
| RESEARCH ARTICLE

Traditional Judges and Litigants in the Facing Positive Law Justice in Cameroon: Recrimination, Backlash and Expectations

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| ABSTRACT

This article is in line with the problem of the conflicts between tradition and modernity on the legal-judicial level. It is based on the legal functionalist theory, which advocates, among other things, the rejection of the legal-judicial system based on positive law and the dependence of the customary system on institutional power. It answers the question of why and how indigenous litigants challenge the positive law embodied in institutional justice and questions possible reconciliations between this law and custom through paradigmatic models of judicial pluralism. This issue was identified through oral information gathered from the field, legal texts, and written sources from articles, books, reports, and dissertations. The results of the study indicate that customary laws, customary judges, and customary courts are muzzled at all levels by the principles of institutional justice based on positive law. Dissatisfied with this situation, there is a proliferation of dispute resolution offices that make use of local customs while escaping state control. The reconciliation of custom and positive law, according to the litigants and the traditional judges, requires the valorization of customary judges, the unification of customary courts with those of the law, and the confrontation of the two sources of law before any verdict.

| KEYWORDS

Custom, positive law, pleas, preponderance, challenge.

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1. Introduction

It is accepted that the meeting of Western legal cultures based on the written word with traditional African justice, which is fundamentally structured around orality, should give rise to a legal system of compromise (Kangulumba Mbambi, 2005). However, any good compromise is similar to a contract, the violation of the terms of which by one of the parties automatically leads to a reaction from the other party. It is in this sense that, noting the annihilation of local customs by the law imported from the West, the customary judges and litigants have spared no effort to boycott institutional justice. In their work, several authors have observed the predominance of laws, judicial institutions, or professional magistrates over the customary legal system. Among other authors, we can name Kalieu Elongo (2010, p. 9), who indicates the weakness of custom in that it applies to a category of litigants while institutional law applies to all without any distinction. Tchumtcheng (1991, p. 32) observes that the assessors who work in the courts are stifled and subordinated and therefore do not fulfill their mission of enacting customary rules. This is echoed by Bokalli (1997, pp. 49-50), who deplores the placement of customary courts at the bottom of the judicial ladder so that official courts in general, and appeal courts in particular, can challenge customary decisions by way of appeal. However, these authors have not substantially addressed the actions taken to challenge this silencing or suggestions made by victims to find a consensus between law and custom. This raises the question of why and how indigenous judges and litigants in Northern Cameroon challenge the jurisdictions of positive law and what suggestions they make to resolve conflicts between law and positive law. This study, which falls within the framework of conflicts between tradition and modernity, is approached according to the theory of the legal functionalist (Rouland, 1990, p. 26), which advocates, among other things, the contestation of the legal-judicial system based on positive law and the dependence of the customary system on central institutional power. First, the recriminations of the justice of law as deplored by some traditional judges and litigants will be presented. Secondly, it will indicate the actions taken to boycott

the official jurisdictions responsible for applying positive law. Finally, it explores the proposals put forward by the protesters to reconcile custom and positive law in the official courts will be presented.

2. Methodology and concepts of work.

At the outset, it is important to specify the methodology adopted for the work and the key concepts used in the text.

2.1. Methodology

The methodology adopted for the realization of this article consisted first, and foremost of the exploitation of oral data obtained from Traditional judges (justiciars) and litigants met in the field during the surveys related to our doctoral thesis. Second, written sources consisting of academic works, articles, legal texts, and various documents on customary justice were exploited. The information gathered from these different sources highlights the preponderance of positive law over custom in the judicial organization, judicial procedure, and official judicial pluralism. This information was analyzed and then transcribed into text, diagrams and drawings in order to make more explicit the comments made, the facts observed, and the expectations of the litigants. The analysis of the criticisms made by these litigants and Traditional judges against the current judicial pluralism led to the paradigmatic construction of two typologies of judicial pluralism that could balance custom and positive law.

2.2. Concepts

It is important to remember that the arrival of the colonizers in Africa led to an upheaval in African justice. This upheaval is reflected in a multiplication of jurisdictions, an increase in the status of litigants, and an increase in the sources of law. The conceptual declination of the terminologies related to this upheaval is of capital importance in the understanding of this work. In this regard, it should be noted that customary judges, traditional judges, or justiciars refer to judges serving in customary courts as assessors, traditional chiefs, clan and tribal leaders, and notables involved in dispute resolution. Indigenous litigants, also known as traditionalist litigants, are those who have remained attached to custom despite the presence of the law. They only attend dispute resolution bodies where the custom is enacted (Bakolli Emmanuel Victor, 1997, p. 42). They are opposed to civil litigants, who are African litigants who have renounced their status to adopt the status of the French. The latter are the litigants who have recourse to the courts dependent on the judicial organization of Cameroon. From time immemorial, the official justice system responsible for enacting positive law has been the object of recriminations which is important to know.

