Between Diffuse and Centralized Review: Assessing the Effectiveness of Constitutional Review in Cameroon and the United States

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ABSTRACT

This article examines the effectiveness of two contrasting models of constitutional review: the centralized (European/Kelsenian) model as practiced in Cameroon and the decentralized (diffuse) model operative in the United States. It situates the analysis within the broader objective of assessing how constitutional systems ensure the supremacy of the constitution and the protection of fundamental rights. The study critically evaluates the extent to which institutional structures, judicial independence, access to constitutional justice, and prevailing political contexts influence the performance of each model.

Adopting a comparative legal methodology and a functionalist theoretical framework, the article goes beyond formal institutional design to interrogate how constitutional review operates in practice. In Cameroon, the centralized model, vested in the Constitutional Council, is examined in light of procedural limitations, restricted access, and concerns regarding institutional autonomy. In contrast, the United States' diffuse model, which empowers all courts to exercise constitutional review, is assessed for its broader accessibility and entrenched judicial independence, while also acknowledging challenges such as judicial politicization and inconsistencies in jurisprudence.

The article argues that although both models are normatively designed to uphold constitutional supremacy, their effectiveness is determined less by their structural configuration and more by the surrounding institutional and political environment. It concludes that neither model is inherently superior; rather, their success depends on contextual adaptability. Accordingly, the article advocates for a pragmatic and hybridized approach to constitutional review, one that accommodates national realities while strengthening judicial independence, enhancing access to justice, and promoting accountability within constitutional governance frameworks.

Keywords: Constitutional Review, Centralized and Diffuse Models, Comparative Constitutional Law

INTRODUCTION

Constitutional adjudication is a central institutional mechanism for enforcing constitutional norms and resolving high-stakes disputes among branches of government, between individuals and the state, and among competing collective claims. Two contrasting institutional models dominate comparative constitutional design and scholarship. The diffuse (or decentralized) model, best exemplified by the United States, locates constitutional review within ordinary courts, permitting many levels of the judiciary to decide constitutional questions in the context of live cases. The centralized (or specialized) model vests final authority in a single constitutional court or council (a model inspired by Hans Kelsen's theory of constitutional adjudication[1] and adopted by many civil-law and mixed systems, including Cameroon). Effectiveness of constitutional adjudication is not merely a formal attribute of institutional competence but an empirical outcome that depends on doctrine, institutional design, appointment processes, enforcement mechanisms, and political context. This

[1] Hans Kelsen, *General Theory of Law and State* (Russell & Russell 1945); see also 'Kelsen on Justifying Judicial Review' (SSRN), available at : https://papers.ssrn.com/sol3/papers.cfm?abstract_id=XXXXXX. Accessed on 17/10/2025.

article compares Cameroon and the United States along those axes and proposes reforms to strengthen the capacity of constitutional adjudication to sustain the rule of law.[2]

Effectiveness is conceptualized in this article as a multi-dimensional evaluative framework grounded in four cumulative criteria: (i) doctrinal clarity and coherence, assessed through the consistency, accessibility, and development of constitutional jurisprudence; (ii) institutional independence, measured by appointment processes, tenure security, and administrative autonomy; (iii) enforceability and compliance, evaluated through the extent to which constitutional decisions are implemented by political actors; and (iv) access to constitutional justice, determined by standing rules, procedural openness, and the ability of individuals or groups to trigger review. These criteria are applied systematically to both Cameroon and the United States using a functional comparative method. Case selection is based on leading constitutional decisions and recurring procedural patterns within each system, with particular emphasis on recent practice and observable institutional behavior rather than purely formal legal design. This approach allows for a grounded comparison of how constitutional review operates in practice, rather than how it is merely structured in theory.[3]

Cameroon: The European Model with a Centralized Constitutional Council

The European model of constitutional review, often referred to as the Kelsenian model, originated from the legal and constitutional theory of Hans Kelsen, an Austrian jurist and philosopher. His ideas, first put into practice in the Austrian Constitution of 1920, established a distinctive form of constitutional adjudication centered on the creation of a specialized Constitutional Court with exclusive authority to determine the constitutionality of legislation.[4]

The model is characterized by centralization, specialization, and the separation of constitutional review from ordinary judicial functions. Unlike the American model, where all courts may assess constitutional issues (a decentralized model), in the Kelsenian system, only a constitutional court or institution has the jurisdiction to review the constitutionality of laws.

The main features of this model include: A Specialized Constitutional Court: Constitutional review is entrusted exclusively to a court established for that purpose. This institution is structurally and functionally independent from the ordinary judiciary, abstract Review which occurs in the absence of a concrete case or controversy. Political authorities such as the President, Prime Minister, Parliament, or other designated bodies may bring challenges. Also often include *A Priori and A Posteriori Review,* in some countries (e.g. France), constitutional review is conducted before the promulgation of the law (*a priori*). In others (e.g. Germany), review occurs after laws are enacted (*a posteriori*). Finally, it brings with the institution a binding decision with *erga omnes* Effect: Decisions of the constitutional court apply generally, not just to the parties to the dispute. When a law is annulled, it ceases to have legal effect for all.

Cameroon follows a centralized model of constitutional review as established under Title VI of the 1996 Constitution. The Constitutional Council, is the exclusive body authorized to decide on the constitutionality of laws, treaties, and regulations. It is not a court within the ordinary judiciary, but a specialized constitutional body.

Under Article 47 of the Constitution, the Constitutional Council ensures the constitutionality of laws before their promulgation upon referral by designated authorities, including the President of the Republic, President of the National Assembly, President of the Senate, or one-third of members of either House of Parliament.[5] The

[2]Marbury v Madison, 5 US (1 Cranch) 137 (1803).
[3] Mauro Cappelletti and Bryant G Garth, "Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective", (1978) 27 Buffalo Law Review pp. 181–292 available at: https://digitalcommons.law.buffalo.edu/buffalolawreview/vol27/iss2/2/. Accessed on 17/10/2025.
[4] Aleksandra Kustra-Rogatka, "The Kelsenian Model of Constitutional Review in Times of European Integration – Reconsidering the Basic Features", ICLR, 2019, Vol. 19, No. 1., pp. 9-11.
[5] Law no 96/06 of 18 January 1996 to amend the Constitution of 2 June 1972, article 47.

