

The Legal Value of the State Emblems

Victor Yves Jean Denoël TSALA

Lecturer of Public Law
Faculty of Law and Political Science
University of Bamenda
Cameroon

Abstract

State emblems are symbols of visual identification, unadventurously chosen to distinguish herself from others, and recognised as such by virtue of her distinctive flag, motto, seals, currency, coat of arms, anthem, etc. Their representation as signs of victory, recognition, unity, respect, honour, celebration and reverence, with its sense of belonging and consequent social, historical, economic, political, ideological identification, are at the heart of political and strategic issues. Therefore, whenever acts are perpetrated against State emblems, the gravity is always instinctively, because one's attachment to these emblems, are of a moral legal nature. Thus, the lege feranda determination inevitably results to the lege lata representation, thereby putting to test, the legal value of state emblems. In fact, legal justifications are contained in the different constitutional guarantees and enhanced legal protection under constitutional and criminal jurisdictions; suggesting the consciousness inviolability of emblems as an inherent instinctive thing, which precedes the awareness of their legal value, as a fundamental thing.

Introduction

France's very expensive tricolor emblem was represented as a toilet paper in a "work of art"¹, the Union Jack, put in flame, was swung on the car of Her Majesty, the Queen of England², the Cameroonian flag was burned and trampled on in public by protesters³. There are more and more examples of States' emblems that have been abused. Whenever such acts are perpetrated, the gravity is always instinctively felt. Although, the question on the existence or not of the rules, which sanction such acts seem secondary; the power of condemnation is great. This feeling of condemnation is the consequence of our attachment to these emblems. This attachment is no longer disembodied. It flows from the very meaning of these emblems. Indeed, emblems are marks of identity, distinctiveness, differentiation of a State, as compared to others. It is the symbol of its originality, its sovereignty. In this sense, an attachment to emblems, reflect an attachment to one's country, to one's nation. Emile Durkheim specifies the importance of emblems when he writes that: "(...) without symbols, social feelings could only have a precarious existence (...) Thus, the representations, necessary to enable society to become aware of itself, is no less essential to ensure the continuity of this consciousness"⁴.

Emblems are defined as visible beings or objects, conventionally chosen to represent someone or something. In contemporary times, they refer to many things, namely the flag, the anthem, the seals and the motto. They are elements of *a priori* visual identification of an entity and which allow it to distinguish itself from other entities that are of the same kind. To the State, emblems are visual identification tools that are used to recognise at first glance, a state by distinguishing it from other states. It is also an instrument of affirmation of the State that allows it to reflect its social, historical, economic, political, ideological identity.

¹Fnac of Nice launched a picture competition in 2010. One of the contenders had sent in his work, representing a man who seemed to want to use the French flag as a toilet paper. The keeper of the seals demanded an inquiry. But the prosecutor had filed a case, claiming that it was a work of the spirit. But from this case, a controversy came up in France on the issue of repression on abuse of the flag. But that did not prevent the ministry of justice to enact, a few months later a decree punishing with a fine of 1,500 euros, anyone guilty of abusing the French flag.

²In 1999, two protesters throw the flag of the United Kingdom in flames on the Queen's car, during her visit abroad.

³On December 8, 2017, during the teachers and Anglophone protest, protesters burned the flag of Cameroon and some even hoisted the "secessionist" flag.

⁴E. Durkheim, *The Elementary forms of Religious Life: the totemic System in Australia*, Paris, Ed. Felix Alcan, 1912; p.330-331.

In the sense and role they are given today, emblems are closely linked to the affirmation of the modern State, since the end of the 18th century. Before this period, flags for example existed, but more like family, dynasty, or party banners.⁵ Anthems are also of recent usage. They first arose from war songs, or hymns of tribute to the monarch.⁶ Therefore, emblems initially are signs of recognition. They are today's signs of belonging. They are also at the heart of political and strategic issues. The importance they represent, naturally leads one to question their legal value. So, what is the legal value of state emblems? With the rise of radicalism, attacks on emblems and more specifically on flags are becoming more frequent. Presently, this trend makes it relevant to study the value of the state emblems. The intangible force attached to emblems, leads one to the conclusion that they have a legal value of *lege feranda* (I) and in case of doubts, this value is *a posteriori* supported by *lege lata* (II).

