

Appraising the Disparity in the Granting of Bail in the Common Law and Civil Law Jurisdictions of Cameroon: A Practice-Based Perspective

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Abstract:

This paper examines the granting of bail in criminal litigations in the Common law and Civil law jurisdictions of Cameroon, an evaluation from a practice-based perspective. Bail which is temporal liberty granted to suspects, accused persons and defendants during criminal litigation is one of the novelty introduced especially to the Civil law jurisdiction of Cameroon. Bail is a right on its own and a right associated by other rights such as the right to freedom, fair trial and presumption of innocence which are all human rights protected by the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and the African Charter of Human and People's right. Under domestic law, bail is protected by the by the CPC and the law on Judicial Organization of Cameroon. The harmonized Criminal Procedure Code of 2005 makes provisions for three types of bails, namely; Self-bail, Conditional bail and bail on surety. However, it has been observed that the exist a disparity in the manner in which bail processed within the Common law and Civil law jurisdictions in Cameroon, whereas the laws revaluating bail is harmonized and of general application. This paper investigations the reasons of such a disparity and make relevant recommendations.

Keywords:

Granting, Bail, Criminal litigation, Common law, Civil Law, Jurisdictions.

The concept of bail is rooted in criminal litigations from time immemorial and has gone through so many interpretations and modifications in the various legal systems in the world and yet none of these judicial system has attained perfection due to the complexity of interests in its application and execution. Renowned jurist, Krishna Iyer, J. remarked that the subject of bail: — “.....belongs to the blurred area of the criminal justice system and largely hinges on the hunch of the bench, otherwise called judicial discretion. The Code is cryptic on this topic and the Court prefers to be tacit, be the order custodial or not. And yet, the issue is one of liberty, justice, public safety and burden of public treasury all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process”.¹

The concept of bail in criminal litigations provides temporal liberty to suspects, defendants and accused persons who otherwise would have been detained. The fundamental reason why bail is granted is because the suspect or accused is presumed innocent until proven guilty after a full trial. States therefore become prudent not to deprive their citizens of their right to liberty in fear of the outcome of a trail which could declare them not guilty. The

¹ Anubhav, K. *Law of bails: An overview in the light of recent judgments*, Published in CRLJ 2014

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state is also duty bound to provide fair trial to the citizens and it is obvious that only a free person, or a person who has not been deprived of his liberty can properly brief a counsel, gather proofs for his defense etc. From the foregoing it is established that right to liberty, presumption of innocence and right to fair trial are all human rights directly associated to the right of bail. Bail as a concept is protected under international law and domestic laws. In Cameroon, the legislator has put in place mechanisms, both of legal and institutional perspectives, to regulate the enforcement of the concept of bail. Some of these mechanisms although of an international dimension are applicable in the country based on article 45 of the Cameroon Constitution of 1996 that incorporates ratified human rights treaties as part of Cameroonian law. At the international level, several human rights instruments protect the right to bail including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, just to name a few. At the domestic level, a plethora of municipal legislation guarantee the exercise of this right including the Cameroon Constitution, the Penal Code, the Criminal Procedure Code of 2005 and the law on Judicial Organization of 2006. In addition, several institutions are mandated to protect this right both at the international and municipal levels. These include, among others the United Nations and Specialized Organs like, the United Nations High Commissioner, Human Right Council, African Commission on Human and People's Right, the Courts, the Procureur General of the Courts of Appeal, the State Counsel, the Examining Magistrates, the Judicial Police Officers just to name a few

Right to provisional liberty during criminal litigation is provided by the provisions of section 218(1) of the CPC which provides that remand in custody shall be an exceptional measure which shall not be ordered except in the cases of a misdemeanor or a felony. The CPC further provides for provisional liberty during criminal proceedings either during police investigations, preliminary inquiries by the Examining Magistrate or during trials even during appeals. The CPC provides for Self-Bail², Conditional Bail³ and bail on surety⁴. Furthermore while Section 236 imposes compensation for illegal detention,⁵ Section 3 sanctions against the infringement of any rule of criminal procedure with absolute nullity when it is prejudicial to the rights of the defense as defined by the legal provisions in force. The right of liberty is protected in the Cameroon penal code.⁶ Its section 291 punishes with an imprisonment terms of 5 years and with a fine ranging from 20.000 Frs. to 1.000.000 anyone who infringes on the liberty of another, the imprisonment term is further increased from 10 years to 20 years if the victim was deprived of his liberty for more than a month, if the victim is subject to physical and moral torture and if the victim was arrested with the use of a fake public order, or if the officer is using an illegal uniform or on a fake capacity.