Council also controls the constitutionality of international treaties and agreements under Article 45, which provides that duly ratified treaties override contrary national legislation.[6]

The Council's decisions are final and binding and have *erga omnes* effect, meaning that the law or treaty found unconstitutional cannot be enforced. However, Cameroon's system is criticized for limited access to the Council, excluding ordinary citizens and courts, and for the perceived lack of independence of the Council, given that appointments are largely controlled by the executive.[7]

A. Appointment and Composition

While the Council's formal jurisdiction is broad, scholars who have studied the Council's origins and practice have emphasized the political context of Cameroonian constitutional reform and the risks that appointment modalities pose to independence. Charles Manga Fombad has argued that the creation of the Constitutional Council (and the modalities surrounding its composition and operation) represented a mixed advance: it centralized constitutional competence but did not necessarily insulate constitutional justice from executive influence, given the dominant position of the presidency in Cameroonian politics.[8] The appointment process, *ex officio* memberships and the broader balance of political power have produced persistent critiques about impartiality and the Council's *de facto* capacity to act independently in highly politicized disputes.[9]

In Cameroon, all 11 members of the Constitutional Council are appointed by the President of the republic alone. This appointment spans for a period of 6 years with the possibility of eventual renewal.[10] The possibility of other mandates only came in after the amendment of the Constitution of 1996, which had members appointed for a period of 9 years with zero renewal option.

However, the members to be appointed are subject to designation as follows:

- Three, including the President of the Council, by the President of the Republic;
- Three by the President of the National Assembly, upon consultation with bureau;
- Three by the president of senate, upon consultation with bureau;
- Two by the Higher Judicial Council.[11]

In addition to the 11 appointed members, the former Presidents of the republic shall be members *ex officio* for life.[12]the law uses the word "Shall" which sounds compelling or obligatory, however, though Cameroon is yet to experience such members but practice from other countries such as France with similar provision has shown that not all former head of states accept such privilege.[13] For instance, Valéry Giscard d'Estaing and Jacques Chirac did take their seats on the Council, while Nicolas Sarkozy did not. Furthermore, the criteria for choosing members of the Constitutional Council are actually not fixed and being a Judge or an expert in law is

[6] Ibid., Article 45.
[7] Fombad Charles Manga, Constitutional Law in Cameroon, 2nd edn, Wolters Kluwer, 2022, pp. 275-280.
[8] Charles Manga Fombad, 'The New Cameroonian Constitutional Council in a Comparative Perspective: Progress or Retrogression?' (1998) 42 Journal of African Law 172–186 https://www.jstor.org/stable/745780.
[9] Charles Manga Fombad, "Cameroon: Country Report", Institute for International and Comparative Law in Africa, University of Pretoria, 2017, https://www.icla.up.ac.za/images/country_reports/cameroon_country_report.pdf
[10] Law No. 2008/001 of 14 April 2008 to amend and supplement some provisions of law No. 96/6 of 18 January 1996, Article 51.
[11] Law No. 2004/004 of 21 April 2004, to lay down the organization and functioning of the constitutional council amended and supplemented by law no 2012/015 of 21 December 2012, 7 (1) (new). Also, Law no 96/06, Op.Cit., article 51(2), and Ruling No. 1/CC/2019, Section 6.
[12] Law no 96/06 Op.Cit., article 51(2).
[13] According to Article 56 of the French Constitution, former Presidents of the Republic are ex officio members of the Constitutional Council

not really fundamental. The constitution provides for personalities of established professional renown, high moral integrity and proven competence.[14]

By elaboration, "established professional renown "requires that appointees be widely recognized experts in their respective professional fields. While the Constitution does not specify particular professions, most members are typically drawn from legal, academic, or public service backgrounds. It further ensures that the Council benefits from experienced and highly regarded professionals with a strong understanding of governance and constitutional law.

"High Moral Integrity" requires that members must exhibit strong ethical standards and a history of honest and principled behavior. This requirement is crucial because the Constitutional Council plays a vital role in upholding the rule of law and ensuring the legitimacy of legal and electoral processes. The expectation is that individuals chosen will resist corruption, undue influence, and political bias in their decisions.

Lastly, the statement, "Proven Competence" implies Candidates must have demonstrated expertise and skill in matters relevant to the Council's functions, particularly in constitutional law, governance, or public administration. This guarantees that members possess the intellectual capacity and technical knowledge to interpret and apply constitutional provisions accurately.

B. Administrative and Financial Autonomy

Under Decree No. 2018/104, the administrative autonomy manifests explicitly within the organizational and operational structure of the Secretariat General of the Constitutional Council. Firstly, the Decree establishes that the Secretariat General comprises all administrative and technical services necessary for the smooth functioning of the Constitutional Council, laying the groundwork for the Council's internal administrative independence in managing its affairs without external administrative interference, provided it remains within the broader legal framework established by the Constitution and enabling statutes.[15]

Secondly, the decree provides that the Secretariat General is headed by a Secretary-General appointed by the President of the Republic. While the appointment originates externally, Article 3(2) of the said decree clarifies that the Secretary-General operates under the authority of the President of the Constitutional Council, thereby limiting external administrative control over day-to-day activities and preserving operational independence under the institutional hierarchy of the Council.[16]

Critically, it further outlines the Secretary-General's duties, which include administration, coordination of technical and administrative services, and management of human, material, and financial resources. These responsibilities, particularly the power to prepare and organize work, manage the cause list, and draw up progress reports, equip the Secretary-General with operational control that ensures the Constitutional Council can conduct its affairs efficiently without administrative encumbrances from other state organs.[17]

Moreover, the Secretary-General receives delegation of signature from the President of the Constitutional Council in administrative and financial matters. This delegation indicates that while ultimate authority rests with the President of the Constitutional Council, the Secretary-General executes administrative and financial decisions, reinforcing internal self-management over administrative and financial operations, hallmarks of administrative autonomy.[18]

Further, the decree details the structuring of the Administrative and Financial Affairs Division, assigning it responsibility for the management of human, material, and financial resources, preparation of budgets,

[14] Law no 96/06 *Op.Cit*., article 51(2).
[15]Decree No 2018/104 of 7 February 2018 to Lay down the organization and Functioning of the secretariat general of the Constitutional Council, article 2.
[16] *Ibid., art* 3(1)-(2).
[17] *Ibid., art* 4(1)
[18] *Ibid., art* 4(2).

processing of salaries, execution of budgets, and handling public contracts.[19] By providing for an internal division to manage staff discipline, career progression, retirement notices, training, supplies, and inventory, the decree ensures the Constitutional Council's ability to maintain its internal administrative functions without external micro-management, an essential feature of administrative autonomy within a public institution.[20]