I- THE DETERMINATION OF THE "LEGE FERANDA" OF THE LEGAL VALUE ON STATE EMBLEMS

As a matter of principle, values are more of morality than legality. In general, the law draws from morality. In this logic, the respect of certain legal moral norms seem to give rise to more of a moral obligation than a legal obligation. This is the case with emblems or perhaps more precisely, certain emblems. Their mere invocation, imposes an almost instinctive respect, an awareness of the obligation to respect them. This attitude is undoubtedly the consequence of the power of the symbols attached to the emblems (A) and the importance of the circumstances they represent (B).

A-The power of symbolic representations of emblems

Power is the character of what produces great effects. Symbolic representations of emblems have a considerable impact, related to their meaning. This power is attached to the different representations of the flag (1) as well as those of the other emblems (2).

1- The representations of the flag.

The presence of a single flag is a message. It sometimes carries more than words. A clear message is one that is passed as soon as it is established on a territory in times of conflict: it is a victory. When given to soldiers or civilians under certain circumstances: it is a national recognition.

a) The implantation of the flag as a sign of victory.

The flag of a state is the first mark, the first sign of its identification. It means the existence of a group, united by the link of nationality. It is "*the manifest sign of the affirmation of a unique and singular human community, of a population that has turned into a people and its aspiration to be recognized as such*".⁷ Thus, all the states in the world possess a unique and official flag which is their material mark and consequently identification the world over. It is a "*visual identification tool*".⁸ It is proof of their identity and underlines their existence as well as the presence of their interests both inside and outside their territories. The flag generally bears the history of a people so considered. In this sense, it suggests that the nation conveys values which are considered as positive and virtuous.

These are the values that are worn on the battlefield by soldiers. Indeed, the victory of a State has always been translated onto the battle field by the implantation of its flag. In this sense, it provides an indication. This is an indication of the triumph of the State and its ideas about the enemy. It is for this reason that once a territory is conquered, the first thing that is done by the new occupants, is to remove the flags of the vanquished and to hoist theirs. A famous photograph taken on February 23, 1945, depicts five US marines hoisting the American flag on Mount Suribachi, during the battle on the Japanese island of Iwo Jim, during the Second World War. Inspired by it, Felix de Weldon erected the US Marine Corps War⁹ Memorial sculpture in Arlington, Virginia¹⁰.

⁵See generally, J. Rey, *History of the flag, colors and insignia of the French monarchy, preceded by the history of military signs among the ancients*, Paris: Techener, 1837; Dominique Dupart, *'the use of a flag in history, or speech in colors.1789-1830'*, Romanticism. Revue of the 19th century 2012, n°157, p.9-21.F. Ruda, *Anthem and flag: Symbols of the state in comparative law*, www.academia.edu.

⁶*Ibid*

⁷E. Derdaele, "*the tricolor flag, a constitutional symbol in all its states*", communication presented at the 18th congress of the French Association of constitutional law, Nancy, June 16 and 18, 2011, in the workshop n°1, "constitutional law and other branches of law", chaired by professors Guillaume Drago and Charles Vautrot- Schwartz.

⁸F. Ruda, op.cit.p.2.

⁹The photography by bill Genaust had a resounding force at the time. This is the only photography that won the Pulitzer Prize for photography the year it was published. It is considered the most widely circulated photography of all time.

¹⁰The work depicts US marines striving to hoist the American flag in battle.

On the one hand, an example that can be cited today, is the Organisation of the Islamic State¹¹, which each time it conquers a territory, hoists its flag. On the other hand, when Iraqi or Syrian armies take back their territories, they hoist the flags of their respective States.

Apart from hoisting flags on the battle field, the flag may be donated. In this sense, it impregnated with a lot of meaning.

b) The donation of the flag as recognition of the nation.

One of the most important meanings of the flag is undoubtedly contained in the fact of providing it as a gift. Whether it is a donation to civilians or the military, it is a sign of recognition by the whole nation.

The coffins of soldiers who fall on the battlefield and even soldiers who die naturally, but who spent their lives in the service of the nation, are often covered with the flag and this is often offered to their loved ones as a testimony of gratitude to them. By this gesture, the message that they died honourably, is transmitted in the most beautiful way. In addition, on the occasion of unfortunate events that affect the entire nation (a disaster with many casualties, death of a head of state), the flag is naturally lowered, at half mast.

