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The communication language and the fair trial in Cameroon

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Abstract: This paper deals with the incidence of communication channels treatment during court proceedings in a multilingual context like Cameroon. On the one hand, I will defend on the one hand the idea according to which the unbalanced treatment enshrined in the constitution, which confers preferential treatment to the so-called official, but imported languages and a marginal role to other local languages termed as national as well as other means of expression, affects the communication before courtrooms. The use of the former is reserved for an elitist minority group while that of the latter for a majority illiterate group. On the other hand, there has been an effort on the part of the state to curb this discrimination through the linguistic assistance. But still, there are challenges that confirm the legitimate fears of litigants, better lay-litigants of violation of their rights of access to justice and fair trial at large. The paper then suggests to the State to enhance the promotion of national languages, to emphasize on the training of judicial personnel and public awareness.

Key words: language; means of communication; litigants; fair trial; rights.

La langue de communication et le droit à un procès équitable au Cameroun

Résumé : Cet article analyse l'enjeu du traitement réservé aux canaux de communication utilisés devant les tribunaux dans un pays multilingue comme le Cameroun. D'une part, je défendrai l'idée selon laquelle le traitement déséquilibré consacré par la constitution, qui confère un régime de faveur aux langues importées, dites officielles, et un rôle marginal aux autres langues locales, dites nationales ainsi qu'aux autres moyens d'expression, crée un problème de communication devant les tribunaux. L'usage des premières est réservé à une classe élitiste minoritaire tandis que celui des secondes à une classe analphabète majoritaire. D'autre part, l'Etat a fait un effort considérable pour limiter cette « discrimination » en recourant à la technique d'assistance juridique. Mais il demeure qu'il subsiste des barrières légitimant les craintes des justiciables, mieux les justiciables profanes de la violation de leurs droits d'accès à la justice et à un procès équitable en général. L'article recommande à l'Etat de promouvoir les langues nationales, de généraliser la formation et le recyclage du personnel judiciaire et de sensibiliser le public.

Mots clés: langue; moyen de communication; justiciable; procès équitable; droits.

1. Introduction

"The law shall ensure the right of every person to a fair hearing before the courts". This sacrosanct principle is ascribed in the preamble of the Cameroon constitution[1]. A fair hearing cannot be conducted without the mastery of communication medium by the justice stakeholders[2]. It appears that during the colonial era, English and French languages were having in Cameroon a preeminent status as a communication medium between the colonial administration and the indigenes. This situation was expanded in the post-colonial era in spite of the fact that vernacular languages still played an important role in the society.

[1] The 1996 constitution as amended.

[2] They include legal professionals (judges, attorneys, registrars, lawyers, sheriff bailiffs, just to name a few) and lay-litigants (claimants, defendants, plaintiffs, accused persons, witnesses).

The concept of equality before the law is a fundamental principle well enshrined in the Cameroon's legal system, and it would of course be meaningless if a person cannot have access to law courts because of deficiency of communication. Justice would only be available, in such circumstances to educated people who master the language of the court; and consequently out of the reach of non-educated; such a situation would seriously affect the quality of justice which is sought by all modern States.

In fact, law aims at achieving justice and fairness. To be promoted, law needs a linguistic tool. Cameroon endowed itself with State courts (Eyike-Vieux, 2020: 155) in charge of settling disputes[3] in a context of 'multijuralism' (Fombad Manga, 2015: 102; Monkam, 2017: 135; Koumassol Dissake, 2021: 17) among citizens or litigants using several languages (Halaoui, 2005: 248) of communication and expression set forth in the constitution. Cameroon is a multilingual country with two official languages which confer its bilingual status[4] and over 250 national languages[5] (Koumassol Dissake, 2021:2; Dieu and Renaud, 1973 cited by Ngnintedem, 2018: 56). Even if the constitution did not enumerate them, contrary to what is done in other countries (Ngo Tong, 2018: 73), the recognition of their existence[6] implies that the constitution guarantees linguistic rights to all its citizens. The courts then have the obligation of establishing a balance in the use of languages (Tarr, 2017: 155) in order to obtain, at the end of a legal proceeding a fair and equitable decision. For the outcome of the trial to be fair, it is foremost important that throughout the process

[3] In addition to specialized courts, the judicial organization is governed by the Law no. 2006/015 of 29 December 2006 amended and supplemented by the Law no. 2011/027 of 14 December 2011. Apart from language barriers, these courts are facing several difficulties in terms of personnel and infrastructure and having some defects in relation with the quality and publication of courts' decisions.

[4]Article 1 (3) of the 1996 constitution as amended. It states "the official language of the Republic of Cameroon shall be English and French, both languages having the same status […]". See also Article 2 (2) of Law no. 2019/019 of 24 December 2019 on the Promotion of Official Languages in Cameroon. But, to say nowadays that Cameroon is a bijural system is a misnomer. Several studies indicate that the modern Cameroon legal system, due to the combination of foreign influences and Cameroonian idiosyncrasy, is a mixed legal system or better still, a hybrid system.