3. The recrimination of the official justice system voiced by the traditionalist litigants

In Cameroon in general and in Northern Cameroon in particular, the positive law enacted by the official courts has always been contested by traditionalists. This contestation is based on the domination of custom by positive law and the constraints of legal proceedings before the courts.

3.1. The domination of custom

The domination of custom is reflected in the limitation of the prerogatives of assessors by professional magistrates and the absence of custom in the appeal courts. It should be recalled at the outset that assessors are notables appointed by a ministerial decree from lists proposed jointly by the Prefect and the President of the Court of First Instance (CFI) of the various localities (Bakolli Emmanuel Victor, 1997, p. 50), to represent and defend custom in the traditional jurisdictions of East Cameroon, which are the Courts of First Degree (CFD) and the customary court (CC) (Ombiono Siméon, 2016, p. 87). However, these assessors are limited in the performance of their duties by the preponderance of professional magistrates:

In fact, in customary courts where hearings are presided over exclusively by assessors (local notables), the ability to enact custom normally is stifled by the control of professional magistrates practicing in the courts under their supervision (Tepi Samuel, 2001). This control takes place either through the presence of court clerks at hearings or through the exploitation of reports sent to the hierarchy with a view to questioning customary decisions that are in contradiction with the general principles of positive law governed by international charters, such as the Human Rights Declaration. It is rightly noted that the assessors of the courts whose presidency is attached to that of the Court of First Instance (CFI), in accordance with article 9 of Decree No. 69/DF/544 of 19 December 1969, are subordinate to the head of the court and it is doubtful that they freely carry out their duties (M. Tchumtcheng, 1991, p. 32).

In the Courts of First Degree, the presence of professional magistrates tends to automatically entail the absence of custom. In fact, lawyers were prohibited from attending hearings of the Traditional Courts to defend the parties, as prescribed by Article 15(2) of Decree n°69/DF/544 of 19 December 1969 (Ombiono Simeon, p. 92). This provision allowed, among other things, the possibility for assessors to express customary truths in complete freedom without being influenced by magistrates or by the provisions of positive law. However, the derogation provided for in Article 43(a) of Decree 69/DF/544 of 19 December 1969, amended in 1971, allows lawyers to intervene in these courts to assist or represent the parties (Ombiono Simeon, p. 92). Consequently, the constant presence of lawyers and magistrates in traditional jurisdictions is seen as a control technique that compromises the function of

assessors and the principles of custom (Aoudi Bring, interview of 07 July 2014 in Mora). The lawyers who play the role of observers or controllers are the same ones who advise litigants, on the sly, to continue their trial in the courts of positive law as allowed by the legal texts in force, in case the customary decisions are to their disadvantage. This is evident in the words of a court clerk who, addressing a litigant who had just taken an oath on the customary idol of Mokolo, said:

Now that you have proved that you are innocent, you must bring a complaint against your opponent for false accusation and defamation of name. And you will win the case, the end result of which will be your compensation through a fine. In your complaint, you will attach the minutes of the traditional oath, you will associate the names of some witnesses, and I will follow this case for having been present at this oath taking.¹

This technique, which consists of discrediting customary decisions, leads the traditional judges of the Customary Courts to fail to apply custom properly when faced with professional magistrates. Moreover, most of the decisions taken by these courts are considered contrary to public order when they are reviewed by professional magistrates. It is therefore understandable that traditional courts in general and customary courts, in particular, exist in the Cameroonian judicial system only as an indicative or figurative element. Faced with the preponderance of professional magistrates, the assessors are submissive, silent, and accept the principles of positive law for fear of being removed from their position following the withdrawal of their names from the list of assessors to be proposed to the hierarchy (Bakolli Victor Emmanuel, 1997, p. 50), in accordance with Articles 6, 7, 8, 9 and 10 of Decree No. 69/DF/544 of 19 December 1969 as amended. These assessors become predators of customs instead of protectors insofar as they sign the minutes of hearings for which the verdicts are in flagrant contradiction with customary rules. During hearings, their quarantine is frequently observed, characterized by the refusal to allow them to speak, by the interception of their voice, and by the acceptance of decisions contrary to custom, which they approve independently of their will, by their signature.