The flag holds such power that when it is in the hands of the enemy, it is a sign of grave failure. The redemption of the flag in the hands of the enemy, is, therefore, very essential. Illustration can be made of the case of the Mexican flag in the hands of France after the war of 1862-1864. Mexican flags were captured on the battlefield by French soldiers. The French president, in the absence of explicit laws regulating the problem of enemy flags taken on the battlefield, had chosen to hand them over to the Mexican president. **Adolfo Lopez Mateos** was then personally moved, to the extent of kissing it with almost tears, on its descent from the plane.

This symbolic representation which imposes respect beyond external constraints, is not exclusive to the flag. Other emblems also bear this important burden.

2- The representations of the other emblems.

The anthem, the motto, the seals, give off a force similar to that of the flag. Emphasis on their respect is imposed beyond an obligation that is imposed from the outside.

a) The performance of the anthem as a rallying action with the same values

The anthem is a song that celebrates someone or something. Attached to the identity of a state, it is a patriotic song, often chosen by the government. It has always connected to the history of the country. It is performed during official ceremonies and is very commonly done in the official language or language spoken by the majority of the population. The performance of the anthem is usually a very strong moment during which one feels the attachment to one's homeland. It is, therefore, a rallying song. It bears in principle, the history of a people. The Netherlands is credited for the first anthem. The "*hetwilhelmus*" was written between 1568 and 1572, during the Eighty Years War and officially adopted in 1932. The Japanese "*kimigayo*" could have dated further, except that it was only considered an anthem in 1999¹². In France, the "*Marseillaise*" was written in 1792 and adopted in 1795. It marks an important passage in the history of France¹³. In Cameroon, the anthem was officially used since 1948. It is in 1957 that it was adopted. The lyrics that was composed by Rene **Djam Afane**, with Samuel **Minkio Bamba** and Moise **Nyatte Nko'o**, contained hints of colonisation that were expurgated in 1970. The new version pays homage to our ancestors and calls the present generations to the duty towards the nation. In 1978, **Bernard Fonlon** wrote the text in English¹⁴. Above all the controversy surrounding the relevance of the Cameroonian national anthem, its performance imposes an obligation during official ceremonies and the emotion which is instinctively attached to it, at the moment of its performance, is an indicative of the value attached to it. Indeed, its execution is not usually explicitly planned, but in view of its practical importance, no one thinks of discussing its place during events.

¹¹For example, in 2015, when the Iraqi state Army took over the city of Ramadi until then occupied by Daesh, the flag of the Iraqi state was hoisted. Similarly, at the end of 2016, when the Syrian army retook Aleppo, the Syrian flag was hoisted by soldiers of the Syrian regular army.

¹²Japan policy Research Institute, July 2001.

¹³Some authors argue that the English version is an anthem that is completely different from the one written in French. According to Thomas Theophilus Nug Bissohong, they have only one verse in common (see the national anthem of Cameroon, a poem-song to be decolonised and rewritten, key publishing, 2009, 94 p.94.

¹⁴See law No.89/655 of 13 September 1989 on public ceremonies, precedence, civil and military honors.

In order to reinforce the sense of belonging to the same history and fate, the national anthem is taught in the first grades of primary school. Thus, a child grows up with the awareness of a close connection with the state. With this same purpose, is the enunciation of the motto and the affixing of the seals of the State.

b) The enunciation of the motto and the affixing of the seals as the identity of the nation

Like the flag and the anthem, the motto and the seals participate in the identification of the state. The motto is a short sentence or a symbolic expression that describes the motives of a social group or organisation that chooses it to suggest an ideal, as rules of conduct, or to recall a glorious past. It is, therefore, an ideal which is enclosed in the expression “*liberty-equality and fraternity*” or in that of “*peace-work-fatherland*”.

Its simple enunciation makes it possible to identify the state that it incarnates. The currency, thus further participates in the identification, or better still, the definition of the State concerned. It is in this sense intrinsic. This link gives special importance to the currency. This is the case of the seals. Seals are stamps engraved with signs of a sovereign authority, a body or a particular individual, and applied to a soft material, wax or lead, so that the imprint and relief realised attests the authenticity; authority, the validity of the documents on which it is affixed. In this sense, the seal of the state is a proof of the very legitimacy of an act. It gives all its strength to the act and its defectiveness strips it of all strength. The power of symbols is further amplified by the importance of the events in which they are represented.