² Section 222 of the CPC

³ Section 224 of the CPC

⁴ Section 228 of the CPC

⁵Section 236(1) Any person who has been illegally detained may, when the proceedings end in a no-case ruling or an acquittal which has become final, obtain compensation if he proves that he has actually suffered injury of a particular serious nature as a result of such detention.

⁶Law number 65-LF-24 of 12 November 1965, as amended and modified by law number 2016/007 of 12 July 2016

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1. The concept of bail and the regulatory framework

Bail was developed to grant temporal liberty during criminal litigations to suspect, defendant or accused person as opposed to one of the main purpose of criminal law which is Incapacitation (Incarceration). Timothy R. Schnacke, Michael R. Jones and Claire M. B. Brooker⁷ trace the history of bail to ancient Rome and that the American understanding of bail is derived from 1,000-year-old English roots. They identified that the study of this “modern” history of bail reveals two fundamental themes; the reflection by the judicial officer’s prediction of trial outcome and, the prediction of a defendant’s probability of making all court appearances and not committing any new crimes. Tanyi Joseph Mbi⁸ an attorney at law examined the concept of bail is a constitutional right enshrined in the preamble of the Cameroon 1996 Constitution pulling its strength from the Universal Declaration of Human Rights under the notion of the presumption of innocence, meaning that an accused is always presumed to be innocent until he/she is proven guilty by a competent court of law.

In colonial America, bail was patterned after the English law. While some colonial initiated their own laws which were very similar to English statutes, others simply guaranteed their subjects the same protections guaranteed to British citizens. When the colonies became independent in 1776, however, they could no longer simply insure the protections of English law. Accordingly, the colonies enacted specific bail laws.⁹ In the modern English bail system monetary payments play a very small role. Securities and sureties can be taken as conditions for being granted bail, but these amounts are not excessive. Wider restrictions such as [curfews](#), [electronic monitoring](#), presenting at a [police station](#), and limits on meeting specific people or going to specific places are more common conditions.

In France which is applying the Civil law legal system, after arrest, you are kept in detention in a police cell, this is called police custody (*garde à vue*). The general rule is that you cannot remain in police custody for more than 24 hours from the time of your arrest. However, police custody can last another 24 hours in specific circumstances, especially if the offence is punishable by at least one year’s imprisonment. At the end of police custody, if the decision is made to accuse you of a crime, a judge (*juge des libertes et de la detention*) will decide whether to order your detention (in a prison) prior to your trial.

In Cameroon East of the Mungo practicing the Civil Law System, the concept of bail can be divided into three phases, the phase before the independence of La Republic du Cameroun, the phase after 1972 and the phase after 2007 when the criminal procedure was harmonized and of general application in the Civil Law and Common Law Jurisdictions of the Republic of Cameroon. From an interview conducted with the Former President of the Cameroon Bar Council, Senior Barrister Charles Tchoungang, he expressed that during the period before independence and some years after independence, criminal justice in the Cameroon East of the Mungo of Civil Law extraction was administered by French

⁷T R. Schnacke, et al, *supra*

⁸ J.M Tanyi., *Law Without Boundaries: Bail in Criminal Offenses* (Upstation Mountain Club publication, 2006)

⁹ Professional Bail Agent of the United States; History of Bail. Available online on <http://www.pb.us.com/page/14.1996-2021>. Accessed 03/01/2022 at 1pm

magistrates and bail was granted to suspects, accused persons and defendants though on a reduced scale as opposed to the Cameroon West of the Mungo practicing the Common Law where bail was a general rule and remand to custody an exception. That with the advent of marquis activities, the new government of Cameroon was not comfortable that the French magistrates easily set free or granted bail to suspects arrested for crimes against what they termed crimes against the State.

Bail is enforced in many countries as a protected right. Some countries have even adopted it as a constitutional right. The India Supreme Court laid down a judicial principle of bail as a right in a landmark judgement of *State of Rajasthan v. Balchand alias Baliya* in 1978¹⁰. In Cameroon the right to provisional or temporal liberty (Bail) during criminal litigation regulated by both international and municipal laws. Under international law bail is provided as a right associated to the right of liberty, presumption of innocence and right to fair trial. These human rights in turn are protected by the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, The African Charter on Human and People's Right etc while under municipal law, the right to bail is provided for in the Criminal Procedure Code of 2005 and the Law on Judicial Organization of 2006. These laws have empowered certain institutions like the judicial police officers, the Examining Magistrates and the Courts to grant bail during criminal litigations.

