country.

This decision reflects a restrictive judicial approach to trade union freedom and collective labour rights from a labour law perspective. This reasoning is often seen as prioritizing institutional or administrative control over the substantive protection of union activities guaranteed under instruments such as Article 10 of the ACHPR and the Cameroon Labour Code provisions on freedom of association. The Court's interpretation tends to narrow the scope of legitimate trade union action, particularly where disputes arise between union representatives and public or private employers in academic or professional settings, thereby creating a chilling effect on union mobilization and participation.

This judgment also insufficiently engages with international labour standards, especially ILO Convention 87 and 98, which require a broader protection of workers' organization rights without undue interference. We further question whether the court adequately balanced the competing interests of administrative order and fundamental labour rights, suggesting that a more rights-based proportionality analysis would have led to stronger protection for SYNES. Overall, the case is criticized for reflecting a formalistic rather than purposive approach, limiting the effectiveness of trade union guarantees in practice.

5. The Relationship Between State Sovereignty and the Obligations to Enforce Trade Unions

Rights

The relationship between state sovereignty and the obligation to enforce trade union rights in Cameroon is best understood as a balance between the state's constitutional authority to regulate domestic affairs and its international commitments under labour and human rights law. As a sovereign state, Cameroon possesses the constitutional power to regulate labour relations, maintain public order, and design its domestic legal framework under the Labour Code.² This sovereignty allows the state to determine procedures for union registration, regulate strikes, and supervise labour institution. Modern sovereignty as coined by Henkin, is no longer absolute but conditioned by the internationalization of human rights, meaning that state like Cameroon cannot rely on sovereignty to escape obligations arising from ratified treaties.³ Once Cameroon ratifies key international and regional instruments such as ILO Convention 87 on Freedom of Association, ILO Convention 98 on the Rights to Organize and Collective Bargaining, and the African Charter of Human and People Rights it undertook a legal obligation to respect, protect, and fulfil trade unions rights. These instruments impose minimum standards that limit how sovereignty may be exercised; state must exercise their authority in conformity with accepted international norms.⁴ Commenting on this view, Chigara further argues that the ratification of human rights treaties as such creates binding constraints on State powers, requiring Cameroon to ensure that unions activities are not restricted for political or administrative convenience. In practice this means that although Cameroon may regulate unions to preserve public order, any limitation must be necessary, proportionate and consistent with international labour standards.⁵

The enforcement of trade union rights often puts pressure on state, especially in contexts where governments prioritize political control, national security, economic stability, or the management of public service sectors. State may attempt to restrict union activities through registration requirements, limitations and strikes,

¹ Normlex.ilo.org/dyn/normlex/en/?PNORMLEXPUB%3A50002%3A0%3A%3ANO%3A%3AP50002-COMPLAINT-TEXT -ID%3A2902623&utm, accessed on 29/04/2025. Accessed on 02/12/2025

² Malcolm N. Shaw. (2017). *International law*. Cambridge University Press, 120.

³ <https://www.cambridge.org>, accessed on 10/11/2025

⁴ Chan, A., & Ross, R. J. (2015). *Core labour standards and transformation in the global South*. Palgrave Macmillan, 458.

⁵ Ben, C. (2008). *The doctrine of odious debt in international law: A restatement*. Routledge, 33-40.

surveillance or dissolution of unions. Fashoyin, on this, notes that although government often justifies restrictive labour measures on grounds of national stability or economic development, international standards require that any limitations be necessary, proportionate and not used to weaken labour organization.¹

In practice, the relationship is therefore dialectical rather than purely conflictual. States retain sovereign authority, but this authority is bounded by the obligation to respect, protect and fulfil trade union rights. Under the modern view of sovereignty, compliance with international labour standards is seen not as a loss autonomy but as part of responsible statehood and global governance. This means state must create legal frameworks enabling union formation, protect workers from anti-union discrimination, and ensure effective mechanisms for collective bargaining and dispute resolution. Where the domestic law or practice deviate from these obligations, international supervisor body may intervene through recommendations not as an attack on sovereignty but as part of the states accepted international responsibilities.

State sovereignty no longer implies unrestricted power over trade unions. Instead, it is reshaped by international labour standards that require state to enforce trade union rights in good faith. The real challenge lies not in choosing between sovereignty and labour rights, but in aligning national standards with international obligations to ensure effective and meaningful protection of trade union freedom.

6. The Nexus Between Sovereignty and the Enforcement of Trade Unions Rights in Cameroon

The protection of trade union rights is often seen as a universal imperative, rooted in international human rights law and labour standards. However, the implementation and enforcement of such rights frequently come into tension with the doctrine of State sovereignty. Particularly in post-colonial State like Cameroon, where the assertion of political independence and national autonomy continue to shape State responses to international legal obligations.

