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Administration of Justice under the Judicial Organization Laws of Cameroon

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Abstract

This paper analyses the exercise of judicial power in Cameroon since the coming into force of the Unitary Constitution of 2 June 1972¹ and the Judicial Organization Ordinance of the same year.² It points out the various difficulties and shortcomings in the administration of justice in Cameroon, given that by Article 37 of the Constitution, justice shall be administered in the territory of the Republic in the name of the people of Cameroon and judicial power is to be exercised by the Supreme Court, Courts of Appeal and Tribunals.³ In undertaking the analysis on the administration of justice since the amendments of the various laws on judicial organization, the paper points out the objectives of decentralization of the justice system and considers whether the desire of the government to bring justice nearer to the people has been attained.

I. Introduction

The birth of the United Republic of Cameroon in 1972, necessarily implied a reorganization of the agencies involved in the administration of justice, which had not been the same in the

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1 See generally, the Constitution of 2 June 1972 as amended by Law N° 2008/001 of 14 April 2008. For a fine discussion of the 1972 Constitution and how the Unitary State came about, see Joseph OWONA, “*La Nouvelle Constitution Camerounaise du 2 Juin 1972, de l’Etat Fédéral à l’Etat Unitaire*”, Ann. Fac. de Droit du Cameroun, 1973, N° 4, pp. 17-42.

2 See especially Ordinance N°. 72/4 of 26 August 1972, as amended by Law N°. 89/19 of 29 December 1989, and Law N°. 90/58 of 19 December 1990, Law N°. 2006/015 of 29 December 2006 on Judicial Organization and Law N°. 2011/027 of 14 December 2011 to amend and supplement certain provisions of Law N°. 2006/015 of 29 December 2006 on Judicial Organization. See also Decree N°. 2002/302 of 3 December 2002 on the creation of some Courts of First Instance and High Courts in the country.

3 See Article 37 (1) and (2) of Law N°. 2008/001 of 14 April 2008 purporting to amend the Constitution of 2 June 1972.

two federated states.⁴ A series of texts⁵ promulgated into law⁶ introduced the concept of decentralization into the justice system, which has today gained unprecedented prominence. Courts were to be located at various territorial levels throughout the country.⁷ There was to be a Court of Appeal for each region, a High Court for each Division and a Magistrate Court for each Sub-Division. The increasing euphoria of the Government to decentralize the justice system was prompted by the desire to bring justice nearer to the people and thereby facilitate access to justice in the rural areas. In fact, courts located in the urban areas, as they were before 1972, were physically inaccessible to the vast majority of people in the rural areas. Decentralisation was to reduce the cost of obtaining justice for litigants in rural areas. For, the nearer the institutions of justice are to an individual, the more he is secure in his person, honour, and property.⁸ He would not have to travel long distances to seek legal redress in the law courts or to pay high transport fares in order to arrive at the seat of a court.⁹ Transport, communication difficulties, illiteracy, poverty and ignorance were some of the major reasons for the decentralization of the justice system. All these and more, will be examined as we progress, but of utmost importance in the proper understanding of this paper is the need to examine the evolution of the bi-jural legal system in Cameroon.

4 Joseph MBAH-NDAM, *Practice and Procedure in Civil and Commercial Litigation*, Yaoundé, Presses Universitaires d'Afrique, 2003, p. 11.

5 Notably, the Judicial Organization Ordinance N°. 72/4 of 26 August 1972 fixing the organization of the Supreme Court; and Ordinance N°. 72/5 of 26 August 1972 relating to the organization of Military Justice.

6 The ordinances (*supra*, note 5) had the force of law by virtue of Article 42 of the Constitution of 2 June 1972, which vested in the President of the United Republic the power to legislate by way of ordinances.

7 With the exception of the Supreme Court which had its seat in Yaoundé.

8 Carlson ANYANGWE, *The Cameroonian Judicial System*, CEPER, Yaoundé, 1987, p. 164.

9 *Ibid.*

II. Evolution of the Bi-Jural Legal System in Cameroon

Cameroon under the Germans¹⁰ was one country and subject to German colonial law.¹¹ With the defeat of Germany in the First World War,¹² Cameroon was divided into two, between Great Britain and France.¹³

In 1922, this partition was confirmed by the League of Nations, and the “two Cameroons” were placed under the League of Nations as Mandated territories.¹⁴ Both powers (Britain and France) administered their respective portions of Cameroon under the League of Nations’ mandates and subsequently under the United Nations Trusteeship Agreements.¹⁵

The two regimes of international administration, the mandates and the trusteeship systems, were like *ad hoc* bodies charged with the specific responsibility of protecting and guiding weak and “uncivilized” peoples¹⁶ of seeing that they progressed and gained self-government or independence.¹⁷ Thus, the Mandates and the Trusteeship Agreements were the legal instruments that facilitated the translocation of foreign laws into Cameroon.¹⁸ Article 9 of the Mandates Agreement stipulated as follows:

The Mandatory shall have full powers of administration and legislation in the area subject to the mandate. The area shall be administrated in accordance with the laws of the mandatory as an integral part of his territory... The mandatory shall therefore be at liberty to apply his laws to the territory under the Mandate subject to the modification required by local conditions...

10 Details on Cameroon in the period of German colonial rule can be found in the following works: Tambi EYONGETAH MBUAGBAW, Robert BRAIN and Robin PALMER, *A History of the Cameroon*, London, Longman, 1987, and Victor Julius NGOH, *History of Cameroon Since 1800*, Limbe, Cameroon, Presprint, 1986.

11 From July 1884 to March 1916.

12 The Germans were defeated on March 4, 1916, by the British and French forces in Cameroon.

13 Pending the subsidence of military hostilities, Britain and France, on March 4, 1916 de facto divided Cameroon into what later became French and British Cameroons. See Article 119 of the Treaty of Versailles 28 June, 1919, which confirmed the partition of Cameroon.

14 See Articles 22 of the Covenant of the League of Nations, 1922.

15 With the birth of the United Nations Organization in 1946; the “two Cameroons” became trust territories of the United Nations Organization.

16 Carlson ANYANGWE, *The Cameroonian Judicial System*, CEPER, Yaoundé, 1987, p. 63.

17 *Ibid.*

18 See generally, Adamou NDAM NJOYA, « Le Cameroun dans les Relations internationales », chap. 2 cf. ANYANGWE, *op. cit.*, at p. 63; David E. GARDINER. « Cameroon-United Nations Challenge to French Policy », chap. 1; cf. ANYANGWE, *op. cit.*, at p. 63.