2. Divergence in the application of bail in the Common Law and Civil Law Jurisdictions

From personal observations as a practicing lawyer in both the Common Law and Civil Law jurisdictions of Cameroon, supported by the overwhelming observation of the legal practitioners in a focus group for this research, it is irrefutable that there exists a disparity in the manner in which bail is administered within the Common Law jurisdiction and the Civil Law jurisdiction of Cameroon whereas the laws regulating the granting of bail is harmonized and of general application. There sufficient proofs that the processing of bail is more effective in the Common law jurisdiction than in the Civil law jurisdiction. The cases of *Manka Nchotu v. The people & Chanje Fomou Mohamed*¹¹, the Judicial Police Officer of the Regional gendarmerie Douala issued an "avis de recherché" against the suspect and proceeded to her arrest, remand into custody and denied bail. The following cases; *Ibrahim Bello*¹², *Martin Camus Mimb*¹³, *Sophrey Hamilton & Ngah Gabriel For*¹⁴, *Mvogo Emeline & others Vs The People and Amougou Belinga Jean Pierre*,¹⁵ Yvan

¹⁰ *State of Rajasthan v. Balchand alias Baliya* 1977 AIR 2447, 1978 SCR (1) 535. Author: V Krishnaier.

¹¹ *Nchuto Manka Vs. The people and Chanje Fomou Mohamed*; Barrister Nkamwah Limen for the accused. TPI Ndokoti-Douala Unreported

¹² *supra*

¹³ *Supra*

¹⁴ Preliminary inquiry, Court of First Instance Douala-Bonanjo 2021

¹⁵ Actucameroun: *Amougou Belinga Case: the head of the tax office for the Centre transferred to Kondengui*. Published on 19, March 2022 available online at <https://actucameroun.com/2022/05/19/Amougou-Belinga-case-the-head-of-the-tax-office-for-the-Centre-transferred-to-Kondengui> (actucameroun.com) visited on 23 June 2022 at 2:13pm

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*Telecom Sarl, Weledji Raphael & others v.. The People and Ecobank S.A*¹⁶, *Kodock Bissoye Jean v. The People*¹⁷, *Tamfu Richard and others Vs. The People, Eteki Wilfred & others v. The People and Sango Bayemi, Iwumezie Ifeanzi Kellim v. The People and Hortensia Zhu Zhu, Dibonji Jean Jacques v. The People and Ste Grace Sarl*¹⁸ further demonstrates the unwillingness of the granting officers during police investigations, the Legal Department, during Preliminary Inquiries or in Court to grant bail in the Civil law jurisdiction as opposed to the following cases; *Kongso Antoinette Gohla v. The People of Cameroon*¹⁹, *Dido Motomba v. The People*,²⁰ *Adamu Yusuf alias Njoya v. The People*,²¹ *Lucia Ngwe Mbungson v. The People*,²² demonstrate sufficiently the willingness to grant bail in the Common law jurisdiction of Cameroon.

1. The Relative Effectiveness of Bail in the Common Law Jurisdiction

It is observed that there is a disparity in processing of bail within the two legal systems of Cameroon whereas the Criminal Procedure Code and the Law on Judicial Organization is harmonized and of general application in Cameroon since 2007. In an interview conducted with Senior Barrister Ntumfor Nico Halle, former president of the General Assembly of the Cameroon Bar Association, he disclosed that there exist a disparity in the application of bail within Common law and Civil law jurisdictions in Cameroon. He suggest that these disparity exist as a result in the manner in which the two legal systems treat some very pertinent values and concepts such as; human right, rule of law, respect for due procedure, discretionary power of the judiciary²³. Senior Barrister Achu Julius justifies the disparity by saying that bail had long been practiced in the Common law jurisdiction and only became applicable in the Civil law jurisdiction in 2007²⁴. We shall examine each of these concepts and analyze how they affect the granting of bail in Cameroon to justify the disparity existing between the two legal systems.