However, it is essential to note that administrative autonomy under this decree is not absolute. References to collaboration with other ministries, such as the Ministry of Public Service, Ministry of Finance, and Ministry of State Property, in managing staff and property matters under Article 9(1), illustrate a system of interconnected administrative functions within the state while preserving the Council's authority to handle its core administrative and financial functions internally.[21]

The financial Autonomy of the Constitutional Council is regulated by both regional and domestic legal instruments. Article 18 of the CEMAC directive on Finance law,[22] provides that budget appropriation to Constitutional institutions shall be group into allocations with specific allotments.[23] This implies, the government should include in its annual budget, enough funding for each constitutional institution, and should not ignore or underfund those institutions by lumping them together under a general category. Furthermore, the 2004 law on the organization and functioning of the Constitutional Council provides for the appropriation for the running of the Constitutional Council shall be charged to the state budget.[24]

However, the procedures for the planning, programming, budgeting and execution doesn't quite respect the CEMAC directive as the budget of the Constitutional Council is fused and follows government limits. This is so because the government gives guideline for the Constitutional Council to prepare its budget and must respect the limits of such guidelines, the Council prepares a proposed mid-term expenditure framework (CDMT), which the Government then takes to Parliament for budgetary debates, after such deliberations, the recommendations out of it is what the Council relies on to draft its final CDMT. This procedure is not in absolute respect of the CEMAC directive. However, after the budget has been allocated, there is limited control and checks on the budget which gives the Council autonomy in the execution of its budget.[25]

C. Recent Practice

Empirical practice in Cameroon reveals a significant gap between the formal design of constitutional review and its operational reality. While the Constitutional Council possesses broad jurisdiction under the Constitution and its Standing Orders, its actual jurisprudential output remains extremely limited, with most petitions failing at the admissibility stage.

The 2002 Standing Orders case remains the most authoritative illustration of substantive constitutional review. In that decision, the Supreme Court, acting as a Constitutional Council, invalidated provisions of the National Assembly's Standing Orders that purported to allow parliamentary validation of election results already confirmed by the Constitutional Council. The Court held that such provisions violated the principle of constitutional supremacy and the binding authority (*erga omnes*) of constitutional decisions.[26] This case demonstrates the potential strength of centralized review when the Council exercises its jurisdiction fully. However, its singular nature also underscores the rarity of such interventions.

Subsequent jurisprudence reveals a consistent pattern of procedural exclusion. In *Engoulou Voundi Vincent v President of the Republic and others* (2018), the petitioner challenged the constitutionality of state action, yet

[19] *Ibid., arts* 8-10.
[20] *Ibid., art* 9(1).
[21] *Ibid.*
[22] CEMAC Directive No. 1/11-ueac-190-cm-22 on Finance Law
[23] *Ibid*., Article 18: Budget appropriations, grouped into allocations, shall cover: Expenditure by constitutional institutions, each of which shall have a specific allotment.
[24] Law No. 2004/004 *Op.Cit*., section 18.
[25] Interview granted by the Service Head, the Budget Service, under the Administrative and Financial Affairs Division on the 11/07/2025.
[26] Decision No. 001/CC/02-03 (Cameroon Supreme Court acting as Constitutional Council).

the Council declared the application inadmissible without engaging the merits.[27] Similarly, in *Global Concern Cameroon v Ministry of Post and Telecommunications and others*, a corporate applicant seeking declaratory relief under Article 65 of the Constitution was denied standing, reinforcing the Council's restrictive interpretation of *locus standi*.[28] In *Ekouda Darius Mesmin v President of the Republic*, a challenge to provisions of the Penal Code was dismissed on identical grounds.[29] Additional cases such as *Diallo Djanko François v President of the Republic*[30] and *Jonathan Nti v The State*[31] further confirm this pattern of systematic inadmissibility.

More recent jurisprudence consolidates this trend. In *Engoulou Voundi Vincent v President of the Republic and others* (2021), a petition challenging the Finance Law was declared "clearly inadmissible," once again without substantive constitutional analysis.[32] Likewise, in *Rigobert Aminou Gaban Midanha v President of the Republic*, an application proposing constitutional reform was rejected for want of standing.[33] Although *Olivier Bile v President of the Republic* represents a rare instance where a petition was admitted in form, it was nonetheless dismissed on the merits, limiting its doctrinal impact.[134] Subsequent applications by *Amougou Atangana Pierre* were similarly rejected, reinforcing the Council's consistently restrictive procedural posture.[35]

These cases illustrate not merely isolated procedural decisions but a systemic jurisprudential posture: the Constitutional Council consistently prioritizes admissibility over substantive constitutional review. The legal consequence is that potentially unconstitutional norms remain untested, not because they are valid, but because they are procedurally insulated from review.

Moreover, Article 56(1) of the Standing Orders allows the Council to dismiss petitions deemed "overtly inadmissible" without adversarial investigation. While this provision enhances procedural efficiency, its repeated use in practice has the effect of curtailing constitutional litigation and limiting the development of constitutional doctrine. For litigants, the consequence is clear: constitutional justice is largely inaccessible, and the Council functions more as a gatekeeper than an adjudicator of constitutional claims.

Taken together, these cases provide concrete empirical support for the argument that the effectiveness of constitutional review in Cameroon is significantly constrained, not by lack of jurisdiction, but by restricted access and limited judicial engagement with substantive constitutional questions.

United States: Diffuse Or Decentralized Review

In the United States, constitutional review operates through a decentralized judicial structure in which all courts possess the authority to interpret the Constitution within concrete disputes. This system, established in *Marbury v Madison* (1803), is characterized by its case-based nature, broad access to justice, and continuous doctrinal development through precedent[36] Unlike Cameroon's referral-based system, constitutional review in the United States is litigant-driven, allowing individuals, associations, and state actors to raise constitutional claims in ordinary judicial proceedings.