This article¹⁹ gave Britain and France licence to introduce their respective laws and legal systems in Cameroon.²⁰ However, it must be noted that well before the formulation of the Mandates Agreement, the two powers had each extended to their respective parts of Cameroon some of their laws in force in their respective contiguous colonial territories. When British Cameroon passed from a Mandate territory of the League of Nations to a Trust territory of the United Nations Organization, the Foreign Jurisdiction Act 1890²¹ which hitherto was the enabling statute for the introduction and observance of English Law in the Southern Cameroon remained in force.²²

Pursuant to Article 9 of the Mandates Agreement and the Foreign Jurisdiction Act 1890, Britain resolved to have Southern Cameroon administrated as an integral part of Nigeria.²³ Consequently, Britain transplanted the English Common Law in British Cameroon through the Nigerian connection.²⁴ Hence, laws already introduced in Nigeria were merely extended to the British Cameroon.²⁵ English law in anglophone Cameroon was sanctioned by the Southern Cameroon's High Court law 1955. Section 11 of the said law directs the High Court in anglophone Cameroon to apply the principles of Common Law, the doctrines of equity and statutes of general application in force in England before the First Day of January 1900. The section is couched thus:

Subject to the provisions of this law or any other writing law the common law, the doctrines of equity, and the statutes of general application which were in force in England on the first day of January, 1900 shall be, in so far as they relate to any matter with respect to which the legislature of the Southern Cameroon's is for the time being competent to make laws, be in force within the jurisdiction of the courts constituted by this law.

- 19 Article 9 was re-enacted in Articles 5(9) and 4(1) of the Trusteeship Agreements with Great Britain and France respectively.
- 20 ANYANGWE, *op. cit.*, at p. 63.
- 21 This Act provided that "it shall be lawful for Her Majesty to hold, exercise and enjoy any power which Her Majesty's dominions in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by cession or conquest of territory." See ANYANGWE, *op. cit.*, p. 56 et seq.
- 22 NGWAFOR E.N., *Cameroon: The Law across the Bridge: Twenty Years (1972-1992) of Confusion*, 1995, Volume 26, Revue Générale de Droit, University of Ottawa, p. 70.
- 23 MBAH-NDAM, *Practice and Procedure in Civil and Commercial Litigation*, *op. cit.*, p. 11.
- 24 Martha S. TUMNDE née NJIKAM, *Motor Vehicle Insurance Law in Cameroon*, Limbe, Design House, 2003, p. 2. It is to be recalled that Britain further divided her portion of Cameroon into two territories – Northern and Southern Cameroon – both of which she administered as integral parts of Nigeria; and in 1939, when the Southern Provinces of Nigeria were divided into the Eastern and Western Provinces, Southern Cameroon was joined to the Eastern Provinces and considered as a separate province.
- 25 Emmanuel MBAH, *The Relics of Colonial Heritage in African Laws: Stopping Cheques in Cameroon*, *African Journal of International and Comparative Law*, Volume 10, 1998, p. 329.

The importation of English law into British Cameroon had given rise to academic controversy as to whether the cut-off date of 1 January 1900 applies to all three sources of law—common law, equity and statute – or only to statute.²⁶ Notwithstanding this controversy courts in English-speaking Cameroon, like in other African countries applying the common law practices and doctrines, have constantly cited English decisions as authorities for their guidance and rarely, if ever, stop to consider how far these English decisions are binding on them.²⁷

France, on the other hand also set up the civil law system in her own part of the territory.²⁸ In 1960, French Cameroon achieved independence and became known as the Republic of Cameroon.²⁹ The Southern part of British Cameroon following a United Nations sponsored plebiscite,³⁰ joined the Republic of Cameroon to form a federation.³¹ And so the Federal Republic of Cameroon was born, made up of two states, West Cameroon (former British Cameroon) and East Cameroon (former French Cameroon) with each maintaining its own legal system.³² This merger of the two federated States of East Cameroon and West Cameroon was later transformed into the United Republic of Cameroon following the Con-

26 See A. ALLOT, *New Essays in African Law*, London, Butterworths, 1970, pp. 288-89; A.E.W. Park, *The Sources of Nigerian Law*, London, Sweet and Maxwell, 1963, pp. 19-21.

27 See A. ALLOT, *The Authority of English Decisions in Colonial Courts*, Journal of African Law, Volume 23, 1957, cf A.S. MUNZU, “Procedural Enforcement of Criminal law”, Ph.D. Thesis, University of Cambridge [1981] p. 6 (unpublished). See for instance the Supreme Court decision of *Tarh Robert v. Mbeacha Emmanuel*, Appeal N°. 2/79/80 CC of 19 November 1980 (unreported) in which the English case of *Rowland v. Divall*, (1932) 2 K.B 500 was cited and followed without any reservation, although a post-1900 case. Formore on this line of reasoning see the following cases: *Emmanuel Agu Ukpai and S.O.R.A.R.A.F. Compagnie Générale d'Assurance v. Regina AzongackFongkwa and 7 other*, Civil Appeal N° CASWP/16/75 of 12 January 1976, Buea (unreported) 4 in which Justice O.M. Ingliscited and considered the judgment of Gree M.J. in *Flint v. Lovell* [1935] 1 K.B 354 at 360; *Samuel Jengob Gizang v. Onioha John, John Ngassa and Guardian Royal Exchange Assurance (Cameroon) Ltd*, Suit N° MCSW/6/75 of 4 August 1976, Buea, (unreported) in which O.M. Inglis relied on the judgment of Lord Morris in *West v. Shephard* [1964] A.C 326 at 346. *Henry Che v. Charles N. Tayim and Mutuelle Agricole d'Assurance*, Suit N° HCB/18/76 of 18 February 1977, Bamenda, (unreported) and *Boniface Fuh v. Simon Nfonkwa Philemone Nsah and Mutuelle Agricole d'Assurance*, Suit N° HCB/76 of 5 July 1977, Bamenda, (unreported) in which Justice T.E. Mbnagbaw relied on three post 1900 English decisions in establishing negligence—two of which are: *National Coal Board v. England* [1954] A.C. 403; and *Kemp and Dougal v. Darngavil Coal Co. Ltd.* [1909] S.C. 1314 at 1319; cf Martha S. TUMNDE née NJIKAM, *Motor Vehicle Insurance Law in Cameroon*, op. cit., at p. 4.

28 The enabling instruments for the introduction of French and French derived laws in Francophone Cameroon were the Decrees of 16 April 1924 and of 22 May of the same year. Both Decrees were made pursuant to the provisions of the French Mandate for French Cameroon's (20 July 1922).