[5] Cameroon possesses more than 250 national languages that belong to three of the four languages phyla of Africa, including the Afro-Asiatic, Nilo-Saharan, and the Niger-Kordofanian phyla.

[6] The second branch of article 1 (3) of the 1996 Constitution as amended specifies that the State "shall endeavor to protect and promote national languages".

that leads to the final decision justice stakeholders should be able orally or in writing to communicate and understand themselves[7]. Besides, in a heterogeneous society like Cameroon[8], language(s) used in courtroom communication (Nkou Mvondo, 2018: 65) become intricate as those who do not understand or speak them are discriminated against (Goźdź-Roszkowski and Pontrandolfo, 2021: 5). In such a society (Nkoulou, 2015: 695), the use of language is always a cause of conflict (Melong, 2013: 259; Djiazet Mbou Mbogning, 2015: 10). Language is a system of expression or code common to all individuals belonging to the same linguistic community (Foumena, 2018: 30). In this sense, it expresses a specific civilization or culture (Swenden, 2020: 535). Though, our hypothesis is focused mainly on spoken languages guaranteed by the constitution; the study intends to adopt a wide definition of the concept of "language" which includes any means of conveying or communicating ideas. The human gesture, silence and speech and the expression of ideas by written characters should be considered. In reality, oral, written and non-verbal communication means will be analyzed.

In addition, in order to have a holistic view of communication problem in Cameroon's courtrooms, the analysis will be done from the submission of claim to the delivery of a decision. Koumassol Dissake (2021:3) opines that the implementation of a non-inclusive language policy in courtrooms brings in serious legal language related problems among which language barrier between legal professional and lay-litigants that can fortunately be solved under linguistic studies[9]. In fact, the exclusion of national languages from the legal scene has given birth to serious communication problems during court proceedings leading most often to unfair trials.

My investigation revolves around the idea as to determine to what extent the non-mastery of the communication medium during

[7] This is clearly stated in Article 5 (2) of the 2019 Law on Promotion of Official Languages that can be read "This law seeks […] to guarantee the right of every citizen to freely communicate with the public administration, and to obtain the services they desire there from in the language of their choice".

[8] Contrary to most of the multilingual countries which are federal states, Cameroon which was initially federal is nowadays a decentralized unity state. Article 1 (2) of the 1996 Constitution as amended. The management of language becomes complex in this context.

[9] This author proposes that these language problems call for linguistic solutions, especially under Forensic Linguistics which is a well-established field of study but which has not yet gain recognition in African countries.

courts proceedings (by litigants and judicial authorities) may constitute an obstacle to fair trial. In other words, is the current practice of courtroom's communication able to guarantee access to an equitable justice in a context of multilingual and mixed legal systems? Various studies on fair trial (Sulyok, 2010; Lekunze, 2015; Widder, 2016), on language and law (Fometeu et. al., 2018; Mancuso, 2018) and even on communication language before Cameroon's courtrooms (Koumassol Dissake, 2021) are available but the peculiarity of the current study is to assess fair communication as means to achieve fair trial in the context of a highly multilingual and mixed legal State. The paper assumes that even though the current trends in courtrooms in Cameroon has provided for some measures in ensuring fair trial (I), several hurdles for effective and fair communication among justice stakeholders still exist and militate against the idea of an equitable justice (II). The paper then provides some recommendations for an efficient communication language before courts in Cameroon (III).

2. Constitutional Communication language requirements in Cameroon's Courtrooms

Cameroon assigned through its constitution an unequal role to languages found in its territory in the process of delivering justice. This situation is tantamount to the unequal conception or hierarchy that is established between the means of communication. In spite of the country being highly plurilingual, only colonial languages (English and French) enjoy the status of official languages, the other languages are lumped together under the designation of national languages. The political choice for foreign languages as official languages has significantly weakened the emergence of particular national or vernacular languages as communication tool in courtrooms; for that reason linguistic assistance has been offered to those who do not understand or speak the other official or practiced national language. Currently, the preeminent function assigned to official languages (A) contrasts with the role played by other means of communication (B) in legal proceedings.

2.1. The official languages as the Main Judicial Communication Medium

Language is central to all human activities. Cameroon has expressly chosen two exoglossic languages -English and French- serving as its official languages and having the same value. This choice has a particular signification (1) and imposes duties on court officials and litigants (2).

2.1.1. The Constitutional Requirement

English and French languages were imported since the 1920's in Cameroon, promoted after the independence and nowadays institutionalized by the 1996 constitution. Since the 1961 constitution[10], French and English have been established as the official languages of Cameroon. This requirement was to mean they were the exclusive and synchronized languages used in the production of legal norms (Nkoulou, 2015: 710), and by so doing the language of administration of justice. They are the languages in which the legislator has produced the law, in which court officials or judges have learned the law and in which justice is spoken.