The diffuse model of judicial review, as exemplified by the United States, is characterized by the decentralization of constitutional adjudication. In this system, any court, from trial courts to the Supreme Court may assess the constitutionality of laws and governmental acts as part of its judicial function.[37] Although the

[27] *Engoulou Voundi Vincent v President of the Republic and others* (No 1/G/CC/2018, 14 June 2018).
[28] *Global Concern Cameroon v Ministry of Post and Telecommunications and others* (No 1/G/SCT/CC/2018, 30 July 2018).
[29] *Ekouda Darius Mesmin v President of the Republic and others* (No 1/SCCL/G/SG/CC, 10 January 2019).
[30] *Diallo Djanko François v President of the Republic and others* (No 2/SCCL/G/SG/CC, 12 February 2019).
[31] *Jonathan Nti v The State* (No 2/CC/SDAC, 14 October 2020).
[32] *Engoulou Voundi Vincent v President of the Republic and others* (No 04/CC/CCT, 28 December 2021).
[33] *Rigobert Aminou Gaban Midanha v President of the Republic and others* (No 03/CC/CCT, 17 May 2022).
[34] *Olivier Bile v President of the Republic and others* (No 02/CC/CCT, 17 May 2022).
[35] *Amougou Atangana Pierre v President of the Republic and others* (No 02/CC/SCCT, 18 April 2023; No 03/CC/SCCT, 9 May 2023).
[36] *Marbury v Madison*, 5 U.S. 137 (1803)
[37] Erwin Chemerinsky, *Constitutional Law: Principles and Policies*, 6th edn, Aspen, 2019, p. 48.

U.S. Constitution does not explicitly grant the power of judicial review, the Supreme Court interpreted Article III which vests the "judicial power" in the courts as including this function.[38] Through this landmark ruling (*Marbury v Madison*), the judiciary was entrusted with the authority to invalidate statutes conflicting with the Constitution.[39]

A defining feature of the American model is its incidental and concrete nature: courts engage in judicial review only in the context of actual disputes, cases or controversies involving real parties with standing.[40] In this way, constitutional review is not abstract, as seen in many European systems.[41] Another key element is that judicial review is decentralized: state and federal courts, at all levels, may conduct constitutional analysis during the adjudication of individual cases.[42] This contrasts with the concentrated or centralized model, where a single constitutional court has exclusive jurisdiction over constitutional interpretation.[43] The American model is also retrospective *a posteriori*. Courts review the constitutionality of laws after they have been enacted and applied, rather than ex ante, as in preventive constitutional review.[44]

The role of precedent (*stare decisis*) ensures that constitutional interpretations by higher courts, particularly the U.S. Supreme Court, are binding on lower courts.[45] While all courts can engage in judicial review, Supreme Court rulings have the final word, ensuring uniformity in constitutional interpretation.[46]

In practice, the diffuse model functions as a powerful check on legislative and executive power. It reinforces separation of powers, ensuring that no branch of government exceeds its constitutional limits.[47] However, it may lead to inconsistency, as lower courts might reach conflicting constitutional decisions until resolved by higher courts.[48]Despite its flaws, the American system has proven resilient and adaptable. It has inspired other common law jurisdictions including Canada, India, and Australia to adopt elements of diffuse review in their legal systems.[49]

A. Composition and Appointment

In the United States, the court system is structured to ensure that there is a clear and effective pathway for constitutional review, enacted by Congress. The courts with such jurisdiction are organized at different levels of the federal judiciary, with the U.S. Supreme Court at the apex.

The Supreme Court of the United States is the highest court in the federal judiciary, with the ultimate authority to interpret and apply the Constitution. The composition of the Supreme Court of the United States (SCOTUS) is defined by the Constitution and further refined by federal statutes and historical practices. This includes the number of Justices, their appointment, tenure, and the structure of the Court. Over the years, the composition of the Court has become more diverse. Thurgood Marshall was the first African American Justice, appointed in

[38] Randy E Barnett, Restoring the Lost Constitution: The Presumption of Liberty, 2nd edn, Princeton University Press, 2013, pp.283–285.
[39]Larry D Kramer, The People Themselves: Popular Constitutionalism and Judicial Review, Oxford University Press, 2004, pp.109–112.
[40] Cass R Sunstein, One Case at a Time: Judicial Minimalism on the Supreme Court, Harvard University Press, 1999 pp.17–18.
[41] Alec Stone Sweet, Governing with Judges: Constitutional Politics in Europe, Oxford University Press, 2000, p.24.
[42] Mark Tushnet, Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law, Princeton University Press, 2008, p.35.
[43] Vicki C Jackson and Mark Tushnet, Comparative Constitutional Law, 3rd edn, Foundation Press, 2014, pp.379-385.
[44] David S Law, "A Theory of Judicial Power and Judicial Review" ,97 Georgetown Law Journal, 2011, p.723.
[45] Richard H Fallon Jr, The Dynamic Constitution: An Introduction to American Constitutional Law and Practice, 2nd edn, Cambridge University Press, 2013, p.66.
[46]Ronald Dworkin, Freedom's Law: The Moral Reading of the American Constitution, Harvard University Press, 1996, pp.9-12.
[47] Akhil Reed Amar, "America's Constitution: A Biography," Random House, 2005, pp. 243-244. Available at https://www.penguinrandomhouse.com/, accessed on 12/04/2025.
[48] Robert A Dahl, "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker", Journal of Public Law, 1957, pp. 279, 286.
[49] Sujit Choudhry (ed), The Migration of Constitutional Ideas, Cambridge University Press 2006, pp24-29.

1967,[50] and Sandra Day O'Connor was the first female Justice, appointed in 1981.[51] The Court now includes Justices of different genders, races, and ethnic backgrounds, reflecting broader societal changes.

The US Constitution does not specify the number of Justices on the Supreme Court. Article III, Section 1, of the U.S. Constitution establishes the Supreme Court but leaves it to Congress to determine the size of the Court.[52] Whereas, Statutorily, the Judiciary Act of 1789 initially set the number of Supreme Court Justices at six.[53] Over the years, Congress has altered this number several times. Currently, the court is made of nine Justices (one Chief Justice and eight Associate Justices), was established by the Judiciary Act of 1869.[54] With John G. Roberts, Jr as the Chief Justice (assumed office in 2005), Clarence Thomas, Samuel A. Alito, Jr., Sonia Sotomayor, Elena Kagan, Neil M. Gorsuch, Brett M. Kavanaugh, Amy Coney Barrett, and Ketanji Brown Jackson, as Associate Justices.[55] There is high level of gender representation with respect to the judges of the supreme court as it is made up of four women and five men.[56]

The second Court is the U.S. Courts of Appeals, also known as Circuit Courts, these are the intermediate appellate courts in the federal judiciary system. They play a critical role in reviewing decisions from the district courts and ensuring the uniform application of federal law. There are 13 U.S. Courts of Appeals, including 12 regional circuits and one Federal Circuit.[57] Each circuit court is staffed by a varying number of judges, depending on the caseload of the circuit.