State sovereignty in its classical Westphalian conception, as we have seen, implies the supremacy of the State within its own territory and its freedom from external interference. This

principle is embedded in Article 2(1) of the United Nations Charter, which affirms the sovereign equality of all member States. For Cameroon, sovereignty remains a central pillar of State policy and governance, particularly in areas touching upon socio-economic and labour regulation, which are often treated as internal matters. More so, national courts have been reluctant to enforce social and economic rights, due to the fact that the obligations contained therein, only exist within international and regional instruments.

Yet, Cameroon is a party to several international treaties that impose binding obligations with respect to labour rights. These include the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, which guarantees the right to just and favorable conditions of work, and multiple International Labour Organization Convention, such as Convention 87 on Freedom of Association and Convention 98 on Collective Bargaining. These treaties create normative expectations that Cameroon must align its domestic labour laws and practices with international standards.

However, the implementation of these standards has been inconsistent, in part due to the State's reliance on sovereignty to resist perceived external imposition. For instance, while Cameroon ratify the key ILO Conventions, the Labour Code of 1992, and subsequent regulations have often fallen short of ensuring the full realization of worker's rights to association, collective bargaining and protection against unfair dismissal. Government authorities have invoked concerns over national security and public order to restrict union activity, as seen in the banning of certain strikes and the denial of registration to independent unions. This reflects a tension between sovereign prerogatives and the State's international legal commitments.

Moreover, although Cameroon seems to be a monist State due to the provisions of Article 45 of the Cameroon Constitution suggesting that duly ratified treaties have superior authority over national laws, there is a reluctance to allow international labour norms to override state policy or limit executive discretion. Therefore, in practice, Cameroon implements a rather dualist legal approach which requires the transformation of international treaties into domestic legislation before they can have direct effect. This therefore

¹ Tayo, F. (1992). *Industrial relations in Nigeria*. Longman.

reinforces the use of sovereignty as a shield against compliance and accountability.

This dynamic is further complicated by the political context in Cameroon, where the government maintains tight control over civil society, including trade unions. The invocation of sovereignty in Cameroon often operates not merely as a legal principle, but as a political tool to suppress dissent and curtail rights-based claims by workers. As Alston has argued, “the defense of sovereignty frequently masks efforts to avoid accountability and preserve authoritarian control.”¹

Therefore, while sovereignty is a legitimate and fundamental principle of international law, its deployment in Cameroon’s labour rights context often operates to dilute or delay the implementation of fundamental labour protections. This clash not only undermines worker’s rights but also raises broader concerns about the role of the State in upholding its international obligations while safeguarding domestic autonomy.

While Cameroon asserts its sovereignty through structuring domestic legal frameworks, adjudicative procedures, and inspection regimes, the country simultaneously falls short in enforcing international labour norms. This is evident through elements of sovereign mechanisms such as selective union recognition, procedural formalities, and restricted inspection protocols, which are often invoked to justify progressive or partial compliance. This situation can result in a gap between ratified obligations and actual protection of worker rights on the ground. The use of the dualist system in practice, although constitutionally supportive of treaty hierarchy, often sees international norms sidelined due to technical or political resistance.

7. Conclusion

After reviewing the question ‘is the principle of State sovereignty a hindrance to the enforcement of trade union rights in Cameroon?’ We conclude that the answer to this question is in the affirmative. Sovereignty gives state the power to manage its internal affairs without the intervention of other states, but this principle is not absolute as stated in Chapter VII of the United Nation Charter and Ratification of key

international instruments. Chapter VII of the UN Charter limits the absolute nature of State Sovereignty in cases where the international community perceives a threat to global peace and security, while State retains their sovereignty. The UN Security Council has the authority to intervene through sanction, peacekeeping missions or military action thereby overriding the principle of non-interference in domestic affairs. One notable example of Chapter VII being invoked is the 1999 NATO intervention in Kosovo. The UN Security Council did not explicitly authorize military action but NATO intervened under the principle of protecting human rights and maintaining peace despite Kosovo being a part of the sovereign State of Serbia.² Once a country ratified key international instruments they are bound by obligation to implement as part of their home law in which Cameroon is a member. But the enforcement remains one of the main challenges, as illustrate in the case of *SYNES v. Dr Dorothy Limanga Njuema* as seen above.

We therefore submit that Cameroon should exercise its sovereignty in a manner that reinforces its international obligations by aligning its national labour legislations with its international labour obligations as contained in the International Labour Code. This balance will enhance both State legitimacy and the socio-economic development of its labour force.

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¹ Alston, P. (2005). The not-a-cat syndrome: Can the international human rights regime accommodate non-state actors? *Melbourne Journal of International Law*, 9, 87–99.

² Pellet, A. (2000). State sovereignty and the protection of fundamental human right: An international law perspective. *Pugwash Occasional Papers*, 5.

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