29 January 1, 1960.

30 February 11, 1961.

31 See the Constitution of September 1, 1961.

32 Article 46 of the September 1, 1961 Constitution expressly provided that: “Previous legislation of the Federated States shall remain in force in so far as it does not conflict with the provisions of the Constitution.” Foreign laws continue to apply in Cameroon today by virtue of Article 68 of Law

stitution of June 2, 1972.³³ Notwithstanding the foregoing political and constitutional evolution of Cameroon, its Anglo-French legal heritage persists. *Mutatis mutandis*, the English common law applies in the anglophone regions whilst the French civil law applies in the francophone regions.³⁴

Conscious of this discrepancy of legal divide, legal unification and creation of uniform laws have pre-occupied the Cameroonian legislator. So far this has been realized in the uniform Penal Code,³⁵ uniform Criminal Procedure Code,³⁶ land law,³⁷ some aspects of family law,³⁸ labour law,³⁹ a uniform judicial system⁴⁰ and today business law through the OHA-DA Uniform Acts.⁴¹

III. The Post-1972 Amendments of the Court System

The history of decentralization of the court system in Cameroon is as old as the history of unification. In 1972, the Court structure became highly decentralized with the coming into force of Ordinance N°. 72/4 of 26 August 1972, to reorganize the judiciary. The territorial jurisdiction of the different courts as well as that of the prosecutorial staffs were structured in such a manner that courts were located at various territorial levels throughout the country, so that justice could be brought to the rural man.

N° 2008/001 of 14 April 2008, revising the June 2, 1972 Constitution. The said article provides that “The legislation applicable in the Federal State of Cameroon and in the Federated States on the date of entry into force of this constitution shall remain in force in so far as it is not repugnant to this constitution and as long as it is not amended by subsequent laws and regulation.”.

33 See, however, Law N°. 84/1 of 4 February 1984 changing the appellation United Republic of Cameroon to the Republic of Cameroon.

34 AGBOR EGBE James, *Domicile or Nationality: Possible Choice of Basis of Personal Law in Cameroon*, Maîtrise Memoir, University of Yaoundé, 1983, p. 7 (unpublished).

35 Law N°. 65-LF-24 of 12 November 1965, Law N°. 67-LF-1 of 12 June 1967 and recently Law N° 2016/017 of 12 July 2016.

36 Law N°. 2005/007 of 27 July 2005 on the Criminal Procedure Code.

37 The present land tenure reforms in Cameroon are contained in three ordinances passed on 6 July 1974. These are Ordinance N°. 74/1 which regulates land tenure, Ordinance N° 72/2 on State lands and Ordinance N° 74/3 on compulsory acquisition. For more on this, see NGWASIRI Clement, *The Impact of the Present Land Tenure Reforms in Cameroon on the Former West Cameroon*, Cameroon Law Review, 2nd Series, N°. 28, 1984, p.73.

38 Ordinance N°. 81/02 of 29 June 1981. See also Law N°. 2011 of 6 May to modify and complement certain provisions of Ordinance N°. 81-02 of 29 June 1981.

39 Law N°. 92-007 of 14 August 1992.

40 See especially Ordinance N°. 72/4 of 26 August 1972 as amended by Law N°. 89/19 of 29 December 1989. See also Law N°. 2006/015 of 29 December 2006 on Judicial Organisation as amended by Law N°. 2011/027 of 14 December 2011.

41 OHADA is commonly known by its French acronym as “*Organisation pour l’Harmonisation en Afrique du Droit des Affaires*”. Loosely translated in English, OHADA means “Organisation for the Harmonisation of Business Law in Africa.”.

A. Decentralization of Courts

A court may be defined as a government body consisting of one or more judges who sit to adjudicate disputes and administer justice.⁴² It is an agency set up by the government to define and apply the law, to order its enforcements, and to settle disputed points on which individuals or groups do not agree.⁴³ The courts of law in Cameroon may be divided into courts of general jurisdiction⁴⁴ (judicial courts) and administrative courts.⁴⁵ Some courts have both civil and criminal jurisdiction (e.g Courts of First Instance, High Courts, Court of Appeal and the Supreme Court); but others deal only with civil matters. Civil courts deal with disputes between individuals as to property and legal obligations.⁴⁶ Criminal courts exist in order to decide whether an accused person has committed a criminal offence and, if so, what punishment should be imposed.

1. Judicial Courts

By virtue of Section 3 of Law N°. 2011/027 of 14 December 2011 to amend and supplement certain provisions of Law N°. 2006/15 of 29 December 2006 on Judicial Organisation, justice shall be administered in Cameroon by the Supreme Court; the Court of Appeal; the Special Criminal Court; lower courts for administrative litigation; lower audit courts; Military Tribunals; High Courts, Courts of First Instance and Customary Law Courts. Except for the Supreme Court and the Special Criminal Court,⁴⁷ which have jurisdiction throughout the country, the rest of the courts are highly decentralized.

42 Bryan A. GARNER, *Black's Law Dictionary*, 7th edition, West Group, St. Paul, Minn., 1999, at p. 357.

43 HEMPHILL, J. and CHARLES, F., *Criminal Procedure: The Administration of Justice*, Santa Monica, Goodyear, p. 139; cf. DAMBAZAU, A.B., *op. cit.*, p. 102.

44 A court of general jurisdiction is a court having unlimited or nearly unlimited trial jurisdiction in both civil and criminal cases.

45 An administrative court or tribunal is an administrative agency before which a matter may be heard or tried as distinguished from a purely executive agency; an administrative agency exercising a judicial function.

46 See for instance the traditional courts and to some extent the Common Court of Justice and Arbitration based at Abidjan (Ivory Coast) which could be attached to the judicial courts of Cameroon in commercial matters.

47 Law N° 2008/001 of 14 April 2008 to amend the Constitution of 2 June 1972 had made provisions for other centralized courts with their seat in Yaoundé. These courts could be called courts with special jurisdiction. They include the Court of Impeachment, the State Security Court and the Constitutional Council. These courts are highly centralized because their seats are in the capital city Yaoundé only. This is so too with the Common Court of Justice and Arbitration (CCJA) whose seat is in Abidjan. It is to be recalled that the OHADA Treaty created the Common Court of Justice and Arbitration to serve as the court of ultimate appeal in commercial matters.

a. Traditional Courts

Cameroon is composed of about 250 different ethnic groups with an equal number of tribal languages representing each group.⁴⁸ Cameroonian law is therefore, also composed of the various bodies of customary law (including Islamic law) in the national territory.⁴⁹ Customary law is a mirror of accepted usage. It is diverse. It varies from community to community and from one village to another. So due to the multiplicity of customs, traditional courts have been set up at the level of local units, often the tribe, clan or village as the case may be.