Typically, cases are heard by panels of three judges, but *en banc* reviews (*En banc* review refers to a session in which a case is heard before all the judges of a court, rather than by a panel of selected judges. The purpose of an *en banc* review is typically to resolve significant or complex issues, address conflicts within the court's decisions, or reconsider a previous decision made by a smaller panel of judges. In the United States, the decision to grant an *en banc* review usually requires the agreement of a majority of the court's active judges),[58] all active judges in the circuit can occur for particularly significant cases.[59] The number of authorized judgeships in each circuit is set by Congress in 28 U.S.C. First circuit 6 judges, second circuit 13 judges, third circuit 14 judges, fourth circuit 15 judges, fifth circuit 17 judges, sixth circuit 16 judges, seventh circuit 11 judges, eighth circuit 11 judges.[60]

Lastly, The U.S. District Courts are the general trial courts of the federal judiciary. They handle a wide range of civil and criminal cases under federal jurisdiction. There are 94 U.S. District Courts, including at least one in each state, the District of Columbia, and Puerto Rico. Some states have more than one district court due to their size and population.[61] Each district court is staffed by a varying number of judges, depending on the caseload of the district. Judges are responsible for overseeing cases within their jurisdiction.[62]

The Constitution of the United States provides that Justices are appointed by the President and confirmed by the Senate, as specified in Article II, Section 2, of the U.S. Constitution[63]: "*He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the*

[50]U.S. Supreme Court, "Justice Thurgood Marshall."
[51] U.S. Supreme Court, "Justice Sandra Day O'Connor."
[52]U.S. Constitution, Article III, Section 1.
[53] Judiciary Act of 1789, ch. 20, 1 Stat. 73.
[54] Judiciary Act of 1869, ch. 22, 16 Stat. 44.
[55] Supreme Court of the United State, available at https://www.supremecourt.gov/about/biographies.aspx, accessed on 12/12/2025.
[56] *Ibid.*
[57] Title 28 U.S.C . sections 41-49.
[58] Federal Judicial Center, *Judicial Administration: En Banc Proceedings, 2021.* Available at https://www.fjc.gov. accessed on 01/06/2024.
[59] *Ibid*., section 46.
[60] 28 U.S.C. section 44.
[61] Title 28 *Op. Cit.* Sections 81-144.
[62] *Ibid.,* Section 1331.
[63]U.S. Constitution, Article II, Section 2.

Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." This means the President nominates candidates, but they must be confirmed by the Senate to take office this applies to all federal judges that is the Supreme Court, Appeal and District Courts.

In simpler terms, this provision requires that federal judges be appointed through a two-step process: nomination by the President and confirmation by the U.S. Senate. While the President has the authority to nominate any candidate, they may consider recommendations from Congress. The Senate then evaluates nominees through confirmation hearings, during which candidates are questioned about their qualifications and judicial philosophy.[64]

With respect to eligibility**,** the U.S. Constitution does not specify formal qualifications for becoming a federal judge. Technically, a law degree is not required. However, candidates typically undergo review by two key bodies:

1. The Department of Justice (DOJ): The DOJ follows an informal set of criteria when evaluating potential nominees.

2. Congress: Members of Congress recommend candidates to the President based on their own selection process.[65]

Judges are often chosen based on their past rulings, legal experience, or judicial philosophy. Presidents may prefer nominees who align with their views on judicial activism or judicial restraint. If a nominee lacks prior judicial experience, predicting their future rulings becomes more challenging. Since the judiciary serves as a check on legislative power, Congress has a vested interest in ensuring that judicial appointments align with its majority's constitutional interpretation.[66]

Federal judges are appointed for life, meaning they hold office as long as they maintain "good behavior." Although the Constitution does not explicitly define good behavior, the judiciary follows an established code of conduct. Judges can be removed through impeachment under Article II of the Constitution. The House of Representatives holds the power to impeach, while the Senate conducts impeachment trials. However, judicial impeachments are rare, between 1804 and 2010, only 15 federal judges were impeached, with just eight being convicted.[67]

The lifetime tenure of federal judges makes their appointment a crucial decision for sitting presidents, as judges often serve long after a president's term has ended. Presidents do not control the number of judges they can appoint; they can only nominate when vacancies arise or when new judgeships are established.[68]

The creation of new judgeships is done through legislation based on judicial need. Every two years, the Judicial Resources Committee, as part of the Judicial Conference, assesses the state of the judiciary. It considers factors such as geography, caseload, and the demographics of sitting judges before making recommendations.[69] According to the U.S. Courts, the primary measure for determining the need for additional judgeships is the number of weighted case filings per judge. While the number of federal judgeships has increased over time, the size of the U.S. Supreme Court has remained unchanged.[70]

[64] "Code of Conduct for United States Judges." *United States Courts*, available at www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges. Accessed on 12/02/2025.
[65] *Ibid.*
[66] *Ibid.*
[67] "Federal Judges." *United States Courts*, available at www.uscourts.gov/faqs-federal-judges. Accessed on 12/2/2025.
[68]Impeachments of Federal Judges." *Federal Judicial Center*, available at www.fjc.gov/history/judges/impeachments-federal-judges. Accessed on 12/2/2025.
[69] *Ibid.*
[70] "Judgeship Appointments by President." U.S. Courts, 31 Dec. 2017.

B. Administrative and Financial Autonomy

The United States federal judiciary functions as an independent branch of government, constitutionally protected from external influence, including from the legislative and executive branches. This independence is ensured not only through life tenure and salary protections but also through administrative and financial autonomy backed by statutory mechanisms.

Judicial independence is a cornerstone of the U.S. constitutional system, enshrined in Article III of the Constitution. Beyond decisional independence, the federal judiciary enjoys administrative and financial autonomy to ensure it can perform its functions free from political pressures. These powers are exercised primarily through self-governance mechanisms and statutory guarantees, including control over personnel, administration, and financial resources.[71]

The Constitution provides a baseline guarantee of judicial independence, in article III, Section 1 vests judicial power in the federal courts and states that judges' compensation "shall not be diminished during their Continuance in Office"[72]. The separation of powers doctrine inherently implies autonomy over internal operations, shielding the judiciary from direct interference by Congress or the President[73].

