ABSTRACTS

The Referendum on an Australian Republic

By *Petra Butler*, Wellington

On 6 November 1999, a proposal to replace the Queen as head of state of Australia with a president appointed by a two-third majority of the members of the Australian federal parliament was comprehensively rejected at a referendum. This article details the background to the referendum, explores some of the reasons for the failure of the republican proposal and briefly considers the future of the republican agenda in Australia.
The article first looks at the central role of the Crown in the 1901 Commonwealth Constitution, a position which was, at the time, consistent with Australia's status as dominion. Section 61 of the Constitution attributed the executive power to the Governor-General as her Majesty's representative in the Commonwealth. Gradual changes altered this eminent position on the road to an entirely independent, sovereign nation-state, one landmark given in the 1926 Balfour Declaration. The origins of the modern debate on the abolition of the monarchy reach back to 1982, when the Australian Labor Party declared itself in favour of republicanism. However, it took until 1991 until the first pressure group, the Australian Republican Movement, was formed, followed by the 1992 foundation of the Australians for Constitutional Monarchy.
The constitutional referendum process itself was prepared by an advisory committee which concluded, in 1993, that it was "both legally and practically possible to amend the Constitution to achieve a republic without making changes which will in any way detract from the fundamental constitutional principles". In 1998, a Constitutional Convention worked on the questions, whether Australia should become a republic, which model could be put to the voters and the circumstances involved. From that time, the process was strongly influenced by the discussion on the appropriate model for the selection of president and on an additional preamble to the Constitution. These two questions may, *inter alia*, have been responsible for the outcome of the 1999 Australian Constitutional referendum.

The "Constitutionalisation" of Minority Rights in Cameroon: Political and Legal Practice and Fears of Separatism

By *Jean Njoya,* Yaounde

In Cameroon which, due to its colonial past, has been shaped by an anglophone and a francophone background, questions of bi-culturalism look back on a long constitutional tradition ever since the country became independent in 1960/61. From the perspective of constitutional law, the article highlights the different constitutional solutions found to combine the conflicting ideas of State unity versus political rights of the country's minorities, i.e. anglophone and autochtone peoples, as guaranteed under the three constitutions of 1961, 1972 and 1996.
The author points out that the concept of classic federalism in the constitution of 1961 failed just as much as the mono-cameral federalism provided for in the 1971 constitution which is considered to have created an artificial close relationship of the two communities. The issue has not sufficiently been solved to date. The constitution of 1996 establishing Cameroon as an "decentralised unitary State" is criticised for leaving the problems to a blanket clause providing that the State shall ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law.

The constitutional reform in Sri Lanka with special regard to the Sri Lankan Tamil right of self-determination

By *Frank-Florian Seifert,* Frankfurt/Main

Since 1995, the government of Sri Lanka has been trying to settle the ethnic conflict between the Sinhalese and the Sri Lankan Tamils by reforming its 1978 Constitution. Sri Lanka is exposed to the threat of secession aimed at the erection of an independent Sri Lankan Tamil State "Tamil Eelam". The Sri Lankan government intends to counteract the looming secession by establishing an autonomous state structure, namely a "Union of Regions". Thus, the right of self-determination of peoples is a central issue in the Sinhalese-Tamil conflict.
Scholars in international law distinguish between an external and an internal right of self-determination. Particularly the external right of self-determination – understood as the right to secession – is very controversial in international legal science and is granted to ethnic nations only in highly qualified exceptional cases. The internal right of self-determination of peoples can be described as the guarantee of human rights and fundamental freedoms as

well as the erection of autonomous and democratic state structures. It is disputed, however, whether the latter may be characterized as a right.
Since 1995, the Sri Lankan government submitted five proposals for constitutional amendment. Each of them – and especially the latest, dating from August 3, 2000 – provides several checks on secession. Therefore, it is extremely doubtful whether the proposed establishment of a "Union of Regions" will contribute to conflict settlement. The promised rights of autonomy are no adequate substitute for an independent Sri Lankan Tamil state. Additionally, one has to be prepared that the constitutional reform which has been initiated by the Sri Lankan government is likely to run aground already due to the resistance of the opposition and the Sri Lankan Tamil guerrilla.

The Legal Perspectives of Local Community Participation in Wildlife Management in Cameroon

By *Egbe Samuel Egbe*, Yaounde

The participation of hitherto disenfranchised local populations in the management of natural resources is an issue commonly espoused in contemporary development philosophy. Different countries with varying degrees of policy reformulation have embarked upon this rather novel aspect of good governance and equity. In Cameroon, where for a long time hegemonic paradigms were elevated to an art of statecraft management, resource management devolution even constitutes a donor community conditionality for the disbursement of Structural Adjustment Loans (SAL). This culminated with the adoption of a new forestry and wildlife law in 1994, which has as one of its primordial objectives the involvement of local communities in the management of the country's huge natural resources.
However, the enactment of a new policy which apparently lacked a domestic constituency, the continued existence of a highly centralised administrative machinery and staff impregnated with authoritarian management styles, coupled with pressure from different interests groups, meant that the decentralisation exercise would be a difficult and tortuous one. In such an atmosphere of strong conflicting interests, the potentials are real that devolution could become an exercise in futility. The thrust of this paper is to examine the constraints and opportunities available in the reform process, all in an attempt to engender a more forward-looking integrated wildlife management policy.