The traditional courts in Cameroon include: the customary courts in the anglophone regions,⁵⁰ the *Alkalicourts* that exist in the Fulani area of the North-West regions, the *Tribunaux Coutumiers*,⁵¹ the *Tribunaux de Premier Degré*⁵² and to some extent the *Justices de Paix à Attribution Correctionnelle*.⁵³ The jurisdiction of each of these courts is local and limited to a particular area. They have been attached to the Ministry of Justice by virtue of Law N° 79/4 of 29 June 1979. The purpose for this merger is to remove the conflict between the administration and courts in the administration of justice.⁵⁴ Appeals from the traditional courts are directed to the courts of appeal.

b. Courts of First Instance

First instance courts like the High Courts are courts of original jurisdiction, that is to say, a court where an action is initiated and first heard. Since the Judicial Organisation Ordinance of 1972,⁵⁵ which made provision on paper for a court of first instance to be established in each sub-division, there are about 269 sub-divisions in Cameroon today. So, in reality the decentralization process of justice administration in Cameroon requires that 269 courts of first instance should exist in the country today and their jurisdiction should be limited in the

48 See NGWAFOR, E.N., *Family Law in Anglophone Cameroon*, University of Regina Press, Saskatchewan, 1993, at p.1.

49 *Ibid.*, at p.1.

50 The Customary Court Ordinance, Cap. 142 of the Laws of the Federation of Nigeria 1948, governs customary courts in anglophone Cameroon.

51 These are traditional courts set up in the francophone regions.

52 The *Tribunaux de Premier Degré* was established in Cameroon by Decree N° 59/247 of 18 December 1959 to administer customary laws. They have been set up today at the level of districts or sub-divisions.

53 The *Justice de Paix à Attribution Correctionnelle* was located at the district level and was constituted by a district officer (Sous-Préfet) sitting alone and acting as prosecution and judge. Today, in outlining the courts vested with the administration of Justice, Law N° 89/19 of 29 December 1989 does not mention the *Justice de Paix à Attribution Correctionnelle*. So, the mention here is only for historical interest.

54 MBU, A.N.T., *The Mill of Justice*, Yaoundé, 1986, p. 91.

55 See Section 11 of Ordinance N° 72/4 of 26 August 1972 on judicial organization.

sub-division in which it is created. However, statistics show that about 182 courts of first instance exist today in the country.

The court of first instance is technically speaking, one of the highly decentralized court structure of the country as it is found at the level of every sub-division. By virtue of Section 15 (1) of Law N°. 2006/015 of 29 December 2006 on Judicial Organization as amended by Law N°. 2011/027 of 14 December 2011, each court of first instance operating at the level of a sub-division has a criminal and civil jurisdiction, which for crimes comprises misdemeanours or simple offences as well as felonies committed by minors without co-offenders or accomplices who are majors. The court has jurisdiction in civil, commercial, and labour matters where the amount of the action does not exceed 10,000,000 Francs CFA. It is also competent to recover civil or commercial debts not exceeding 10,000,000 Francs CFA through the simplified debt recovery procedure.

c. High Courts

Section 14 of Ordinance N°. 72/4 of 26 August 1972 was to the effect that a High Court shall be established for each division. So, immediately thereafter 39 High Courts were established in Cameroon by Decree N°. 72/591 of 25 October 1972. Today however Cameroon has 58 divisions⁵⁶ and in practice not all the divisions have a High Court, especially as new divisions continue to be created. The reality is that judges from the local Court of Appeal periodically hold assizes in the divisions without a resident High Court judge and by a Decree of 29 September 1983⁵⁷ one judge may preside over many High Courts and when he/she so sat, he/she constituted the High Court for that division.⁵⁸

Before 1989, the High Court had no personnel of its own, because the judges of the court where necessarily judges of the Court of Appeal. By Law N°. 89/019 of 29 December 1989 amending and supplementing Ordinance N°. 72/4 of 26 August, 1972, the High Court now has its own personnel. Section 17 of Law N°. 2006/015 of 29 December 2006 on Judicial Organization as amended by Law N°. 2011/027 of 14 December 2011, fixes the composition of the High Court. The matters over which the High Court has jurisdiction are mentioned in Section 18 of the above law.

⁵⁶ The recent administrative set up of Cameroon makes provision for 58 divisions.

⁵⁷ That is: Decree N°. 83/449 of 29 September 1983, modified by Decree N°. 84/232 of 7 May 1984 and completed by Decree N°. 85/117 of 28 August 1985.

⁵⁸ MBAH-NDAM, *op.cit.*, at p. 18.

d. Courts of Appeal

Courts of Appeal have been decentralized in Cameroon. Each of the ten regions⁵⁹ in Cameroon has an Appeal Court located at the headquarters of the region.⁶⁰ The seat of the court is in the Chief Town of each administrative region as at present: Ngaoundere, Yaounde, Bertoua, Maroua, Douala, Garoua, Bamenda, Bafoussam, Ebolowa and Buea. By virtue of Section 20 (2) (b) of Law N°. 2011/027 of 14 December 2011, the Court of Appeal is composed of benches and the General Assembly. It is composed of one or more benches for motions and urgent applications; one or more benches for disputes relating to the enforcement of judgments; one or more benches for civil matters; one or more benches for commercial matters; one or more benches for labour matters; one or more benches for customary law matters; one or more benches for criminal law matters; one or more benches for misdemeanours and simple offences; one or more benches for inquiry control. The Court of Appeal has jurisdiction to hear appeals against judgments delivered by courts, with the exception of those delivered by the Supreme Court and the Court of Appeal itself.⁶¹ It also has jurisdiction to hear appeals against the ruling of the examining magistrate and appeals against decisions from the respective benches of the Courts of First instance and the High Courts.

2. The Administrative Courts

In Cameroon there are significant differences between the ways in which the administrative courts and the ordinary courts are organized. By virtue of Section 2 of Law N°. 2006/022 of 29 December 2006 to lay down the organization and functioning of administrative courts,⁶² the courts have jurisdiction to decide on all administrative matters, that is, litigation involving the State, local authorities, public corporations as well as complaints from private persons against the administration. The scope of administrative litigation in Cameroon is defined in 2 (3) of the above law. It includes, *inter alia*, petitions for cancellation of acts on the grounds of *ultra vires*, claims for damages for loss caused by an administrative measure, disputes on (government) contracts (unless concluded expressly or by implication under ordinary law), disputes concerning State land, or administrative trespass on private land and any arbitrary steps by the administration against liberty and property on an individual with a power to bring the act to an end. Today Article 40 of Law N°. 2008/001 of 14 April 2008

59 The ten regions of Cameroon with their inhabitants as of the year 2005 could be stated as follows Adamaoua (601.300), Centre (2.735.440), East (675.200), Far North (2.384.500), Littoral (2.830.000); North (853.220); North-West (1.701.340), West (1.874.600), South (676.300), South-West (1.190.000). This makes a total population of 15.522.000 inhabitants.