It is not far from saying with Tarr (2017: 162) that the colonizers followed by the administrators of new independent States had institutionalized a system geared towards the training of judicial officials that will perpetuate their systems. Indeed, the submission or complaint is written in official languages likewise the invitation to court printed and stuck to the outside of the courtroom's premise or directly notified to the defendant; the hearing is conducted in the official languages and the judgment is delivered in the same languages.

The consequence that can be construed from this requirement is that this situation allows only those litigants in the courtroom space who have had an education allowing them access to these languages; this at the expense of non-educated or lay litigants who also deserve

[10] Article 1 (3) of the constitution of September 1961.

such a constitutional right but could not enjoy it because of their moral and cultural weaknesses.

2.1.2. The significance of the requirement: the Practice of Cumulative Bilingualism

Bilingualism is defined as everyday use of the two official languages by Cameroonians[11]. The principle originating from the constitution implies that, wherever a citizen is located or lives, he/she has the right to get access to public service in the language of his/her choice[12], be it English or French. This is the expression of the principle of personality of language. It therefore means that the bilingualism practiced in Cameroon is not "a bilingualism of juxtaposition[13] but one of integration" (Foumena, 2018: 32) that leads to the concept of national unity. The State being a decentralized unity State, then deprived of fragmented territories, and in which public servants are designed to serve in the whole country, all the State officials should be able to master both English and French in the course of the exercise of their duties[14]. Cumulative bilingualism is an obligation to which no one is exempted[15], in the sense that it implies the equal access of citizens to laws and justice. The law must be expressed in both languages and the produced legal norm shall reflect the unity of people and the State (Foumena, 2018: 30).

Article 26 of the 2019 Law clearly stated that English and French shall be used indiscriminately in ordinary and special courts. This means that court's officials particularly, should be able to receive complaints, to conduct hearings and to deliver judgment in English or

Official Languages.

[11] Articles 354 and 355 Criminal P

[11] Articles 354 and 3[12] Article 5 (2) of the 2019 Law.

[12] Article 5 (2) of the 2019 Law.

[13]The bilingualism of juxtaposition is perceived as the one in which there is cohabitation of two separate languages connected to each other. Canada is the good example.

[14] See Articles 9 and 12 of the 2019 Law.

[15] This was enforced before by Circular No. 001/CAB/PM of 16th August 1991 relating to the practice of bilingualism in public and semi-public administration. Today, it is reinforced by the 2019 Law especially Chapter 3 titled the use of official languages in public entities.

in French independently of the place where the court is located. Exceptionally, paragraph 2 of the same provision imposes as a duty on judicial authorities to deliver the ruling in the chosen language of the litigant. This is far from saying that the judgments should be written in one language and translated into the other language, in which case it shall be artificial. The courtroom space should be an inclusive one for all citizens and not (Anderson, 2015: 10) a place where some people belong by virtue of the command of a particular so-called language of the court – English or French –.

It is also expected from litigants to produce documents initiating proceedings in an official language; the non-respect will be sanctioned by inadmissibility for faulty drafting. Quid for lay and poor litigants seeking for justice?

In reality, English and French are being seen as foreign languages that facilitate social and economic mobility, but should not be the exclusive communication languages before courtrooms. On this basis, and in order to maintain the linguistic diversity and communication inclusion, other communication channels are accepted in the administration of justice in Cameroon.

2.2. The Acceptance of other Means of Communication

The recognition of English and French as official languages authorizes the court officials to consider that only these languages can be used in courtroom space and during trial. However, contrary to civil and commercial trials where the acceptation of other means of communication is exceptional, litigants being compelled to submit their request in official languages; criminal proceedings which cover more than 70 % of the overall judicial disputes in Cameroon (Eyike-Vieux, 2020: 160) are more conducive for their expression in view of compliance with ratified international conventions[16] and constitutional principles.

According to the constitution, national languages can be seen as substitute communication medium (1). As a means of

[16]The International Covenant on Civil and Political Rights specifically guarantees one's right to the free assistance of an interpreter if one does not understand or speak the language used in court; see Article 14 (3) (f).

communication in criminal proceedings, the silence deserves an analysis (2). Accessorily and based on their constitutional protection, sign languages (3) used by persons with disabilities should not be ignored.

2.2.1. National Languages as Substitute Communication Medium

The administration of justice in principle does not take into consideration vernacular or maternal languages, based on the inferior status that the State grants to them. National languages seem to be perceived by educated class as those associated to non-ethical values, poverty and decline; and by implication they have no place in the administration of justice. This seems to be the position of the State in certain judicial matters especially civil and commercial where the access to justice and the trial are exclusively (Nkou Mvondo, 2018: 525) administered in foreign official languages.