3.2. The absence of custom and or assessors in appeal courts

Before the independence of East Cameroon, assessors sat as representatives of custom, next to officials, respectively, at the Second Degree Court and the homologation chamber (Bokalli Emmanuel Victor, 1997, pp. 49-50) to rule on appeals against judgments related to traditional law. But in the past, appeals against customary judgments were made in the absence of assessors, first in the Court of Appeal and then in the Supreme Court (Ombiono Simeon, 2016, pp. 95, 98). The withdrawal of the presence of assessors and customs in these new appeal courts occurred with Decree 69/DF/544 of 19 December 1969, which stipulates that: 'appeals are brought before the Court of Appeal of the jurisdiction' (Ombiono Siméon, 2016, p. 95), and the judgments of the Courts of Appeal rendered on the judgments of Courts of First Degree and customary courts may be appealed in the Supreme Court under the conditions of ordinary law' (Ombiono Siméon, 2016, p. 98). Despite the abrogations made to this decree, there is no mention of the presence of assessors or notables in these new appeal courts. It is rightly noted that in Africa in general and in Cameroon in particular,

appeals against rulings of the Courts of First Degree or customary courts are brought before the court of appeal sitting in a simple formation called a customary chamber. Generally, a magistrate of the court of appeal sits there with a clerk, without any assessor, because no text requires it (Tepi, 2001).

The paradox between the evocation of custom and the absence of assessors in the appeal courts leads one to say that custom is a king without a throne or a source of law orphaned in the higher jurisdiction of the state. In these appellate courts, the magistrates give precedence to case law based on the principle that 'the finding belongs to the judge of the merits alone and which the Supreme Court cannot contradict, provided that it is not contrary to public order or to the general principles of law' (Tepi, 2001). For traditionalist litigants, the absence of assessors in these courts is a sign of cheating that absolutely requires the state courts to be challenged. This challenge is also based on the limitation of the territorial and material competence of custom, which extends from villages to districts and only in civil matters. The case law stipulates that (CS. CAMOR, 5 March 1963, Bull. No. 8, p. 541): 'in matters where it has been legislated, the law takes precedence over custom' is in keeping with the logic of the pure and simple banishment of traditional law. In addition to these facts, there are the constraints linked to legal proceedings before the official courts, which only serve to incite the revolt of traditionalist litigants.

¹A strategic interview following the swearing of a litigant at the Mokolo customary court. In fact, during the trial, we wondered who that man was who came to record the hearing and for what purposes did he do that. At the end of the hearing, we approached him like a common person in order to learn more. It was at that point that he approached the defendant who had just sworn and said the quoted words above. The investigations that followed made it possible for us to learn that he was a clerk working at the Court of First Instance.

3.3. Constraints linked to legal proceedings before the courts of positive law

The recriminations linked to proceedings before courts under the control of the state include the distance from the courts, the slowness of the proceedings, the language used in the courts, the cost of justice, and the penalties incurred. The distance between villages and the locations of official courts creates a gap between traditionalists and the justice of positive law (Ngoumbango Kohetto, 2013, p. 50) and reinforces the option for customary courts to be installed near traditional communities, such as tribes, communities or villages (Bokoli, 1997, p. 51). The slowness of the procedure before the courts of positive law contributes to the exclusion of these courts by traditionalist litigants (Haoua Lamine, 2007, p. 155). The procedural chain that runs from the introduction of the complaint to the hearing of the case is a long one.

The procedural chain that goes from the filing of the complaint to the auxiliary courts for investigation, the transmission of investigation reports to the courthouse, and the postponement of hearing dates reduces the credibility of positive law courts and increases the option for customary courts (Matakwan, interview of 17 May 2013 in Mokolo). The languages spoken and the vocabulary used in positive law courts increase distrust by less educated litigants (Adamou Zaibou, interview of 19 May 2013 in Mokolo), knowing that the translations made by interpreters are approximate (Ngoumbango Kohetto, 2013, p. 36).