60 See Section 19 (1) of Law N°. 2006/015 of 29 December 2006 on Judicial Organisation.

61 See Section 22 of Law N°. 2011/027 of 14 December 2011 on Judicial Organisation.

62 By Section 2 (1) of the above law, lower courts for administrative litigations within the meaning of Section 40 of the Constitution shall be called Administrative Court.

to amend the Constitution of 2 June 1972, has extended the jurisdiction of the Administrative Bench of the Supreme Court to examine appeals on regional and council election disputes; give final rulings on appeals against final judgments passed by lower courts in cases of administrative disputes and to examine any other disputes expressly devolving upon it by law.

In exercising its jurisdiction in administrative cases, the Supreme Court is divided into an Administrative Bench with appellate jurisdiction. So, the Administrative Bench of the Supreme Court is a court of first instance and an appeal court in administrative matters. The composition of the Administrative Bench when it exercises original jurisdiction is as follows: a substantive or alternate Puisne Judge who is the President, two judges of the court with equal votes, the *Procureur Général* (or his/her deputy, or the Advocate General), and a Registrar.⁶³ Where the court exercises appellate jurisdiction in administrative matters, it is composed of five judges who are members of the court (excluding the trial judge), the *Procureur Général* (or his/her deputy, or the Advocate-General), and the Chief Registrar appointed by the President of the Supreme Court from his staff.⁶⁴

B. Auxiliaries of Justice

In Cameroon, the functions of the judicial officers operating in the various courts have been decentralised as well. There is a branch of Legal Department⁶⁵ attached to each constituted court. Members of the department of Public Prosecutions are prosecutorial staff who conduct criminal prosecutions and also play important roles in certain civil cases.

The Minister of justice as the overall boss supervises and directs the functions of judicial officers. He/she is at the hierarchy of the Department of Public Prosecutions. Under him/her are the Attorney-General at the Supreme Court, the *Procureur Général* at the Courts of Appeal and their deputies, advocates-general and State counsels and their assistants all of whom are in charge of conducting prosecution at courts.⁶⁶ Every court in Cameroon has a Department of Public Prosecutions. Thus, there is a state prosecutor's office or chamber at each court in the country. At the court of first instance and at the high court the prosecutor's chambers is known as the State counsel's chambers (*Parquet d'Instance*) while those at the Court of Appeal and the Supreme Court are known as the Pro-

63 Section 11 of Ordinance N°. 72/6 26 august 1972 organising the Supreme Court as amended by Section 11 of Law N°. 2017/014 of 12 July 2017 to amended and supplement some provisions of Law N°. 2006/16 of 29 December to lay down the organization and functioning of the Supreme Court.

64 *Ibid.*

65 The legal Department is also known in English as the department of Public Prosecutions (DPP). The functions of the Legal department are set out in Section 29 of Law N°. 2006/015 of 25 December 2006 on judicial organization.

66 Carlson ANYANGWE, *The Magistracy and the Bar in Cameroon*. CEPER, Yaoundé, 1989, p.74.

cureur General's chambers (*Parquet Général*).⁶⁷ The territorial competence of the Procureur General corresponds to that of the Court of Appeal of the region to which he/she is attached and that of the State counsel's or *Procureur de la République* is the division or sub-division if he/she is attached to a high court or court of first instance respectively.

Cameroonian judges differ from their counterparts in England, for instance in that they are usually members of a career judiciary rather than former legal practitioners. They qualify as judges after studying at the national training school for the judiciary in Yaounde. When they graduate from there they are assigned either to be "sitting judges" (*magistrats du siege*; i.e. judges who actually hear and decide cases) or "standing judges" (*magistrats du parquet* or *magistrats debouts*; i.e. judges who act as prosecutors). So the term "magistrat" a generic term which refers to the personnel, of the Judicial and Legal Services attached to the Ministry of Justice; this service includes members of the bench, members of the legal department in the service of the courts of law, judicial and legal officers of the central administration of the Ministry of Justice, legal assistants and legal probationers.⁶⁸ These personnel are administratively put under the control of the Minister of Justice and the Keeper of the Seals.⁶⁹

Auxiliaries of justice include judicial police officers and auxiliary lawyers. They are those persons who, while not being judges, are regularly involved in the administration of justice.⁷⁰ They include court clerks (*greffiers*) notaries (*notaires*) process-servers-bailiffs (*huissiers de justice*) barristers and solicitors (*avocats*) and even the prison administrators. All these agencies involved in the administration of justice in Cameroon have also been decentralized.

1. Judicial Police Officers

Judicial police officers serve as auxiliaries of the State Counsel in the investigation and detection of crimes. Section 79 of Law N°. 2005 of 27 July 2005 instituting a Criminal Procedure Code for the entire Republic of Cameroon⁷¹ defines the status of a judicial police officer as follows:

- (a) *Officers and non-commissioned officers of the gendarmerie;*
- (b) *gendarmes in charge even in an acting capacity of a gendarmerie brigade or gendarmerie post;*
- (c) *superintendents of police;*
- (d) *deputy superintendents of police*

67 *Ibid.*

68 See MBU, A.N.T., *op.cit.*, at p. 92.

69 *Ibid.*

70 DICKSON, B., *Introduction to French Law*, London, Pitman, 1994, p. 34.

71 Herein after referred to as the New Criminal Procedure Code.

- (e) *gendarmes and inspectors of police who have passed the judicial police officer's examination and taken the oath;*
- (f) *public servants even if they are temporarily performing the functions of head of an external service of the National Security.*

The duties of judicial police officers are outlined in Section 82 of the New Criminal Procedure Code. They include investigation of offences, collecting evidence, identifying offenders and accomplices and bringing them before the Legal department; executing warrants and court decisions.

Apart from the duties defined in Section 82 above, judicial police officers shall also receive complaints and reports against persons and shall make preliminary investigations in cases of felonies and misdemeanours committed *flagrante delicto*.⁷² They are also empowered to check the identity and situation of any suspected person and where necessary detain him/her in a special police custody for not longer than 24 hours.⁷³ Furthermore, they are invested with the powers to conduct search or cause to be searched, any person suspected of being in possession of arms or any other object likely to be used in the commission of an offence.⁷⁴

The police and gendarmes acting as agencies in the administration of justice in Cameroon have been decentralized. They are the largest most visible and most important sub-system of the criminal justice system located at various territorial levels throughout the country. In the administration of justice, the police and gendarmes provide the entry point into the criminal justice system. They are responsible for the prevention and repression of crime or civil disorder throughout the entire territory of Cameroon. The police and gendarmes serve as the “gate-keepers” of the justice system⁷⁵ and are located in both the urban and rural areas of the country. They decide who goes through the justice system and their decisions have wider implications for the other system components.⁷⁶

a. The Police

The National Security was set up in 1969 by Decree N°. 69/DF/160 of 3 May 1969.⁷⁷ Its general function is to investigate crimes and bring offenders to face prosecution in court. Article 3 of Decree N°. 69/DF/160 of 3 May 1969 impose on police forces located at vari-

72 See Section 83 (1) and (2) of the New Criminal Procedure Code. *Ibid.* Section 87 (1).

73 *Ibid.*, Section 86 (1).