B- The importance of the circumstances of convocation on the emblems

Emblems are not used in the same way as anything else. Their invocation or presentation must be made during special circumstances. It may be a celebration of an important triumph by the nation or a reverence for various reasons.

1- The celebration of a national victory

The events in which the flag is brandished in sign of victory are multitudinal. It is easy to classify them into military and civil events.

a) The celebration of military victory

The military domain is without doubts, one during which the flag carries a particular importance. This singularity is linked to the fact that on one hand, it is the military that is in charge with the protection of the national territory, and on the other hand, against a potential external aggression - threat to peace within the state. Military victories are, therefore, for the entire nation. Thus, when a territory is taken over, after a battle, the winner hoists her flag. When it comes to the commemoration of victories, the flag is automatically hoisted and the national anthem is solemnly performed.

b) The celebration of a civil victory

Without it being consecrated, the brandishing of a flag and the execution of a national anthem are done after any victory of a national dimension. The flag is indifferently brandished as a sign of power, in the intellectual, sports, cultural, and economic domains. In the domain of sports, it has become a tradition that after a victory, be it individual or collective, either directly representing Cameroon or simply on their personal career, they brandish the flag of their country. For the case of Cameroon, it is worth remembering, notably **Samuel ETO'O Fils** in 2006, when with his club FC Barcelona, he was winner of Champions League in Europe. He covered his sport wear with the Cameroonian flag and went round the stadium. This act made his victory look like Cameroon's. Thanks to the flag, it was the country Cameroon that won the Champions League that year. The fact that his teammate of FC Barcelona, Ronaldinho, wore a suit with the colors of Cameroonian flag, during an event, reinforced the affection of Cameroonians for him. When she entered in the page of history, as the first woman to win Olympic gold medal on two successive terms, in the triple jump in Beijing in 2008, the athlete **Francoise MBANGO** tied the Cameroonian flag around her. It is an intense moment in the country, which feels this victory in a general way.

If they are used to celebrate a national victory, emblems are also used to show reverences during specific manifestations.

2) Reverence during important occasions.

Some emblems of the state are indissociable from military duties. But the flag is particularly used to mark events of national sadness.

a) Hero's tributes

The concept of “*heroes*” is not a legal concept. It is however common in the military field. It is a Decree no.76/424 of September 16, 1976 fixing the rules of the protocol to be observed in matters of public ceremonies, precedence, civil and military honors, which determines the persons to benefit from these honours. When one reads through the law, two categories can be identified as beneficiaries. First, the category of persons directly empowered by the 1976 decree and those who benefit indirectly through the decree of the President of the Republic. During public, ceremonies, the key elements remain the flag and the national anthem.

To pay tribute to people, is a way to show that their sacrifice was made for the good of the whole nation and that beyond the loss that the family can feel, is a loss that is also attributable to the entire state. This decree specifies the circumstances during which the use of the flag is allowed and not cases when its use is prohibited. According to the law, apart from the limitation on dead military personnel and some public figures for which the use of the flag on the coffin is traditionally allowed, it is the President of the Republic who decrees with respect to others. The flag is used on the death of the President of the Republic.

b) Half-masting on occasions of national sadness

Putting a flag at half-mast means, keeping it halfway up the mast. The flag is lowered at half-mast on special occasions of great sadness within the state¹⁵. This is often the case with national mourning or tragedy for which the State adopts by a formal act. In Cameroon, for example, national mourning is decreed by the President of the Republic. In this case, the flag is first hoisted to the top of its mast, and then lowered to half height or just out of reach. In France, for example, the “*tricolor flag*” was lowered at half-mast throughout the territory from 08 to 10 January 2015 following the Charlie Hebdo attack; from 16 to 18 July 2016 following the attack of 14 July in Nice. In Cameroon, the President of the Republic decreed October 16, 2015, a national day of mourning and flags were lowered to half mast, in the wake of the scramble in Mecca in which many Cameroonians were victims. Monday, October 24, 2016, was equally declared a day of national mourning, in memory of the victims of the train derailment in **Eseka** on October 21, 2016. Flags were lowered at half-mast by decree of the President of the Republic, in accordance to the 1976 Decree. The value attached to state emblems, logically make its legal value obvious.