However, based on human rights principles, it is admitted in criminal matters that the plaintiff or the accused person has the right to express himself in the language of his choice that can be a national language. In that case, the court has the obligation to request[17] for the service of a linguistic assistant. In practice, most of the litigants are non-educated people and they rely only on language they understand better – their maternal tongue – to exchange in community. It would have been bias and even unfair to compel this category of citizens to use a means of communication that they do not master or speak before the court.

2.2.2. The silence as possible communication medium

From the analysis of several studies (Ohandja, 2020: 373; Ngah Noah, 2015: 575; Quane, 2014: 240; Perrot, 1985: 619) conducted on silence and notably the one of Professor Anatzepouo (2013: 99), it appears

[17] Articles 354 and 355 Criminal Procedure Code (CPC).

that the fact of being silent in court is meaningful and entails legal commitment.

The right to speak and the freedom of speech have their counterpart which offers before courts the litigant the right to remain silent. This trend was recognized by the European Court of Justice in some cases in 1989[18]. It therefore means that silence is a fundamental human right, especially when it comes to the protection of the rights of defense. Its analysis as a communication medium becomes relevant for the comprehension of the effectiveness of fair trial in Cameroon's courtrooms even though it does not pose a particular problem of interpretation before courtrooms since the law guides the court on possible solutions.

However, the problem of silence comes from the fact that it somehow expresses the attitude that some litigants may have due to their livelihood, or vis-à-vis the justice system as a whole. In fact, silence can result in the refusal to speak during a hearing or in the non-appearance before court or in non-submission. Whatever the form, it is variously interpreted according to the field of law.

In criminal law, silence is interpreted as a means of defense during preliminary inquiry[19] by protecting the litigant from contradictory or unsuitable words that might hinder his defense; and during the trial, it can help the court to reach a faster solution[20]. Likewise to avoid delay and to give a more utilitarian orientation to the trial and in the search for the truth, the judge can exempt a party or a witness from speaking[21].

In other fields of law, silence is interpreted both as acquiescence or a lack of legal arguments. In fact, in civil matters, the judge has to consider the non-appearance of an appellant at a hearing as proof of the lightness or the absence of defense arguments[22]; the

[18] See in European Court Reports 1989: Case 374/87, Judgment of the Court of 18 October 1989. *Orkem v. Commission of the European Communities* and Case 27/88, Judgment of the Court of 18 October 1989. *Solvary and Cie v. Commission of the European Communities* on rights of the defence.

[19] Art. 170 (2) CPC.

[20] Art. 350 (1) (c) CPC.

[21] Art. 379 CPC.

[22]See CA West, Arrêt no. 30/Soc. of 6 May 2010, *Aff. Maire de la commune de Fokoue c/ Tchoutezem Joseph*.

refusal to speak is seen as a commencement of proof in writing[23] in accordance with general provisions of law[24].

In labour matters (Anatzepouo, 2013: 107), the non-appearance or the non-submission of one of the parties before or to the court constitutes a culpable failure in that the litigant has no serious argument to make. As regards the refusal to speak during a hearing, it is proof of acquiescence.

In general and in relation to all fields of law, the party who receives notification of a judgment and remains silent for a specific period of time allows by his silence the decision to pass irrevocably *res judicata*. Whatever the field of law, its origin or its rationalization, though silence has significant impact on the smooth functioning of justice, it will not be able to hinder the course of justice which will go to its end with or without the faulty litigant.

2.2.3. The Sign Languages as standard means of communication

The analysis of sign languages is justified by the fact that the preamble of the constitution provides that "The nation shall protect […] the disabled and guarantee his rights and freedoms." The constitution appears then alongside the United Nations Convention on the Rights of Persons with Disabilities[25] as an instrument which promotes and protects disability rights. Under this category of vulnerable groups -lingual minority- are classified deaf, hard of hearing and deafblind persons who participate to the national activities and may be an actor in court trials.

It is then legitimate to know what barriers they face when claiming in court, reporting a crime, being accused of crime or being a witness in court. There is no doubt before Cameroon's courtrooms, these persons face a lot of difficulties that need not to dwell on due to

[23] Art. 141 Civil Procedure Code.

[24] Indeed Article 1387 (2) of Civil Code applicable in Cameroon is read "May be considered by the judge as equivalent to a commencement of proof in writing […], his refusal to answer or his absence at the examination."

[25] Articles 12 and 13 formulate equal recognition before the law and access to justice for persons with disabilities.

their nature[26]. Whatever the case, justice must be rendered to them as to any other citizen in due manner. However, the technicality of their means of communication requires the court to have flexible communication tools and qualified professional sign language interpreters (Brunson, 2007: 77) without which the administration of justice will be impossible.

Apart from questioning the language and communication problems and access to justice, sign languages raise in furtherance the issue of non-discrimination and equal recognition before the law. Hopefully, to alleviate such discrepancies, linguistic assistance[27]is being used to ensure the rights of due process and participation in the court system for all those involved.