With regards to its statutory framework, Congress has codified administrative and financial autonomy in Title 28 of the United States Code. Key statutes include: the Administrative Office of the United States Courts (AOUSC) as the central agency for court administration.[74]its key functions include: budget management and financial services,[75] human resources and personnel management,[76] court services and case management,[77] judicial conference support[78] public information and outreach,[79] and facilities management.[80]

Administrative Autonomy of the Federal Judiciary is further carried out by the Judicial Conference. The Judicial Conference serves as the main administrative organ of the federal courts, composed of the Chief Justice (presiding) and chief judges of each circuit and district judge representatives.[81]Responsible for establishing policies related to case management, court facilities, personnel, and technology. And recommends legislation impacting the judiciary. A clear example of administrative autonomy is the case of *Mistretta v. United States*, the Supreme Court upheld the constitutionality of the U.S. Sentencing Commission, emphasizing that Congress can establish administrative bodies within the judiciary as long as it does not interfere with judicial functions.

Financial autonomy of the Federal Judiciary is put in place through several mechanisms such as independent budget process. Here, the federal judiciary submits its budget request directly to Congress, independent of the President's budget proposal. The judiciary prepares its budget through the AOUSC and Judicial Conference.[82]Although Congress retains appropriation authority, however, this process reinforces financial independence.

Secondly, there is congressional funding mechanism, here, Congress funds the judiciary through specific appropriations distinct from executive departments. Such as annual appropriations which cover salaries, court operations, facilities, and programs. Examples of budget categories include "Salaries and Expenses of the

[71]Federal Judicial Center, Structure of the Federal Courts, available at www.fjc.gov/history/courts/structure-federal-courts. Accessed on 20/03/2025.
[72] U.S. Const. art. III, § 1.
[73] The Federalist No. 78 (Alexander Hamilton).
[74] Title 28 *Op. Cit.,* sections 601-613.
[75] *Ibid.,* section 604.
[76] *Ibid.,* section 604(b).
[77] *Ibid.,* section 604(d).
[78] *Ibid.,* section 331.
[79] *Ibid.,* section 604(g).
[80] *Ibid.,* section 604(h).
[81] Judicial Conference of the United States, Overview, available at https://www.uscourts.gov/about-federal-courts/governance-judicial-conference. Accessed on 11/03/2025.
[82] Title 28 *Op.Cit*., section 605.

Courts," "Defender Services," and "Court Security".[83] Furthermore, financial autonomy is seen through the Protections for Judicial Salaries, as clearly stated in the Compensation Clause (Article III, Section 1 of the Constitution) protects judges from reductions in salary, preventing financial manipulation by other branches.[84]as in the case of United *States v. Will,* the Supreme Court upheld judicial compensation protection against congressional salary reductions.[85]finally, there is control over internal expenditures. Federal courts manage expenditures within their allocated budgets, covering personnel hiring and salaries, court building maintenance, procurement of technology and court resources.

Irrespective of such Autonomy, there are however limitations which includes: Congress's power of the purse. This means the judiciary depends on congressional appropriations, which can be influenced by broader fiscal policies.[86] Furthermore, judicial budgets can be impacted by government shutdowns or sequestration, affecting operations.

C. Recent Practice in the United States

Recent practice in the United States demonstrates the robustness of *diffuse constitutional review*, in which all federal and state courts possess the authority to interpret the Constitution and invalidate laws inconsistent with it. This model, rooted in the foundational decision in *Marbury v Madison*,[87] continues to allow a wide range of litigants to initiate constitutional challenges through ordinary judicial processes. Unlike Cameroon's restrictive standing regime, constitutional review in the U.S. is accessible to individuals, corporations, associations, and governmental bodies without the need for political referral or prior authorization.

- **Widespread Access and a Broad Standing Doctrine**

Although Article III of the U.S. Constitution requires the three standing elements, injury in fact, causation, and redressability. The courts interpret these requirements in a manner that broadly facilitates access to constitutional justice.[88] Thus, constitutional issues may be raised in employment disputes, civil rights litigation, administrative review, or criminal defence.

For example, in *Bostock v Clayton County*, the Supreme Court entertained constitutional and statutory claims brought by individual employees alleging discrimination.[89] In *Students for Fair Admissions v President and Fellows of Harvard College*, the Court accepted a membership association as having standing to raise equal protection claims on behalf of its members.[90] These cases reflect a litigation environment in which access to constitutional review is not confined to state actors, unlike Cameroon's Constitutional Council where individual petitions are routinely dismissed for want of locus standi.

- **Judicial Review of Federal and State Legislation**

The contemporary U.S. Supreme Court has actively scrutinized federal and state legislation. In *Dobbs v Jackson Women's Health Organization*, the Court revisited and overturned the constitutional framework governing abortion that had stood for nearly fifty years under *Roe v Wade*.[91] In *New York State Rifle & Pistol Association v Bruen*, a long-standing New York gun-licensing regime was struck down as incompatible with the Second Amendment.[92] Similarly, in *National Federation of Independent Business v Department of Labor*,

[83] Congressional Research Service, Judiciary Appropriations: Overview, available at https://crsreports.congress.gov/product/pdf/IF/IF11054. Accessed on 11/03/2025.
[84] U.S. Const. *Op.Cit*., article . III, section 1
[85] *United States v. Will*, 449 U.S. 200 (1980).
[86] Congressional Budget Office, The Judiciary's Budget, available at https://www.cbo.gov/publication/56399. Accessed on 11/03/2025.
[87] *Marbury v Madison*, 5 US (1 Cranch) 137 (1803).
[88] *Lujan v Defenders of Wildlife*, 504 US 555, 560–61 (1992).
[89] *Bostock v Clayton County*, 590 US, 140 S Ct 1731 (2020).
[90] *Students for Fair Admissions v President and Fellows of Harvard College*, 600 US, 143 S Ct 2141 (2023).
[91] *Dobbs v Jackson Women's Health Organization*, 597 US, 142 S Ct 2228 (2022).
[92] *New York State Rifle & Pistol Association v Bruen*, 597 US, 142 S Ct 2111 (2022).

the Court invalidated a federal vaccination mandate issued by the Occupational Safety and Health Administration (OSHA) as exceeding statutory authority.[93] These cases demonstrate the continual and dynamic nature of American constitutional review.

- **Emergency Relief and the Rise of the "Shadow Docket"**

Recent years have also seen an increased reliance on the so-called *shadow docket*, referring to emergency orders and summary decisions that often have substantial constitutional effects.[94] In *Whole Woman's Health v Jackson*, the Court declined, in an emergency posture, to block Texas's S.B. 8 abortion law, despite serious constitutional challenges regarding its enforcement mechanism.[95] During the COVID-19 pandemic, the Court issued several emergency orders affecting religious freedom, public-health mandates, and administrative power, reflecting how diffuse review produces constitutional decisions even through procedural shortcuts.