II- PRECISION OF THE “*LEGE LATA*” OF THE LEGAL VALUE ON STATE EMBLEMS

This legal value of State emblems is enshrined in the constitution and further emphasised through the punishment of abuses on them.

A- The constitutionalisation of the emblems of the State

The emblems of the state are in many countries enshrined in the constitution. Concerning Cameroon, it is interesting to dwell on the constitutional enunciation of emblems before analysing the consequences of this constitutionalisation.

1- The constitutional enunciation of the emblems

*"The law is the expression of the general will, only in the respect of the Constitution"*¹⁶. This principle affirmed by the French Constitutional Council, reiterates the dominant position of the constitution in the legal order of France, a position almost universally consecrated¹⁷. To integrate both the formal and material definitions of the Constitution, Professors Francis Hamon and Michel Trooper propose to define it as "the set of rules, whatever their purpose, which are stated in the constitutional form: they are generally contained in a special document, but above all, they have a value superior to that of all other positive standards and can only be modified in accordance with a special procedure, which is more difficult to implement than that which makes it possible to modify another standard, by example an ordinary law"¹⁸. It should, therefore, be said that the constitution simply refers to all the rules essential to the management of power in the state. They contain rules considered essential for the good functioning of the State. If, emblems are consecrated in them, it means that they are of particular importance.

Some states enshrine the emblems in the preamble, while others devote them to the corpus of the Constitution. But, given the value inherent to the preamble of the Constitution within the States, this distinction is becoming irrelevant. Cameroon does not have doubts about the value of her emblems. Thus, in the entry to the corpus of the Constitution, State emblems are stated. Article 1(4) provides in this logic that the Cameroon's motto is "Peace-Work-Fatherland". Article 1(5) states that its flag is "Green, Red, Yellow, with three vertical stripes of equal size. It is charged with a gold star in the center of the red stipe. Article 1(6) states that the national anthem is: "*0 Cameroon, Cradle of our Forefathers*".

¹⁵CC. case of New Caledonia, 23 August 1985

¹⁶This position is of course relativised in religious states. Indeed, the fundamental text remains the one in which God has recorded his rules. This is the case with the Bible or the Koran. In Iran, for example, the constitution is subject to the Koran and the Sunnah.

¹⁷F. Hamon and M. Trooper, Manuel de droit constitutionnel, 32nd Ed. Paris, LGDJ, Coll. "Manuels", 2011, 905p. City by A-M. Cohendet, Constitutional Law, op. cit. p. 87.

¹⁸Article 1 of the Constitution of 22 January 2001 amended in 2016.

Article 1(7) states that "the seal of the Republic of Cameroon is a circular medal in low relief of 46 milli meters in diameter, bearing on the obverse and in the center the head of a girl in profile turned to the dexter towards a coffee branch, with two leaves and flanked to the sinister by five cocoa pods with the French words *Republique du Cameroun*' inscribed below the upper edge and the national motto "Paix-Travail-Patrie", inscribed above the lower edge on the reverse and in the centre the coat of arms of the Republic of Cameroon, with the English words "Republic of Cameroon" inscribed beneath the upper edge and the national motto "Peace-Work-Fatherland" inscribed above the lower edge. The coat of arms of the Republic of Cameroon consists of an escutcheon surmounted chief by the legend "Republic of Cameroon" and supported by two crossed fasces with the motto "Peace-Work-Fatherland" base. The escutcheon shall be composed of a star on a field vent and triangle gules, charged with the geographical outline of Cameroon azure, and surcharged with the sword and scales of justice sable. Most African States introduce their constitutions, by stating the emblems. This is the case of Senegal¹⁹, Benin²⁰, and Gabon²¹ etc.

The choice of the constitution for the consecration of State emblems is not fortuitous. Indeed, several consequences follow from this choice.

2 -The consequences of constitutionalisation.