3. Compliance to fair trial and challenges for fair communication before courtrooms

Justice is an ideal representing something that is just and right. It is tantamount to fairness. This is guaranteed by the preamble of the 1996 constitution which provides that the law shall ensure the right of every person to a fair hearing before the courts. In general, fairness involves applying laws in a non-discriminatory manner, treating all parties equally in the courtroom, having rulings that are consistent with the law and reflect true image of the trial regardless of language, gender, class of the involved parties.

To achieve this ideal in Cameroon and cognizant to the discrimination created in the use of languages before courtrooms, the State has resorted to linguistic assistance (A) in order to comply with fair trial requirements and to satisfy lay litigants in general. But it is clear that this measure has not erase the various challenges (B) that exist on the way to achieving fair communication and access to justice.

[26] Some barriers may relate to physical obstacles (for example curbs and staircases faced by people with wheelchairs), others to cultural and social obstacles such as communication tools, language, knowledge, organizational routines, procedures and principles of legality.

[27] Articles 333, 357 and 358 of CPC provided this as remedy in criminal matters in such cases.

3.1. The Linguistic Assistance as the Main Mechanism in Instituting fair Communication in Cameroon's Courtrooms

The International Covenant on Civil and Political Rights specifically guarantees one's right to the free assistance of an interpreter if one does not understand or speak the language used in court. This was endorsed by the preamble of the Cameroon constitution and implemented in almost all states' universities where appropriate curricula are dedicated to this. Indeed, in Cameroon, the vast majority of litigants do not speak the language used in courtrooms, and whatever the subject matter. They do speak English or French, or one of the national languages, or any other foreign language not recognized in Cameroon.

For these reasons, interpreters assist (Tarr, 2017: 156) in the communication between litigants or lay-litigants with court's authorities or judges and with the other party who might not be able to understand or speak each other language. Without assistance, the exchange between lay-litigants and judicial authorities would have been difficult.

If interpretation (1) is the most used form of linguistic assistance before courtrooms (Ngnintedem, 2018: 576), translation (2) can also be relevant for written documents submitted as evidence in an unknown language or national language having its own writing[28] to the court.

3.1.1. The Interpretation

The interpreter's activity in a courtroom in multilingual context is of fundamental importance for understanding to be achieved between the participants of legal proceedings (Nartowska, 2013: 115). The interpreter or facilitator conveys spoken or sign communications from one language to another. He is there to make communication between

[28] It should be noted that some national languages are so developed in such a way they possess their own system of writings which precede even the foreign national languages.

court officials and litigants possible. He translates in summary what he thinks is the essence of the message to be transmitted. As such, he plays a critical role in the administration of justice. His goal is to enable the court -judges- to react in the same manner to a non-English or French speaking witness as they do with one who speaks English or French. Also he should be able to enable the party who is not in position to hear the other party to do so; in a way to place him closely as linguistically possible in the same situation as a speaker of that language in a legal setting.

His mission is to produce a legal equivalent, a linguistically true and legally appropriate interpretation (Gonzalez, Vasquez and Mikkelson, 1991:95). Interpreters must be able to interpret with exactitude while accurately reflecting a speaker's nuances and level of formality. While conserving the language level, style tone, and level of the speaker, they must interpret the original source material without editing, summarizing, deleting, or adding. These particularities distinguish interpretation from translation.

3.1.2. The Translation

The Cameroonian legislator defines translation as "the transposition of a written text or document from one language to another by field experts"[29]. The emergence of translation in Africa (Ngo Tong, 2018: 70) in general and specifically in Cameroon is foremost due to the fact that one of the compete languages governs the other. In practice, French is the language of the law and translation (Moreteau, 2009: 695) helps to obtain the English version. As discussed above, this practice is against the constitution.

Translation is a complex technique that takes into consideration the variation of concepts, the subjectivity of the translator, its ideological and cultural feelings. For this reason, the activity is always tainted with the problem of reliability and discernibility. Due to the material impossibility of translating the letter and delivering the spirit of the translated text, translation science has developed the "principle of functional equivalence". This principle

[29] See article 7 (f) of the 2019 Law on the Promotion of Official Languages in Cameroon.

requires that the objective of a translator should be to make equivalent the effects of the two texts.

This principle is important in legal and court translation because the translator must bear in his mind that his service helps the language, the law and the justice. Any document or text presented to the court for translation must achieve this threefold mission. Translation can be done at the moment of submission of summons or complaints to court or during hearings when a written document serving as evidence is notified to a litigant. In both cases, the interested complainant or the person submitting the evidence shall pay the fees of the translator, otherwise the court will declare the case inadmissible or dismiss the document as element of evidence (Nkou Mvondo, 2018: 531).

All these efforts remain non-productive in assuring fair trial to litigants because they carry within them the seeds of their own destruction. In fact, the language used in courtroom obeys to a legal jargon which is not accessible to common people, more so if it is done in a language not mastered by a lay litigant or by court officials.