The cost of justice represents another constraint that puts a gap between traditionalist litigants and the courts of positive law (Doucha André, interview of 16 July 2014 in Mora). In fact, traditionalist litigants who initiate legal proceedings in these courts face financial expenses that sometimes amount to several months of their income (Ngoumbango Kohetto, 2013, p. 52). These expenses include the costs of drafting complaints, the costs of justice itself, the fees of court officers, the fees and emoluments of lawyers, interpreters and guards, and law enforcement officers (Kadje, 2018, pp. 53-63). Finally, the corruption that plagues the entire public administration in general and that of the justice system in particular (Van Veen, D. Goff, T. Van Damme, 2015, pp. 47-48) makes less affluent litigants believe that only the rich are supposed to win the case before the courts of modern law (Dalta Tissouk, interview of 17 July 2014 in Tokombéré). The poor peasant, not being able to have enough money, will, therefore, have to consider these courts like those of the wealthy. Ngoumbango Kohetto (2013, p. 170) stated in this regard:

'The concern to improve their material conditions leads magistrates to be more attentive to the arguments of the more affluent litigants. Court officers, and more particularly lawyers, are not to be outdone. Rather than taking the trouble to plead a party's right, they prefer to compromise on the trial by making their client believe that this is the only possible solution. Such justice is far from equal for all and discriminates in favour of the wealthy and to the detriment of the poor, who represent the majority of the Central African population with little or no income.

Moreover, judges are influenced by the administrative authorities who, at any time, call on them to tilt decisions towards those that could benefit their family members. In this case, instead of judging, magistrates prefer to conciliate litigants so as not to impose a harsh sentence on a family member of administrative or political authority (Aoudi Bring, interview of 07 July 2014 in Mora). All these incongruities have contributed to the contestation of official jurisdictions through actions that are important to present.

4. The contestation of institutional justice and positive law

The contestation of official jurisdictions is attributable to the cheating that traditional litigants suffer from in the judicial process. The actions linked to this contestation are, in particular, the revival of the traditional dispute resolution agencies and the reconceptualisation of judicial pluralism.

4.1. The revival and implication of traditional dispute resolution agencies

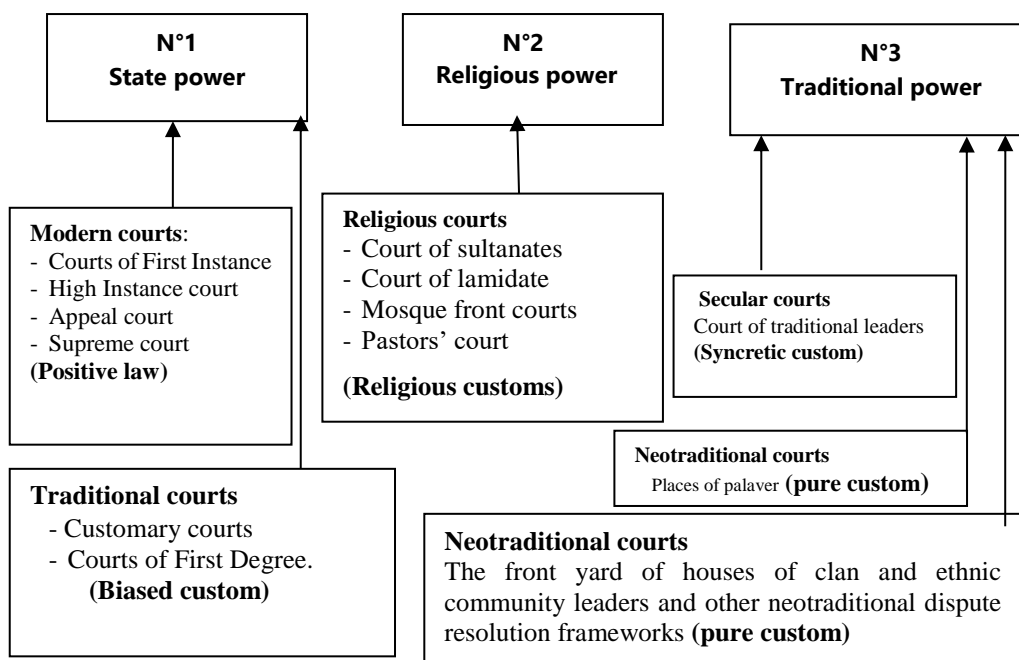
The revival and multiplication of traditional dispute resolution offices are one of the actions undertaken by traditionalists to counter the official courts. This action consisted in frequenting traditional, religious, and secular dispute resolution frameworks. The traditional frameworks consist of palavers presided over by the heads of families, clans, and tribes (Nkou Mvondo Prosper, 2002, pp. 369-381). The front of the houses of religious leaders such as church pastors, Imans, or sometimes even priests constitutes the religious court of justice. The populations of the villages being cosmopolitan, the fronts of their respective chiefs are reduced to secular courts of justice where litigants of various religions and traditions are received in the audience for the rendering of justice. As they are not recognized by the judicial organization, these dispute resolution bodies are called judicial offices or parallel jurisdictions (Nkou Mvondo Prosper, 2002, pp. 369-381). The option granted to each of these courts reduces the use of the official courts and limits the judicial power of the state over litigants. The use of each of these courts by litigants results in a loss of tax revenue related to judicial administration. Moreover, it reduces the state's claim to regulate most of its citizens' behavior to an empty shell designed to regulate only a tiny fraction of individuals' legal relationships (Vanderlinden, J. 2013, p. 108.). Furthermore, this contestation of justice has led to the reconceptualization of the concept of legal-judicial pluralism.