The consequences of the choice of the constitutionalisation of emblems can be noted both legally and theoretically.

a) Theoretical consequences

The place of the constitution in the hierarchy of norms naturally gives considerable importance to the norms which are devoted to it. In this sense, emblems have a fundamental character. The concept of fundamentality is not unanimous in the identification of certain rights and freedoms. *Positivists* and *jusnaturalists* do not agree on the meaning to be attached to it. In an obviously *jusnaturalist* posture, professors **Mr. Robert Badinter** and **Mr. Bruno Genevois** think that "fundamentality is not textually exhausted"²². To them, it suffices that a right or a rule is important to assume this character, without the need for a textual consecration, even if it is of preeminent value. But, since there is no clear criterion of fundamentality, it is difficult to determine what part of it is and what is excluded from the list. The category then becomes diluted, denatured, which impacts on their level of protection. The *jusnaturalist* approach to fundamentality then shows some important limits. The positivist logic is more restrictive of the category of rules or fundamental things. These then are just those that are dedicated to a prominent level of the hierarchy of norms. The criterion of identifying fundamental things is formal, linked to the nature of the law in which they are consecrated. The provision of emblems in the Constitution is not devoid of calculation. It's about maximizing their value.

In the latter sense, it is common to conclude that emblems are endowed with the attributes of fundamentalism.

b) The legal consequences.

The fundamental nature of State emblems, resulting from their constitutional consecration, allows them to benefit from enhanced legal protection. First, they are protected against abuse by all state organs (judiciary, legislature and executive). Second, emblems are protected not only by law, but also and especially by the constitution. Third, the protection of emblems requires, to be protected against the executive and the legislature and in application of the constitutional dispositions that are in force, not only is the ordinary courts, but especially the constitutional courts (particularly, through the control of constitutionality) have jurisdictions. Fourth, emblems have effects not only in relations between individuals, but also in relations between individuals and the public power. In conclusion, this study focuses on two main implications; namely that the fundamentality of emblems implies an extension of the field of opposability of the emblems and an extension of the scope of their guarantee.

Beyond the constitutional guarantee of emblems, the criminal guarantee contributes to a large extent to their protection.

¹⁹Article 1 of the Constitution of 11 December 1990

²⁰Article 2 of the Constitution of March 26, 1991

²¹R. Badinter and B. Genevois, "Norms of Constitutional Value and Protection of Fundamental Rights", RUDH, 1990, p. 286.

²²This is particularly the case of the Law No.90/042 of 19 December 1990 establishing the NID; Decree No. 2016/375 of 04 August 2016 setting the characteristics and procedures for the establishment and issuance of the National Identity Card; Decree No.2000/286 of October 12, 2000 specifying the conditions of entry, stay and exit of foreigners from Cameroon.

B- Punishment of attacks on State emblems

The use of the flag is specified in several laws in Cameroon.²³ But the sanctions against their abuse are provided for in the Penal Code. The repression of attacks on the seals of the State is more explicitly developed under Cameroonian law, while the repression of others is more implicit. Especially that of the flag must be sought before the independence of Cameroon.

1- The punishment of attacks on the seals of the State.

In Cameroon, the repression of attacks on the seals of the State is very explicit. Article 201(1) of the Cameroonian Penal Code provides in this sense that: "*is punishable with imprisonment for life, whoever forges the seal of the State or makes use of such forged seal.*" Article 201(2) of the same article states that: "*is punishable with imprisonment of from 10 to 20 years, whoever makes use of the seal of the State improperly procured*".

Article 201(3) states that: "*is punishable with imprisonment of one to five years and a fine of from forty thousand to four million francs CFA, whoever acts or contravenes the regulations in force on ordering, manufacture and affixing of the seal of the State*".

With respect to accessory penalties, article 201(4) specifies that "*in the event of conviction, the court may pronounce, for a period of one to five years, the forfeitures provided for under Article 30²⁴*". The repression of the forgery and counterfeiting of the seals of the State is a fact commonly shared by States. This is absolutely not the case with the punishment of attacks on flag, which is not clearly punished in Cameroon.

2- The repression of the attacks on the flag.