3.2. Challenges Faced by Litigants for Fair Communication before Courtrooms

It has been observed that the language may be seen as a central mark to a particular group of people (Keutcheu, 2021: 3), and its protection may become the goal to be achieved by a collective, social, and even political mobilization[30]. The current legal system and language policy of Cameroon are the vestige of the colonial past. The biased reproduction of linguistic policy without any analysis of modern national challenges has not been facilitating the fair communication in Cameroon courtrooms. Several practices are preventing the achievement of equitable and fair justice.

The multijural nature of the State and the unity in the functioning of the administration of justice are not facilitating the

[30] The current Anglophone crisis in Cameroon is vivid. In fact, an initial demonstration based on the use by judges of a language -French- not mastered by the majority of litigants before courts in Anglophone regions has escalated and been transformed into a claim of self-determination.

smooth communication among justice stakeholders (1); in addition, the insufficient communication facilities (2) and the problem of qualitative assistance and its cost (3) shall be considered.

3.2.1. The Question of Training of Judicial Authorities

The judge is the source of hope for litigants in a trial because the more enlightened he is, the more chance there is to achieve fair justice.

The first problem concerns bilingualism or the mastery of the two official languages. Initially conceived as an element of integration, bilingualism has become one of exclusion, giving room to two separate languages coexisting in the public space. The situation has led to the legal insecurity. As it was previously analyzed, English and French are, in principle, the compulsory languages of all Cameroonian citizens, including court judges. However, this is far to be the reality in practice, and such a situation creates several problems that distort the smooth functioning of the administration of justice.

In fact, contrary to the constitutional prescription, most of the laws, especially the one promoting official languages[31], through the use of conjunction '*any of*' when referring to the requirement of language have provided for alternative restricted bilingualism which is in reality the application of principle of territoriality of language. This means that the place of location or domicile of citizens determines the language which must be used during interaction with public authorities -court officials-. Article 26 (2) of the 2019 Law is more expressive and can be read "Courts decisions shall be rendered in any of the official languages, depending on the choice of the litigant"[32]. In accordance with these unconstitutional practices, legal professionals have been trained to exercise their function either in English or in French.

Courtrooms discourses are conducted either in English or in French, depending on the legal district. The use of an official language, English or French and vice versa by judges or litigants

[31] See the Law No. 2019/019 of 24 December 2019 on the Promotion of Official Languages in Cameroon.

[32] In our opinion, there is a contradiction with paragraph 1 that opts for cumulative bilingualism.

working or seeking for justice in a part of the country not using their first language should not have been problematic if the current policy had fully implemented the constitutional provision that requires for the cumulative bilingualism. The problem occurs when a litigant who is not from the geographic area of the court location or speaks exclusively a national language, and then does not master the language of the court seeks for justice or is defendant in a procedure and the court is unable to conduct the proceedings, except if the said litigant provides at its own cost an interpreter to the court[33]. Or when a judge is assigned a duty in a court where he does not master the so-called language of the court. Most at times, the impossibility for the litigant to provide such an interpreter in civil and commercial matters due to poverty leads to endless adjournments of the case or to injustice.

The second is related to the accommodation of national languages. In Cameroon's courtrooms, lay-litigants languages barriers are overlooked by the Cameroon judicial system. For a judge to compel this category of citizens to use a means of communication they do not master or speak before the court would be to put an obstacle to the justice machinery and to perpetrate injustice[34].

3.2.2. The Lack of Communication Facilities

In general, Eyike-Vieux (2020: 155) opined that justice as state's arm is suffering, apart from language barriers, from several difficulties in terms of personnel and infrastructure and having some defects in relation with the quality and publication of courts' decisions.

Particularly, for the means of communication used in courtrooms to be effective, they need to be accompanied by technical tools that facilitate the smooth communication between justice stakeholders. It is trite that fair communication is the blood line in achieving fair trial. In order to attain this main goal, communication facilities and skills need to be judiciously employed by judges, litigants, justice auxiliaries, and any other participant in the process. It

[33] Especially for labour, civil and commercial matters.

[34] See the case of *Walter Numvi and 2 others v. The People*, judgment in Suit no. CANWR/MA/3c/2015 of 12 July 2016.

has been observed however that effective and fair communication is defective before courtrooms no matter its form: oral, written and non-verbal.

In fact, oral or verbal communication could be performed through face-to-face conversation, telephone or other electronic/internet platforms. The face-to-face conversation is mostly used in Cameroon courtrooms because the only requirement is the presence of persons concerned; but this goes with some barriers. The first is that of finance since most of the litigants have to spend a lot of money for transportation before attending court sessions due to distance between their domicile and the court's location. The consequence is the adjournment of cases because of attendance failure (silence) causing delay in justice. The second is the lack, in most of the courtrooms, of sound system that enables the parties and even the public[35] to follow the trial without possible contestation. On their part, concerning telephone and other electronic/internet platforms, though the world is at the digital age, Cameroon courtrooms are experiencing with difficulty the use of these tools. Rare are courtrooms having internet or producing electronic documents, a practice that could have helped to reduce delay and corruption in proceedings.