74 *Ibid.*

75 DAMBAZAU, A.B., *Criminology and Criminal Justice*. Nigerian defence Academy Press, Kaduna Nigeria, 1999, p.90.

76 *Ibid.*

77 Cf. MBU, A.N.T., *The Mill of Justice*, Yaoundé, 1986, p. 279, since then the 1969 Decree has been amended several times, see notably, Decrees Nos. 73/459 of 16 August 1973, 75/85 of 25 January 1975, 77/48 of 14 February 1977, 77/49 of 14 February 1977, 78/130 of 2 May 1978, 79/342 of 4 September 1979 and 80/213 of 23 June 1980.

ous territorial levels within the country the duties of: maintaining the internal and external security of the national territory, detecting and repressing criminal offences, maintaining public order and security especially in urban areas; in the area of defence to protect and intervene in missions which involve contacts with the general or civil population.

As regards their role in the criminal justice system, the most significant organizational division of the Cameroonian police is between the judicial police and the administrative police.⁷⁸ The judicial police is organized into regional units co-ordinated at the national level. Investigations into crimes remain the primary responsibility of the judicial police and they are under the supervision and direction of the public prosecutor's office attached to the various criminal courts at various territorial levels within the country.

b. The Gendarmerie

The gendarmerie,⁷⁹ as an agency involved in the justice system in Cameroon, is also highly decentralized. It is a uniform para-military force which operates in rural areas and in the smaller towns throughout the country. A very important aspect of the gendarmerie is its role in criminal investigation. They are empowered to carry out investigation of crimes at their various territorial levels. Essentially, the gendarmerie is considered to be better equipped in the investigation of offences and the fight against crime because it benefits from military expertise and technology, especially in the area of communication and weaponry. Unlike the police, the gendarmes are entitled to fire on a fugitive after a warning.⁸⁰ Cases as to jurisdictional conflicts, as for example, where an offence occurs partly in the territory of the gendarmerie and partly in that of the police are resolved by the State Prosecutor in charge of the locality or territory.

2. Court Clerks (Greffiers)

Court clerks or court registrars are officials who perform a variety of important functions in order to assist the smooth running of the court system. The functions of each registrar vary with his rank in the service in a hierarchical order of responsibility.

Generally, they help the judges with the organization of papers, they preserve and serve copies of important documents and they deal with correspondence, pieces of research and

78 See however Section 81 (1) of the New Criminal Procedure Code which is to the effect that police inspectors and constables who are not judicial police officers shall have the status of judicial police agents. They shall assist judicial police officers in the performance of their duties and shall report to their superior officers of all offences which have come to their knowledge.

79 The gendarmerie as a force was created by Decree N° 60/20 of 22 February 1960 to maintain peace and order, it was attached to the army for military administration and discipline under the Secretary of State for Armed Forces. The Decree created three departments of the gendarmerie forces, namely the Gendarmerie School, the Territorial Gendarmerie and the *Gendarmerie Mobil*. See MBU, A.N.T., *op. cit.*, at p. 287.

80 The police may use fire arms only in self-defence.

the collection of statistics. They are responsible for the maintenance of the court register which records the details of all the cases processed, as well as for the documents connected with each individual case (*dossiers*).⁸¹

The statutory books kept in a Court registry include a record book, cause book, cash book and a ledger.⁸² The last two are exclusively the Chief Registrar's books in possession.⁸³ The list is not exhaustive because there are registers for imprisonment warrants, payments from court, *fifas* (*a writ of execution that directs a sheriff to seize and sell defendant's property to satisfy a money judgement*), deposits etc.

The Chief Clerk or Chief Registrar in each court is known in French as the *Greffier en Chef*, and he/she is responsible for running the administrative offices of the court. Most of the money paid to the court is deposited in bank accounts operated by the Chief Registrar. In stations where there are no banks, it is kept in safes, the chief registrar of any court is the go between of the personnel of non-judicial or legal status and the immediate local judicial or legal head of service. Consequently, he proposes a note for the attention of the President of the court; receives and answers all the mails that come to court, attends in person to court session; ensures that the registry is running efficiently and properly equipped with office materials and personnel, engages the credits for the purchase of materials under the strict supervision of the magistrate who liquidates all debts by payments.⁸⁴

Court clerks are recognized as civil servants working as court officials (*fonctionnaires*) and have been distributed in all the courts within the country. The Registrar of the Supreme Court, called the Secretary General is appointed by a Presidential Decree and his rank is equal to a Director of the Central Administration. Other registrars of the Supreme Court, the registrars of administrative courts and of the regional Courts of Appeal and their legal departments, the registrars of the High Courts and the Courts of First Instance and their legal departments particularly in Yaoundé, Douala and Nkongsamba are appointed by an *Arrêté* of the Prime Minister.⁸⁵ The registrars of the regional Courts of Appeal and their legal department are of rank of chiefs of services of the Central Administration, whereas in the other courts they are assistant chiefs of services of the Central Administration.

3. Process Servers/Bailiffs (Huissiers de Justice)

The *Huissiers de Justice* or process servers, bailiffs, attorneys or solicitors as they are variously called in English are mainly people who serve documents on litigants and enforce judgments. They also operate a debt recovery service and conduct factual inquiries on behalf of the parties or the court itself. Generally, they are authorized to act at the request of

81 DICKSON, B., *op. cit.*, note 66 at p. 34.

82 MBU, A.N.T., *op. cit.*, at p. 206.

83 *Ibid.*, at p. 207.

84 *Ibid.*, at p. 208.

85 *Ibid.*, at p. 206.

litigants or public prosecutor to sue or investigate matters, serve notices and produce detainees before the examining magistrates at the hearing; execute and enforce court decisions; make reports, summonses, tenders, defences, replies and all other matters extra-judicial including a public auction of goods of a judgment debtor.⁸⁶

In 1960, there was only one single *Huissier de Justice* practising in East Cameroon.⁸⁷ But in 1961 four Cameroonians were appointed, by 1972, the advent of unification, Cameroon had seventeen *Huissier* as compared to 59 as on the 24th of December 1979. West Cameroon never had *Huissier* but served executed court warrants through their bailiffs, whose functions were governed by Cap. 189 of the Laws of Nigeria.⁸⁸

The *Huissier* were attached to the Ministry of Justice in 1969 as employees with their own “offices” (*charges*), since then a litany of Decrees has governed the profession in Cameroon, notably, Decrees Nos. 79/85 of 13 March 1979, 79/448 of 5 November 1979, 79/449 of 5 November 1979, 82/296 of 9 July 1982, 85/238 of 22 February 1985, 88/833 of 27 June 1988, and Decree N°. 98/018 of 25 February 1998.