4.2. The reconceptualization of the concept of legal pluralism

In its determination to have a monopoly on judicial power, the state has established an official judicial pluralism in which there are, on the one hand, traditional jurisdictions specializing in customary matters and, on the other, modern jurisdictions responsible for promoting positive law (Haoua Lamine, 2007, pp. 97-98). In this government's view of pluralism, the religious and customary rights of local populations are the preserve of the traditional courts. The aim of this judicial pluralism under the control of the state is to put an end to the existence of places for the resolution of disputes that are not recognized by the judiciary and, therefore, to lead litigants to frequent only the jurisdictions under the control of the government. However, the dupes observed in the jurisdictions of this judicial pluralism have led to the return of traditionalist litigants to the dispute resolution offices that prevailed before the arrival of positive law and to the legitimization of other emerging frameworks for the delivery of justice (Bokalli Emmanuel Victor, 1997, pp. 53-55). From then on, we are witnessing the reconceptualisation of judicial pluralism with, on the one hand, legal or official judicial pluralism and, on the other hand, informal judicial pluralism.

Informal judicial pluralism is inspired by the theory of functionalism, which is conservative (Gunder A-F, Zagnoli N., 1969, p. 147). It is a theory that challenges the dependence of the law on central state power and combats the sanctions enacted by this power. This theory is reflected in the resistance of legal customs to the presence of imported systems. This resistance is understood through the conflict of norms. The outcome of this conflict is, on the one hand, the establishment of a syncretic system and, on the other hand, the multiplication of judicial bodies and decision-making centers independent of the governmental judiciary. From then on, the concept of informal pluralism or 'parallel pluralism' was used (Benack Pierre-Étienne, 2009, p.158). In North Cameroon, where the surveys were conducted in the Mandara Mountains, informal legal and judicial pluralism is characterized by the presence of three main central powers on which the courts depend. These are the state power, which is the legal one, and the traditional and religious powers that evolve in the informal system. The following diagram presents the two typologies of pluralism by classifying by affinity the jurisdictions dependent on each power.

Figure 1: Conceptual summary of judicial pluralism in Cameroon.



Source: Reading of the judicial organization of Cameroon through Decree n°69/DF/544 of 19 December 1969 and observation of the realities on the ground.

In this diagram, vertical line 1 corresponds to official judicial pluralism, i.e., that which is under the control of the State. The jurisdictions of this judicial pluralism include the courts responsible for applying custom and those responsible for applying positive law. However, custom, customary courts, and customary justiciars in this pluralism only exist in a figurative sense, for there is an overwhelming preponderance of positive law over custom, an overwhelming primacy of modern courts over traditional courts, and domination of professional magistrates over traditional justiciars. Vertical lines n°2 and n°3 constitute informal pluralism in the sense that the justiciars who practice there should only deal with the conciliation of litigants on the basis of custom (MINATD, 2001, p. 88). However, the latter does not limit themselves to conciliation only but extends their power to judgement, which involves customary or religious sanctions and punishments inflicted on the wrongdoers on the sly. Since adjudication is a

prerogative granted only to courts under the control of the state, actions taken in this direction by informal courts are seen as a violation of institutional rules. The muzzling of custom in the jurisdictions of official pluralism is also seen by traditionalist litigants, as well as by Ordinance No. 72/4 of August 1972 on the organization of the judiciary, as a strategy that consists of definitively erasing custom in order for only positive law to prevail (Melone Stanislas, p. 338). We are witnessing a clash of civilizations, the outcome of which makes it clear that the judicial pluralism in force in African countries in general, and in Cameroon in particular, is neither official nor informal but rather integrates the two, notably the official and the informal. This typology of pluralism, which could be called complete pluralism, is, in the context of this work, made up of all the lines n°1, n°2, and n°3. The expectations of the justiciars and litigants regarding the establishment of a compromise between custom and positive law in the official jurisdictions have stimulated the paradigmatic construction of other forms of judicial pluralism from the one in force.