Written communication involves any type of message that makes use of written words. This is the most effective mode of official transactions in court; but and that is its own defect, it is only meaningful to the literate.

Non-verbal communication or body language relevant for sign language also lacks tools before courtrooms. As previously analyzed, the success of this means of communication requires some technicalities and professionalism and, can only be understood by those familiar with its codes.

Yet, Cameroon courtrooms do not in their vast majority have such facilities that can help persons with disabilities to efficiently communicate with the hope of having an equitable decision.

[35] Apart from trial that can be held behind closed doors.

3.2.3. The problem of Qualitative Assistance and its Cost

It has been observed that court interpreters are hardly trained personnel (Koumassol Dissake, 2021:3), they are volunteers selected on the spot during court proceedings or from the street. Their submission to the oath process, before the performance of their duties, does not add their skills in interpretation[36]. This renders the communication between litigants and judicial officials awkward and deceptive.

Apart from the absence of training, the other problem concerns the content of the translated communication (Melong, 2013: 259). Can the alteration of message be thinkable? In other words, is an interpreter a powerless or a powerful participant (Nartowska, 2013: 116) in the administration of justice? Indeed, the Cameroon modern judicial system being an exact copy of the colonial justice system, it is made of expressions, concepts and principles ignored by Cameroon lay litigants, this makes it difficult to be translated to national languages, and even from English to French or vice versa. As observed by Melong (2013: 264), "In legal translation, functional equivalence between the source text (ST) and the target text (TT) can be achieved only if both terminological equivalence and textual equivalence, with all the syntactic, semantic and pragmatic implications are respected." Idealistically, the interpreter transmits the judge's or litigant's message without adding anything of its own or omitting; he is purely decorative (Tarr, 2017: 172). In practice, this ideal cannot be achieved, he is there to underline judge's and litigant's positions as the courtroom participant and may engage his criminal liability in case of failure. This could also be justified by the fact that "translation is a process, never a completed accomplishment […]" (Callon, 1984: 196).

Finally, in most of the cases, the lay litigants are the ones to provide interpreters at their own expenses and unfortunately they cannot afford their services due to the cost and poverty. It should be

[36] Most of the provisions of CPC, especially Art. 354, make mention of the appointment of his own motion of an interpreter. There is no requirement for the professional status of the appointee, the only guarantee being the taking of oath which is insufficient to offer qualitative linguistic assistance.

recalled that court officials hardly provide assistance except in the case of criminal matters where the law so requires. In that way, the lack of finance prevents litigants to get access to justice. The presence of untrained and costly interpreters during court proceedings is more harmful than beneficial to those who requested for their services. Inadequate translations will adversely affect the interpretation and application of the law.

4. The Way Forward for an Efficient Communication in Cameroon's Courtrooms

The choice of language in the administration of justice in Cameroon is a source of crisis because of the preference to official languages than any other means of communication. The fact that litigants are prosecuted or judged most often in languages they do not master hinders their fundamental right to access to justice and by so doing prevent fair trial and hearings.

To contend with language barriers and in order to find lasting solutions for the smooth dispensation of justice, the State has the responsibility to promote national languages (A), to lay emphasis on training of judicial personnel (B) and to strengthen public awareness (C) on the use of linguistic assistance.

4.1. The Promotion of National Languages

Many litigants cannot benefit fully from the judicial process because they cannot express themselves in the language of the court in the jurisdiction they find themselves. The systematic continuing marginalization of national languages made the population to believe that Cameroonian languages are unfit for judicial communication setting (Tarr, 2017: 158). Nevertheless, the fact that interpreters translate the legal jargon and ideas from and into national languages quite eloquently attests to the expressive power of these languages (Tarr, 2017: 167), and for this reason they should not be overlooked by the judicial system.

Even though, the constitution affirms the protection and promotion of national languages, this has never been done in practice by putting in place conducive policies and strategic plans in order to facilitate their popularization and their study. This could be done on the one hand through the adoption of a text determining the modalities of use, process known as the "planning of the content of a language" (Wright, 2016: 47) or the place that such languages will occupy in the public service. On the other hand, in order to cater for these national languages, linguistic infrastructures would have been put in place in respective linguistic areas in order to facilitate the communication between the (justice) administration and the citizens. In reality, the State would have established in the area of jurisdiction of each divisional court multilingual centres promoting both official and national languages. Yet, no action has been taken in so far by the central government in favour of national languages.

However, some private initiatives in favour of some national languages have been carried out in a restrictive manner in a way not able to reach a large audience. The other solution would have been to provide these private groups or people with funding.