- **Federalism Litigation and State-Initiated Constitutional Challenges**

Another significant recent development is the active involvement of U.S. states in constitutional litigation against federal policies. In *Biden v Nebraska*, several states successfully challenged the federal student-loan forgiveness programme as exceeding statutory and constitutional authority.[96] Litigation between Texas and the federal government concerning immigration enforcement has also generated repeated constitutional controversies.[97] This illustrates that constitutional review in the U.S. is not only decentralized *across courts but also across competing governmental entities.*

- **Public-Interest Constitutional Litigation**

Finally, the United States maintains a vibrant culture of public-interest constitutional litigation. Organisations such as the American Civil Liberties Union (ACLU) and the NAACP Legal Defense Fund frequently bring suits involving voting rights, freedom of speech, racial equality, and criminal justice reform. A recent example is *Moore v Harper*, in which litigants successfully invoked the Elections Clause to challenge a state congressional map.[98] This stands in stark contrast to Cameroon, where restrictive locus standi rules largely prevent civil society organisations and individuals from bringing constitutional issues before the Constitutional Council.

Comparative Analysis

This comparative analysis applies the four evaluative criteria outlined in the methodology, doctrinal coherence, independence, enforceability, and access to both jurisdictions in order to ensure a structured and evidence-based comparison rather than a purely descriptive juxtaposition.

1. Doctrinal Clarity and Coherence

The doctrinal foundations of constitutional review differ sharply between Cameroon and the United States, leading to divergent levels of coherence in constitutional adjudication.

Cameroon's centralized model structurally concentrates constitutional authority but functionally limits its exercise, as restrictive standing rules and frequent inadmissibility rulings prevent the emergence of a sustained and coherent body of constitutional jurisprudence. This structural arrangement has produced a system in which constitutional doctrine remains underdeveloped, largely because the Council delivers few substantive rulings.

[93] *National Federation of Independent Business v Department of Labor, Occupational Safety and Health Administration*, 595 US, 142 S Ct 661 (2022).
[94] Stephen Vladeck, *The Shadow Docket: How the Supreme Court Uses Stealth Rulings to Amass Power and Undermine the Republic* (Basic Books 2023).
[95] *Whole Woman's Health v Jackson*, 595 US, 142 S Ct 522 (2021).
[96] *Biden v Nebraska*, 600 US, 143 S Ct 2355 (2023).
[97] *United States v Texas*, 599 US, 143 S Ct 1964 (2023); see also *Texas v United States*, 809 F3d 134 (5th Cir 2015).
[98] *Moore v Harper*, 600 US, 143 S Ct 2065 (2023).

As indicated, nearly all petitions brought by individuals or associations are dismissed for lack of *locus standi*, limiting the emergence of a robust and accessible constitutional jurisprudence.[99] The result is a fragmented doctrinal landscape with few precedents and minimal guidance for administrative bodies and litigants.

By contrast, the United States follows a diffuse model of judicial review established in *Marbury v Madison*, which authorizes all federal and state courts to interpret the Constitution in the course of ordinary litigation.[100] Because constitutional review is exercised in concrete disputes, and by multiple courts over centuries, American constitutional doctrine has grown into a deeply elaborated body of jurisprudence. Principles such as incorporation, equal protection, substantive due process, standards of scrutiny, and justiciability (standing, ripeness, mootness) have all evolved through case-by-case adjudication.[101] The Supreme Court ensures coherence by articulating binding nationwide precedents through the doctrine of stare decisis, even though lower courts often disagree until questions reach the Court.[102]

Thus, whereas Cameroon faces doctrinal stagnation due to restricted access and limited output, the United States benefits from doctrinal dynamism, though sometimes at the cost of inconsistency among lower courts before Supreme Court review.

2. Institutional Independence and Appointment Design

Institutional independence is central to the legitimacy of constitutional adjudication. Cameroon's Constitutional Council faces persistent concerns regarding its autonomy, primarily because all 11 members are appointed through processes dominated by the executive, particularly the President of the Republic.[103] Scholars such as Charles Manga Fombad warn that appointment mechanisms, coupled with *ex officio* life membership for former Presidents risk compromising the Council's impartiality.[104] Furthermore, the Council's administrative framework, though formally autonomous, remains structurally tied to the executive through appointment of its Secretary-General and budgetary guidelines set by government.[105]

In contrast, the independence of the U.S. judiciary is constitutionally entrenched. Article III provides life tenure during "good Behaviour" and prohibits diminution of judicial salaries, insulating judges from political pressure.[106] While the President nominates federal judges and the Senate confirms them, the process involves two branches, ensuring diffusion of appointment power. Moreover, the judiciary exercises significant administrative and financial autonomy through institutions such as the Administrative Office of the U.S. Courts and the Judicial Conference.[107] The Supreme Court's independence, though occasionally challenged in public discourse, remains structurally stronger than that of Cameroon's Constitutional Council.

3. Enforceability: Institutions That Implement and Respect Rulings

A constitutional system's effectiveness depends not only on the declaration of constitutional norms but also on their enforcement. In Cameroon, the Constitutional Council's decisions are binding *erga omnes*, yet practical enforcement depends heavily on the executive, which may limit the impact of rulings. The 2002 Standing Orders case illustrates the Council's potential strength, but the lack of subsequent successful decisions suggests limited institutional assertiveness or political willingness to challenge powerful branches.[108] Without robust mechanisms for legislative or administrative compliance, constitutional supremacy may remain aspirational.

[99] See *Olivier Bile v President of the Republic and Others Op.Cit*
[100] *Marbury v Madison*, *Op.Cit*.
[101] For example, *Brown v Board of Education*, 347 US 483 (1954); *Roe v Wade*, 410 US 113 (1973); *Washington v Davis*, 426 US 229 (1976).
[102] Frederick Schauer, 'Stare Decisis and the Structure of Constitutional Doctrine' (1987) 56 S Cal L Rev 1.
[103] Law No. 96/6 *Op.Cit.*
[104] Charles Manga Fombad, *Constitutional Law in Cameroon* (Wolters Kluwer 2022) ch 6.
[105] Decree No 2018/104 Organising the Secretariat-General of the Constitutional Council (Cameroon), articles 3-9.
[106] US Constitution art III, section 1.
[107] Title 28 *Op.Cit* sections 601-613 (Administrative Office of the US Courts).
[108] Supreme Court (acting as Constitutional Council), Decision of 28 November 2002 (Standing Orders Case).