Currently there are 419 “offices” (*charges*) for the profession of *Huissiers*. In this domain there is complete decentralization of the *Huissier de Justice* as an auxiliary of justice. However, the reality is that not all the “offices” (*charges*) have been occupied. From statistics we gathered only 112 out of the 419 “offices” (*charges*) created recently have been occupied.

4. Notaries (Notaires)

The notary like the *huissier* is an indispensable auxiliary in the administration of justice. They act as obligatory authenticators and preservers of important documents, such as deeds transferring land, and are employed to draw up other papers such as wills. In addition, they sometimes administer the estates of people who have died.

Notaries are involved in drawing up agreements for parties and serving as family counsel; legal adviser to joint stock enterprises or corporations etc. They prepare ante-nuptial settlements, wills, mortgages, transfer of gifts *intervivos* and contracts for the sale of real property. They also draft the memorandum and articles for the promotion and formation of companies.

Notaries cannot engage in activities incompatible with their profession, such as money-lending or the representation of clients in court, but they may give legal advice on a wide variety of matters. By Section 9 of Decree N°. 60/172 of 20 September 1960, notaries are public *functionnaires* instituted for the purpose of making all acts and contracts which the parties are required by law and by Section 6 of Decree N°. 74/624 of 8 July 1974, each notary is limited in the performance of his functions to the territorial limit, which is the

86 See Section 1 (2) (3) of Decree N°. 79/449 of 5 November 1979.

87 He was a French man (*Millot Core*), practicing at Yaoundé, cf. MBU, A.N.T.s, *op.cit.*, at p. 178.

88 *Ibid.*, at p. 178.

court to which he is attached if there is a court, or to several courts within his jurisdiction if no such other notary has been appointed to exercise those functions.⁸⁹

Most of the functions of notaries in anglophone Cameroon are performed by advocates and presently there are about forty *notaires* practicing in Cameroon, mostly resident in Yaoundé and Douala, business centres.⁹⁰ To become a notary an applicant must have pass a rigorous series of examination and undergo apprenticeship. Section 38 of Decree N°. 60/172 of 20 September 1960 says to be appointed a notary, the applicant must be of Cameroonian nationality; be in possession of his civic and political rights; be 25 years or more; must not have been convicted of an offence of dishonesty, be of good character or morals, made no false declaration, bankrupt, or a former auxiliary of justice, an advocate struck off from the Bar Roll, a civil servant dismissed for disciplinary measures for acts against his integrity or good morals; get an insurance against his professional risk and guarantees against such risks in the exercise of his duties; and justifies that he has passed the professional examination under Section 42 of the above Decree comprising three members appointed by the Minister of Justice, made up of one Puisne Judge of the Supreme Court, the Chief of Service for Professions, one *Greffier-Notaire*.⁹¹

5. Barristers (Avocats)

Advocates Practicing in Cameroon within the framework of Law N°. 90/059 of 19 December 1990⁹² are grouped in a professional Organization named “The Bar” placed under the aegis of the Minister of Justice and keeper of the Seals.⁹³ Practice at the Bar is a liberal profession which consist in exercising duties against remuneration. The duties of an advocate are stipulated in Section 1 of Law N°. 90/059 of 19 December 1990 to organize practice at the Bar. This includes: assisting and representing the parties before the law courts, conducting suits, pleading, and giving legal advice; following up the execution of court decisions, in particular instituting and following up any extra-judicial procedures, receiving payments and giving discharge therefore, and instituting legal proceedings on behalf of one of the parties.

However, the conduct of law suit in court is not the monopoly of the professional advocate. All the other auxiliaries of justice can come before all the courts of the Republic ex-

89 See however, Section 2 of Decree N°. 79/293 of 1979 which has given the notary jurisdiction with leave of the Minister of Justice, to carry out work outside his jurisdiction or acts which exceeds his jurisdiction by reason of the residence of the parties.

90 Decree N°. 73/767 of 18 December 1973 divided and apportioned about forty-four vacancies for notaries to practice over the national territory.

91 Cf. MBU, A.N.T., *op. cit.*, at p. 194.

92 Before 1990, practice at the Bar was governed by the following Laws: N° S 72/FL/5 of 23 May 1972, 74/11 of 16 July 1974, 77/28 of 6 December 1977, 78/266 of 5 July 1978 and the Internal regulations of Order N°. 5/79 of 20 July 1979.

93 See Article 2 of the Draft Internal Regulations of the Cameroon Bar Association of 24 March 2002.

cept in the Supreme Court. Section 3 (1) of the 1990 Bar Law is to the effect that all persons shall be entitled, without being represented by an advocate, to appear before any court, except the Supreme Court, for the purpose of conducting a suit and pleading, on their own behalf, or on behalf of their spouse, ascendants and descendants, privileged collaterals or ward; and they may be assisted or represented by any other representative of their choice provided with a duly certified power of attorney.⁹⁴

Cameroonian advocates are polyvalent in practice, in that they conduct both civil and criminal cases. They are organized on the basis of an association (Cameroon Bar Association), the President being a *bâtonnier* elected by the General Assembly in conformity with the provisions of Section 52 and 53 of Law N°. 90/059 of 19 December 1990 to organize practice at the Bar. The elected President appoints the Secretary, and if need arises, one or more assistant secretaries as well as the Treasurer and subsequently his/her assistant. He/she has four principal duties: representative, administrative, consultative and conciliatory.⁹⁵ There is no age for retirement for barristers in Cameroon. So, a successful Practitioner may die in office or sell off the practice to retire, a state of affairs which really makes the advocate a member of the liberal profession.⁹⁶

6. Prison Staff

In the justice system, the prison is responsible for the custody of the final product. Maintaining custody involves carrying out measures to prevent escapes, such as erecting high walls or chain-link fence, placing armed guards, constant checks of cells, providing a system of passes for movements within the prison, constant surveillance, and such stringent measures which may be applied from time to time to prevent escapes, riots and so on.⁹⁷

The prison is the darkest region in the apparatus of the justice system, and operates on certain characteristics namely: the deprivation of liberty; discipline; transformation of the individual; isolation, segregation; and work.⁹⁸ Imprisonment is a penalty par excellence in a society in which liberty is a good which belongs to all in the same way and to which each individual is attached. Thus, the deprivation of liberty belonging to a person is a fundamental constitutional issue because liberty is the basis of existence itself.⁹⁹ Prisons therefore serve as the main avenue for making individuals pay for their crimes against society.

In Cameroon today, the Department of Prisons has been attached to the Ministry of Justice and Keeper of the Seals, just like in France.¹⁰⁰ A Prisons Board has been created with a

94 See Section 3 (2) of the 1990 Bar Law.

95 See Article 12 of the Draft Internal Regulations of Cameroon, 24 March 2002.

96 MBU, A.N.T., *op. cit.*, at p.160.

97 *Ibid.*, at p. 114.