5. The paradigmatic construction of judicial pluralisms that reconcile custom and positive law

Exploring other models of legal pluralism with a view to finding the most appropriate one to implement intelligently in the national sphere (Kenfack, 2009, pp. 53-160) is of particular concern to those who are justifiably and justifiably victimized by the vices of the current system. As a result of the recriminations made, several suggestions have been made to reconcile custom and positive law. Of the suggestions made, the most essential is the unification of customary courts with those of positive law and the balancing of powers between custom and law on the one hand and magistrates and justiciars on the other. This involves two main models of judicial pluralism: balanced judicial pluralism and merged or unified judicial pluralism.

5.1. Balanced judicial pluralism

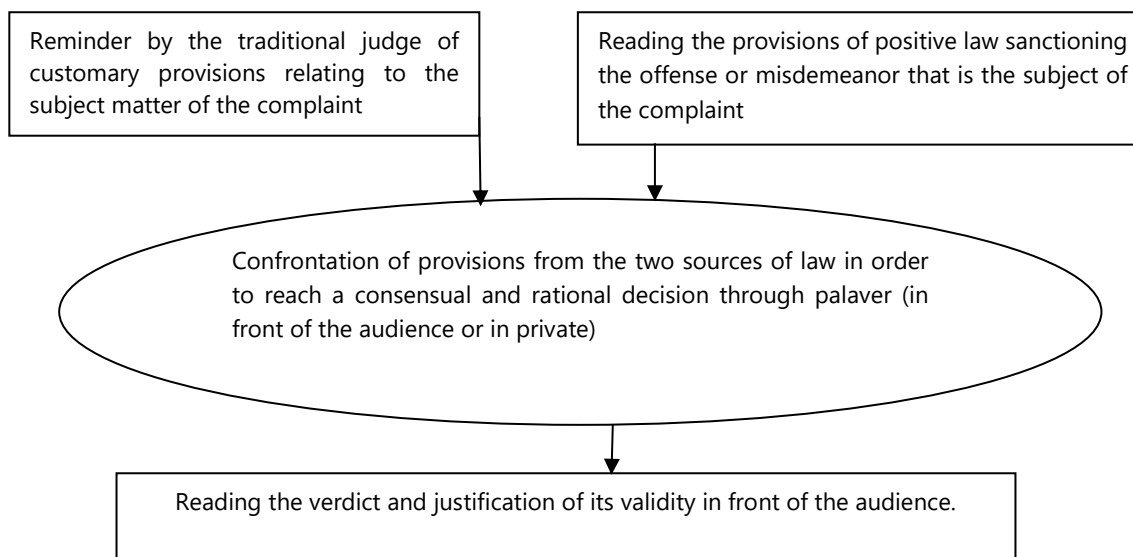
Balanced judicial pluralism advocates improving the current legal dualism (Melone Stanislas, 1986: pp. 328-329) by laying the foundations for parity between the sources of modern and traditional law. On the one hand, he would like traditional jurisdictions to be united with the so-called modern ones, and on the other hand, he would like the verdicts of the judgments to result from the confrontation between custom and positive law. This pluralism is based on the observation that traditional and modern jurisdictions are not really united in the judicial organization, but rather they are brought together in such a way as to better enable one to dominate over the other. In practice, balanced pluralism would mean, firstly, that at each hearing and on any matter, recourse is had to custom and modern law at the same time (Aoudi Bring, interview of 7 July 2014 in Mora). And that a consensus is reached following a debate between customary justiciars and professional magistrates, without prevailing power of tendency during trials (Ladé Masfé, interview of 16 July 2014 in Mora). And finally, a consensual decision is taken unanimously between the two camps of decision-makers (magistrates and assessors) in such a way as to favour either custom, or positive law, or even a median solution reflecting neither custom nor positive law (Dalta Tissouk, interview of 17 July 2014 in Tokombéré). The wishes of the litigants and the traditional judges who are in line with this pluralism are expressed as follows:

We are not against traditional jurisdictions devoted to customary matters placed under the control of the State. We are not against traditional courts dealing with customary matters under the control of the State. We just deplore the attempts to enforce custom in these courts, although everything is geared towards the principles of positive law. If we are to get close to these courts under the control of the State, there must be a balance between custom and modern law, between assessors and magistrates, and between the courts in charge of custom and those in charge of positive law. The palaver between customary justiciars and professional magistrates on each subject would contribute to better harmonizing legal and judicial practices and thus bring traditionalist litigants closer to the courts under the control of the state (Ladé Masfé, interview of 16 July 2014 in Mora).

As presented, balanced pluralism would meet the aspirations of traditionalist litigants for whom the palaver remains a privileged framework for resolving disputes. The deliberation that will take place in public, following debates between magistrates and assessors, would lead Africans to trust modern justice. It is in this light that it has been demonstrated that:

The recognition of the existence of rules, customs, and practices and their integration into statutory law can also be an opportunity to create a legal system that is more legitimate for citizens and can encourage the application of the law. While the search for adequate harmonisation between customary law and statutory systems is not an easy task, the possibility of harmonious coexistence of these two systems is now widely recognized. Such legal pluralism, in which different legal systems operate simultaneously, however, requires a lot of work on the part of the bodies responsible for developing it, as they must first identify existing customary law in order to adapt new legislation (Gruet Lucia (2015).

The decision-making procedure in the courts of balanced pluralism, as requested by litigants and traditionalist justiciars, with a view to reconciling modern law and custom, is interpreted by the following diagram:

Diagram 2: Decision-making procedure in the courts of balanced pluralism

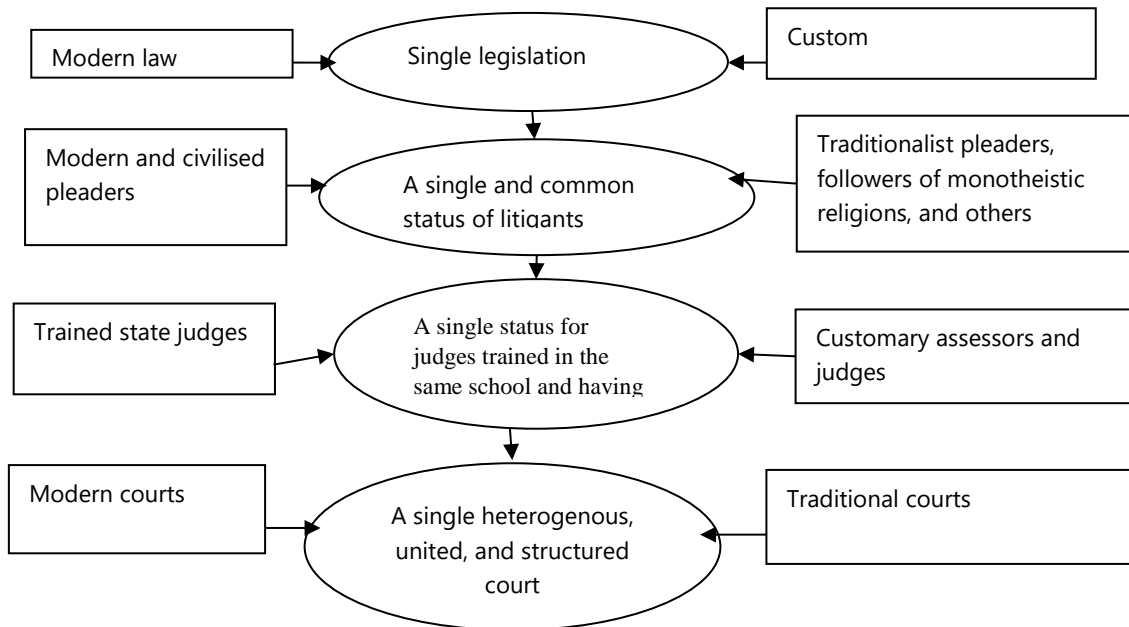
Source: Transcript of oral information received from Dalta, Aoudi, and Ladé.