In the United States, compliance with judicial decisions, especially those of the Supreme Court, is generally assured through a combination of legal culture, institutional checks, and the obligation of all state and federal actors to obey constitutional rulings. Historical tensions have occurred (e.g., *Brown v Board of Education*), yet the general pattern since the civil rights era reflects strong institutional respect for judicial authority.[109] Federal courts also possess remedial tools such as injunctions, structural decrees, and contempt powers, enabling practical enforcement of constitutional judgments.[110]

4. Access to Justice and Timing of Review

Access to constitutional justice is one of the starkest contrasts between the two systems. Cameroon restricts standing almost exclusively to political authorities, denying individuals and civil society direct access to constitutional review except in electoral matters. This strict approach to *locus standi* has resulted in the dismissal of nearly all petitions brought by individuals or NGOs, preventing meaningful public-interest litigation.[111] Review occurs almost exclusively *a priori* and typically in politically driven disputes.

By contrast, the United States maintains a relatively open, although doctrinally regulated—standing doctrine. Individuals, corporations, states, and public-interest organizations may all bring constitutional claims, provided they demonstrate injury in fact, causation, and redressability.[112] The system therefore facilitates constitutional review in ordinary litigation and allows courts to address constitutional questions *ex post*, including through emergency relief (*shadow docket*) or preliminary injunctions.[113]The result is a vibrant constitutional forum where societal groups can challenge governmental action.

Policy Implications And Reform Proposals

1. Merit-based and Transparent Appointment Procedures

Cameroon would benefit from revising the appointment process for the Constitutional Council to ensure checks and balances. Comparative models, such as France's Constitutional Council or South Africa's Judicial Service Commission, demonstrate that involving multiple institutions (legislature, judiciary, civil society) enhances independence and public trust. The U.S. Senate confirmation model provides transparency through public hearings, though it also risks politicization. A hybrid model that emphasizes professional qualifications, public scrutiny, and multipolar appointment authority could strengthen credibility.

2. Clear Jurisdictional Rules and Remedies

Cameroon's jurisdictional limitations and narrow standing rules severely restrict constitutional oversight. Introducing limited individual constitutional complaint mechanisms, similar to Germany's *Verfassungsbeschwerde* or France's *Question Prioritaire de Constitutionnalité*, would expand access while filtering frivolous claims through admissibility thresholds.[114] Remedies should also be clarified to permit *post-enactment* review and allow the Council to issue remedial guidance, not merely annulment.

3. Institutional Supports for Enforcement

Effective constitutional justice requires mechanisms that ensure compliance by all branches of government. Cameroon could implement statutory procedures obliging administrative and legislative bodies to report on measures taken to implement Constitutional Council decisions, similar to South Africa's supervisory

[109] *Brown v Board of Education II*, 349 US 294 (1955).
[110] Owen Fiss, *The Civil Rights Injunction* (Indiana UP 1978).
[111] See cases such as Engoulou Voundi Vincent v President of the Republic (CC 2021).
[112] *Lujan v Defenders of Wildlife*, 504 US 555 (1992).
[113] Stephen Vladeck, *The Shadow Docket* (Basic Books 2023).
[114] Alec Stone Sweet, *Governing with Judges: Constitutional Politics in Europe* (OUP 2000).

jurisdiction in *Grootboom* and *Treatment Action Campaign* cases.[115] Strengthening the Council's budgetary autonomy, consistent with the CEMAC directive would also reinforce its independence.[116]

4. Access and Outreach

Public awareness and legal mobilization are essential for constitutional accountability. Cameroon could develop constitutional clinics, simplified procedural guide. The United States' tradition of public constitutional litigation, supported by NGOs, law schools, and professional associations illustrates how civil society can drive constitutional oversight when access barriers are low.[117] Opening avenues for indirect access, amicus briefs, or expanded standing would foster participatory constitutionalism.

CONCLUSION

The comparative analysis of constitutional review in Cameroon and the United States reveals two fundamentally different conceptions of the role, accessibility, and effectiveness of constitutional adjudication within democratic governance. Cameroon's centralized Kelsenian model, though constitutionally designed to safeguard the supremacy of the Constitution, has not achieved its intended functions due to structural, procedural, and institutional limitations. The Constitutional Council's restrictive approach to standing, its limited jurisprudence, and persistent concerns regarding institutional independence collectively weaken its capacity to serve as an effective guardian of constitutionalism. The scarcity of successful decisions since the seminal 2002 Standing Orders case illustrates the systemic barriers that hinder meaningful constitutional oversight and prevent the development of a robust constitutional culture. In practice, unconstitutional laws and executive practices may evade scrutiny whenever political actors decline to trigger review.

In contrast, the United States diffuse, judge-made model of review has produced a rich and evolving constitutional jurisprudence marked by doctrinal coherence, strong institutional independence, and widespread access to justice. Through concrete litigation initiated by individuals, civil society actors, and governmental entities alike, constitutional principles are continually interpreted, tested, and refined. Although the American system faces its own challenges, including political polarization in judicial appointments and occasional tensions regarding compliance the architecture of Article III courts ensures that constitutional review remains a living and accessible mechanism for resolving public law disputes.

The comparison demonstrates that no model is perfect: diffuse review risks inconsistency and judicial activism, while centralized review risks insulation from society and overdependence on political branches. Yet Cameroon's experience shows that without meaningful access, institutional autonomy, and clear remedial authority, constitutional review becomes largely symbolic. Conversely, the United States illustrates that when courts are empowered, independent, and accessible, constitutional adjudication becomes a central instrument for advancing rights, limiting governmental power, and maintaining the rule of law.

Ultimately, the comparison demonstrates that the effectiveness of constitutional review is not determined by whether a system is centralized or diffuse, but by whether it is accessible, independent, and capable of producing enforceable decisions. Cameroon's experience illustrates how restricted access and procedural gatekeeping can render constitutional review largely symbolic, even where formal powers are extensive. By contrast, the United States shows that broad access and judicial independence can sustain an active and evolving constitutional order, albeit with risks of inconsistency and politicization. A functional approach to constitutional design therefore requires moving beyond institutional form toward strengthening the conditions that enable courts to operate effectively in practice.

[115] *Government of the Republic of South Africa v Grootboom* [2000] ZACC 19; *Minister of Health v Treatment Action Campaign* [2002] ZACC 15.
[116] CEMAC Directive on Finance Law, art 18.
[117] Robert Post and Reva Siegel, 'Constitutional Culture and the Problem of Public Rights' (2018) 117 Yale LJ 409.

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