The penal protection of the flag is an issue that has been widely discussed. States make a rather different apprehension. Indeed, the repression of attacks on the flag is against the fundamental right of freedom of expression. In this sense, several states have chosen not to punish such crimes. This is particularly the case with Belgium, the United Kingdom and Scotland. Similarly, despite rigorously adapting the use of the flag, the United States does not punish on flag. Thus, the American flag was more often symbolically burned on American soil. If at the time of the Civil War, these acts were grievous, in contemporary times, the Supreme Court of the United States considers that the punishment of attacks on the flag is a violation of the first amendment of the Constitution which protects the freedom of expression²⁵.

But it must be pointed out that although States do not clearly punish attacks against the flag, the fact remains that it can be punished the other way round. Indeed, by invoking other reasons, the State sanctions the infringements on emblems. For example, in the United Kingdom, a woman who wrote a pacifist slogan on the American flag before trampling upon it, was prosecuted and convicted of an offense; two protesters who throw a burning flag on the Queen's car, were prosecuted and convicted for the crime of breach of the peace.

In Cameroon, reading through the Penal Code, one might think that there is no punishment for attacks on the flag. Indeed, if the use of the flag is clearly regulated, attacks on it is not clearly provided. Notwithstanding, certain provisions of the penal code can precisely sanction attacks that can be made against the flag. This is particularly the case with the provisions of the Cameroonian Penal Code, which punishes resistance to the execution of laws and regulations, in particular Article 157 of the Cameroonian Penal Code, which provides punishment for rebellion. It states that "*a person who, a) by any means whatsoever, incites to the obstruction of the execution of any laws, regulations, or lawful orders of the public authority, is punishable by a term of imprisonment of three months to four years. b) by force or other interference obstructs the performance of awful duty by any person engaged in the execution of the law, regulations, decision in the administration of justice or other lawful order of public authority*".

Article 158 severely punishes this offense, when committed as a group. Article 158(1) provides that "*where the offense provided for in Article 157 is committed by at least five persons, the penalty is one to three years imprisonment and where at least two of them openly bear arms, the punishment shall be from five to fifteen years imprisonment. Any co-offender who carries arms, open or concealed, the penalty is five to fifteen years of imprisonment*".

Also article 152 of the penal code defines contempt as "*any defamation; abuse or threat conveyed by gestures, words, or cry uttered in any place open to the public, or by any process intended to reach the public ...*".

To have evidence on a clear consecration of attacks against the flag, we must go back very far in time, precisely before independence.

²³These are the disqualification provisions.

²⁴Decision Texas v Johnson 1989; Decision US v Eichmann -1990.

²⁵See Penal Code of the People's Republic of China.

The clearest text is the then draft emblem No. 3/A adopted on October 24, 1957 by ALCAM. Article 2 states that "*any contempt or insult directed against the flag of Cameroon in any form whatsoever, whether done verbally, in writing or by any act whatsoever, shall be punished with imprisonment of one to three months and a fine of 5,000 to 25,000 CFA francs*".

Like Cameroon, some states punish attacks on the flag and the anthem in particular. In China, Article 299 of the Penal Code punishes with imprisonment for 3 years, under surveillance and / or deprivation of political rights, anyone who is guilty of abusing the flag.²⁶ In Germany, the Penal Code punishes attacks or attempts to undermine the symbols of the Federal Republic of Germany or its Lander with a prison sentence of three years and / or a fine. In Japan, contempt of foreign flags is punishable, while the attacks on the Japanese flag is not. And even in states where, for example, they do not expressly penalise the attacks on the flag or the anthem, the feeling of a violation of a fundamental rule is strong enough to curb the impetus. Therefore, their legal value is latent and precedes the conscientious collective cover of their legal value.

Conclusion

The observations of contemporary facts present a sombre image of the great symbols representing the pride and dignity of States on the external plane. In reality, it is more and more recurrent to see the emblems of states trampled upon and burnt by individuals, without fear nor the law in public places to the view of the world. This state of affairs has led to question the true place and value of State emblems. To the observation and with regard to the national and international legal nomenclature, a good number of foreign powers have granted a purely symbolic value to State emblems, that is to say, devoid of any coercive force.

In fact the consciousness of the inviolability of emblems is an instinctive feeling, which precedes the awareness of their legal value. Their importance is obviously naturally. But this is not specific to certain countries which devote a fundamental place to them because of their constitutionalisation. This insertion into the fundamental norms is not exempted from all calculations. Their violation is likely to lead to penal sanctions.

²⁶In particular the revolution