98 DAMBAZAU, A.B., *op. cit.*, at p. 112.

99 *Ibid.*, at p. 115.

100 Before the year 2005, the Department of Prisons in Cameroon just like in England, was attached to the Ministry of Territorial Administration.

President. The board makes orders or deliberations on matters which concerns: prison administration, prison staff, prison labour, equipment of prison establishment, education or re-education of detainees into the social life.

Generally, the prison staff who serve as auxiliaries of justice consists of: the prison administrators, the prison superintendents, and the prison warders. The prison administrators are at the hierarchy of the prison authorities and are civil servants. They are involved in the day to day management and control of the prisons services. Prison superintendents are officers responsible for the order and discipline of the prison warders. Prison warders ensure the discipline in the prisons, by controlling the prisoners on a day to day basis. In effecting these duties, they carry arms and therefore become part of the civilian personnel responsible for the maintenance of peace and order.¹⁰¹ Prison administrators, superintendents and warders are civil servants who are paid from the State Treasury.¹⁰² Prisons centres are categorized in accordance with the types of inmates, the structural features, and the extent of security arrangement. In Cameroon there are no prisons for foreigners and prisons for indigenes; both are brought to live in the same cells depending only on the age, sex, or some other mode of classification, for example mental homes, borstals, attendant centres and detainees.¹⁰³ Prison centres are provided in administrative towns for the purpose of: detention of persons awaiting trial; detention of persons sentenced to a term of imprisonment, and detention of person kept under surveillance.¹⁰⁴ Section 2 of Decree N°. 73/774 of 11 December 1973 classifies prisons according to the method used to rehabilitate the offender. Prisons are classified into Central Prisons for Orientation and Selection,¹⁰⁵ Production Centres,¹⁰⁶ School Prisons,¹⁰⁷ Preventive Confinement Centres¹⁰⁸ and prisons for political prisoners.¹⁰⁹ Women prisons have been designed to cater for women convicts. The major reason for this relates to gender differences, and that women usually commit less serious or violent crimes than men and therefore require less stringent supervision.¹¹⁰

101 MBU, A.N.T., *op. cit.*, at p. 325.

102 See Sections 1 to 3 of Decree N°. 74/250 of 3 April 1974 on the Special Rules and Regulations of the Corps of Prisons Civil Servants.

103 MBU, A.N.T., *op. cit.*, at p. 328.

104 *Ibid.*

105 These prisons are situated in provincial capitals of the Republic of Cameroon.

106 Production Centres hire out prison labour to the public service and private individuals for remuneration. Applications for prison labour are directed to the Superintendent who fixes the amount to be paid.

107 This includes the Borstal Institutes and provides training programmes for young delinquents.

108 These centres receive prisoners who are undisciplined in the other penal establishments.

109 Political prisoner are those persons considered by the administration as subversive.

110 For detail of research on women and crime, see BISHOP, C., *Women and Crime*, London, Chatto Windus 1931; POLLAK, O., *The Criminality of Women*, Philadelphia, University of Philadelphia Press, 1950; cf. DAMBAZAU, A.B., *op. cit.*, at p. 119.

IV. Difficulties that Beset the Administration of Justice in Cameroon

The following are considered as some of the difficulties that stand in the way of Justice Administration in Cameroon.

A. Location of Permanent Court Structures at a Fixed Seat

Decentralization of justice administration means bringing justice nearer to the people. As such the court is very vital to the accessibility of justice. Litigants should be able to have access to courts located within their proximity. The creation of the Common Court of Justice at Abidjan (CCJA) for commercial matters under OHADA business with a permanent seat in Abidjan stands as a paradox to the notion of decentralization of justice administration. Most litigants in Cameroon feel and behave as if the CCJA as a court exists only on paper as it is located in a foreign territory. Some are estranged by the rules of practice and procedures that obtain before it. In effect, the court instead of being taken to the peoples is located away from them. This has the effect of making justice inaccessible to litigants because of the high cost of transportation and communication difficulties. Justice under such circumstance is not meant for the poor, since they cannot afford the financial means to take their matter to a foreign territory.

B. Shortage of Judicial Personnel

Another difficulty to justice administration in Cameroon is the shortage of judicial personnel to enable the creation of more courts in rural areas. As a result of the shortage of qualified judicial personnel and the absence of specialization, the same courts and the same judges are allowed to handle both civil and criminal matters. A consequence of the shortage of judicial personnel is that some sub-divisions and divisions exist without a complete court structure. In some the jurisdiction of the Court of Appeal covers the territory and judges from the local Court of Appeal periodically hold court sessions. Some courts have no judicial personnel of their own and regularly draw from legal officers of the Court of Appeal.

C. Urbanisation

Urbanisation is another factor that hinders the creation of new courts in some rural areas. Most people abandon the rural areas to settle in urban centres and as such the government finds it useless to create new courts in places without population. This is true in Cameroon because almost half of the nation's population is concentrated in the urban areas.

The UN Centre for Human Settlements (HABITAT) noted that by the year 2000, almost half of the world's population would be living in urban areas, compared to 17% in 1950.¹¹¹

¹¹¹ An Urbanising World: Global Report on Human Settlements, UN Centre for Human Settlements, 1996, cited from DAMBAZAU, A.B., *op. cit.*, at p. 75.

By the year 2025, the Centre estimates the proportion to reach 69%.¹¹² Such an estimation is not far from reality in Cameroon, where hundreds of rural migrants have left to settle in the big towns of the country, making it impossible for the government to take justice nearer to rural areas without population.

D. Financial and Material Difficulties

The administration of justice in Cameroon is also hampered by the financial and material cost. Cost is a major element which is taken into account before the creation of new court structures in rural areas. In Cameroon the courts are run by a budgetary allocation made through the Ministry of Justice. The Minister of Justice goes to parliament each year to seek for funds to run the courts. This aspect has a serious implication for the administration of justice and the smooth running of the courts. Judges in the courts, depend on the Ministry of Justice for any material needed to run the courts. A judge who needs furniture, stationery, transport facilities and so on, must depend on the Ministry of Justice for those items. In all financial handicap is a major difficulty to the administration of justice in the country.

V. Conclusion

From whichever way one looks at it the administration of justice in Cameroon is highly decentralized. The court structures have been located at various territorial levels throughout the country. Even the agencies involved in the justice system have been decentralized. We must salute the government for its effort to take justice nearer to the people. However, more has to be done with the creation of new court structures in order to make justice accessible to the population in all respects. Efforts should be made to decentralize the centralized court structures with fixed locations and seat. To achieve this task, it would be necessary for the government to create more training programmes for judges, magistrates, registrars, lawyers and law lectures to ensure accurate interpretation and implementation of some of the new laws of the country.

112 *Ibid.*