Other authors (Koumassol Dissake, 2021:16) simply suggest the introduction of mother tongues (Chiatoh and Akumbu, 2014: 23) in the legal setting to ensure fluent discussions between legal professionals and lay-litigants during judicial proceedings. Against this particular suggestion, it should be stated that its functioning in the Cameroonian arena will be tedious due to the choice of the language to be introduced. Does this mean magistrates and justice auxiliaries would be bound to speak all mother tongues in Cameroon, or they would be posted according to their own mother tongue, so as to facilitate a smooth communication among court stakeholders? Taken into consideration the difficult possibility of harmonization of national languages, it is rather advisable to the legislator to identify, recognize and promote the large language group per court zone (regional level) and implement its application through seminars and other sensitization mechanisms.

In furtherance, the use of English as language of justice in the Anglophone regions of Cameroon becomes complex with the use of a *lingua franca* known as pidgin which is a form of distorted English with several variants of concepts which vitiate the English language and its mastery (Feral, 1989: 2). Likewise, even though not yet popularized, there is a gradual use by youths of a new mixed language

called "francanglais" (Fosso, 1989: 178) which is a mixture of both English and French languages. It is not excluded that during a trial, one of these emerging languages arises before a court; and in such cases, court officials should also be able to deliver justice to their users.

4.2. Training of Judicial Personnel

Before courtrooms, the justice personnel should be under the obligation to respond in an appropriate means of communication in order to be fit and responsive to the communication test. The analysis of the current situation reveals the contrary, due to the freedom offers by the constitution to conduct trial in particular languages; sacrifying therefore procedural fairness. It appears that the distance created between the court's officials and litigants works to the advantage of those who speak official languages and to the detriment of illiterate and other vulnerable groups.

To avoid such situations, the training of all those[37] who are at the 'gate of access to justice' should take into consideration all the parameters that will enable them to produce a qualitative decision exempt from any vice. The appointment of such trained judicial officers by the competent authority should be done accordingly, in a way not to frustrate litigants and expose the decision to severe criticisms. In fact, it is recommended that the mastery of these languages be used as a professional criteria for the appointment of judges in their respective area of function. They should be drilled through constant training sessions after their appointement in order to keep them up-to-date.

In addition, the government should implement Article 11 of the 2019 Law which states "The State shall set up entities to provide training and build capacity in the use of English and French, and provide incentives to enable citizens to develop their proficiency in both languages"; this will certainly curb the current situation and offer lasting solutions to the current status.

[37] This include sheriffs-bailiffs, barristers, registrars and judges.

Likewise, the state should provide courts with qualified and trained translators as he did with other court's auxiliaries. This will have the advantage to foster the cause of justice; to resolve the question of cost, of scarcity and lack of qualified translators and interpreters; and by implication to facilitate the administration of justice.

4.3. Public Awareness and Information

As a general rule, it has been observed that when litigants feel that their grievances are not addressed properly or responded in an efficient means of communication, they may resort either to appeal or, by extent, to violent alternatives.

One of the greatest problems faced by litigants in Cameroon is the lack of basic knowledge and understanding on how court trials operate. This is due most often from the fact that most of litigants are illiterate and need to be educated in the court system and its intricacies on how the laws apply, the trial evolved and the various techniques that may be used in the process. It is up to the government, especially through the Ministry of Justice, to create awareness on access to justice and fair trial and to provide litigants with accurate information on linguistic assistance and various legal aids at their disposal.

In order to succeed in this mission, the State has to put in more finance in regenerating courts' infrastructure that will ease the the access to justice as a public service and the use of linguistic tools.

5. Conclusion

The administration of justice as a public service becomes delicate when it is delivered in a multilingual State. Judges are guarantors of fundamental rights and public liberties and ensure the stability of relations in the society. Language is the first identity mark of each society. Linguistic affiliation before courtrooms is a guarantee of free and fair justice. The choice of the State to give preference to some languages at the detriment of others in this process might be seen as

contrary to public liberties in the sense that it deprives some citizens or litigants of their right to equitable and fair justice. This has been the case of Cameroon which has chosen to give priority, in the administration of justice, to the official languages though having recognized the linguistic diversity. The absence of Cameroon national languages and other means of communication in courtrooms hinders fair trial and hearings and leads to grave miscarriages of justice. The above analyses bring to limelight intricacies of administering justice in multilingual States.

This paper has demonstrated that the attitude of the State of Cameroon vis-à-vis the communication language in the administration of justice has failed to guarantee the vast majority of litigants the fair access to justice and fair trial; and by so doing violating their constitutional rights. It has been argued that the efforts deployed by the State for the amelioration of conditions of litigants, victims of unfair practices before courtrooms due to the difficulty in communicating are still limited. Some of the breakdowns could be removed with only reasonable small effort while others are more complex and need significant efforts. These efforts need to be strengthened notably concerning the legislative policy of promotion of national languages, the awareness of linguistic assistance studies and the training of judicial personnel in cumulative bilingualism, and even multilingualism. Building better competence and communicative domestic systems may contribute to a better hermeneutically equipped justice system. These are the only avenues, in our national context of avoiding justice denial and, sometimes as a consequence, social unrests and political upheavals.

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