To make this pluralism more effective, some challenges need to be addressed. These include the need to codify customs in order to move them out of orality, to increase the salaries of traditional judges, and to train them in appropriate schools on the knowledge and mastery of customs (Aoudi Bring, interview of 7 July 2014 in Mora). Once these challenges have been met, customary justices will find themselves free of inferiority complexes. Contempt will give way to social equality and mutual respect between professional and customary judges. One of the privileges of this judicial pluralism is the standardization of the status of litigants. This means that since custom and modern law are of equal value, litigants must have the same status and must have confidence in the courts under the control of the State.

5.2. Heterogeneous or unified judicial pluralism: a monism embodying pluralism

Heterogeneous judicial pluralism consists of the unification of the sources of law, the status of litigants, the judicial actors, and the jurisdictions. It is not only a question of creating laws and codes by bringing together general, impersonal rules, customs, models of conduct, and habits (Le Roy Etienne, 1997, p. 127) but also and above all of implementing them in a single type of jurisdiction. The ideal to be pursued by this pluralism is contained in the slogan: "one state, one jurisdiction, one source of national law, one status of the litigant, one typology of the judge" (Aoudi Bring, interview of 07 July 2014 in Mora). This system of pluralism is, in plain language, a legal monism resulting from a syncretism in which legal-judicial plurality is dissolved. It makes it possible to avoid the imposition of the rules of positive law and to combat the practices of traditional law deemed contrary to public order (Kenfack, 2009, p. 159). This system is illustrated in the following diagram:

Diagram 3: Nomenclature of heterogeneous or unified pluralism



Source: Transcript of oral information received from Aoudi Bring.

There are many challenges to be met in establishing this pluralism. First of all, there is the dislocation of the different statuses of litigants to retain a single status for all. The removal of all parallel jurisdictions (especially those independent of the State) through a mechanism of increased surveillance. The standardisation of the status of magistrates through training and awareness-raising programmes based on the exploitation of new legislation that combines custom and positive law. This typology of pluralism is being experimented with in Senegal, where:

statutory law, Islamic law, animist law, and Christian law were then mixed in a complex way. It provides a synthesis of law inspired by the French legal school, traditional law derived from local customs, and Islamic law derived from the Koran. Moreover, it makes it possible to unify these different legal statuses by reconciling the following objectives: (i) respect for the principles proclaimed by the Constitution, in particular gender equality (Constitution of Senegal, Article 1), (ii) respect for religious rules considered intangible for believers, and (iii) respect for certain traditional values (Gruet Lucia, 2015).

Thus, the establishment of heterogeneous or unified pluralism requires first of all that the international norms included as prolegomena in most of the world's constitutions be taken into account. These are the principles of freedom and equality set out in the preamble to article 65 of law n°96/06 of 18 January 1996, which is reserved for the Cameroonian constitution in the following terms: 'The Cameroonian people... affirm their attachment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations, the African Charter of Human and Peoples' Rights, and all the international conventions relating to them' (OMBIONO Simeon, 1996, p.148). And secondly, respect for these rules in order to set aside inhumane practices under traditional African law that are in flagrant contradiction with international conventions on the protection of fundamental human rights (Kenfack, 2009, p.159).

5. Conclusion

At the end of this study, it is important to remember that the aim was to show the links between the complaints made against the official courts, the repercussions of these complaints, and the suggestions for reconciling custom and positive law in the official courts. It is clear that litigants criticize the preponderance of positive law over custom, the domination of assessors by professional magistrates, and the overwhelming preponderance of modern courts over customary courts. They also deplore the slowness of legal proceedings, the cost of justice, the remoteness of the courts, the corruption of the judicial authorities, and the sanctions provided for in the penal code. As a response to the jurisdictions implementing positive law, traditionalist litigants have revived dispute settlement offices in villages and urban areas, whose principles are in line with local customs. For these traditionalist litigants, confidence in the official courts can only be achieved following the reform of judicial pluralism so as to make custom effective in these courts. To this end, they propose two paradigmatic models of judicial pluralism that can reconcile positive law and custom. These are respectively balanced pluralism and heterogeneous pluralism. These models advocate, among other things,

reconciling law and custom, uniting customary jurisdictions with those of the courts, valuing assessors in the same way as professional magistrates, and confronting customary rules with those of positive law during hearings, before any verdict is pronounced. If some countries, such as Mali, have been able to reconcile custom and law in the courts, can we not do the same in Cameroon? This outline of solutions to the recriminations of traditional justiciars and litigants remains perfectible and constitutes a vast field of research for specialists in the question of reform of legal and judicial systems.

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