4.1 More respect for due process and human rights in the Common law than Civil Law jurisdictions.

As earlier seen in this work, the judicial police officer is one of the organs empowered by the CPC to grant bail to suspects during police investigation which is generally carried out under the supervision of the State Counsel. From general observations as practicing lawyer and supported by the findings of other researchers, there exist a difference in the mentality of these officers working in the two jurisdictions of Cameroon. It is observed that, the judicial police officers in the Common Law jurisdiction respect the rule of law, human

¹⁶ Examining Magistrate Court of First instance Douala-Bonanjo 2021 unreported

¹⁷ Judgement No.073/CCI of 6 July 2012 (unreported)

¹⁸ Court of First Instance Douala-Bonanjo 2022 un reported

¹⁹ supra

²⁰ Ruling in Suit No CASWR/10M/CR/2011 OF 18 JUNE 2011(unreported)

²¹ Ruling No 34/MSM/2018 of 11 December 2018 (unreported)

²² Ruling in suit No. CASSWP/13CRA/2016 of September 2016(unreported)

²³ Interview conducted on the 14th February 2022 at 2:31pm in his chambers in Douala

²⁴ Interviewed in Douala on 14th February 2022 at 10 in his chambers

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rights and the right to bail as compare to the judicial police officers in the Civil Law jurisdiction of Cameroon. Ebai Eban, analyzed in his research that until January 2007, the absence of a harmonized Criminal Procedure Code in Cameroon constituted a major problem in the demand for criminal liability of the police in particular and the administration of criminal justice in general. In the English speaking part of the country like in all other Anglo-Saxon accusatory system, the burden of proof was entirely on the prosecution (police). When an officer decided to make an arrest, he knew he was liable to be called upon to justify his actions before a court. This acted as a valuable restraint to the abuse of his powers knowing that he would be subjected to questioning in court. In French speaking Cameroon, the police was not questioned and an accused was only allowed to have a lawyer at the trial stage. The primary investigation was done and evidence taken without the presence of a lawyer. A police officer was not called to justify (examine) his actions before the court. These principles clothe every officer in the French speaking part of the country with arresting authority with an arbitrary power and negated the rule of law. The introduction of the system of examination in the harmonized criminal procedure code makes it possible for the judicial police officers throughout the Republic of Cameroon to be cross-examined in court (CCPC, S.331(1), (2) and (3); S.332(1)). This procedure though at the discretion of the court enables the judge or the examining magistrate to enjoy considerable authority even in relation to senior police officers, whose reports can be criticized in open court²⁵. It also gives the judge the opportunity to personally interrogate the judicial police officer about the course of the police investigation and the circumstances of the confession. The police experience the judge's power to control and sanction their behavior in a public trial. Moreover, the public sees for itself that police officers have limited powers and that there is a controlling authority strong enough to protect individual rights against abusive State power. However, it is hoped that the provisions that have offered judges the discretion whether or not to examine and cross-examine litigants including the police in court will not act as a window to let the police out the net of examination and cross examination. Giving the dictatorial nature of the Cameroon government and the continuous relevance of regime policing, the government is most likely to prevent the exposure of an officer by way of examination or cross examination by the court especially in cases where the crime was committed with the complicity of the government. In this situation, a judge would obviously opt not to examine or cross examine any security official in court if he discovers that examination would expose the police and endanger his career or person. Also the fact that cross-examination is optional still makes it possible for the practice in Francophone Cameroon to prevail, whereby a written report of the police officer about his interrogation of the accused could be substituted for his personal appearance at the trial.²⁶ It is for the above reasons that there is relative success of

²⁵ Peter Bringer, 1981 available online at <https://www.gsk.de>lawyers>dr-peter-bringer>. Accessed 17/08/2022 at 13:22

²⁶ Ebai Eban; African Journal of Criminology and Justice Studies: AJCJS, Vol.5, #s1 &2 *Criminal liability of the Police in Cameroon: Prospects and Challenges*. Available online at [African Journal of Criminology and Justice Studies: AJCJS, Vol.4, No.1 \(umes.edu\)](https://www.umes.edu) pages 130 – 131 Accessed 11/03/2022 at 3pm

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bail in criminal litigations in the Common law jurisdiction as opposed to the Civil law jurisdiction of Cameroon.

4.2 Negative reliance on discretionary powers in the Civil law jurisdiction as opposed to Common Law jurisdictions

Discretionary power is a power which gives an administrative authority some degree of latitude as regards the decision to be taken, enabling it to choose from among several legally admissible decisions the one which it finds to be the most appropriate. One noticeable feature of modern legal systems is the extent to which power is conferred upon government officials and agencies to be exercised at their discretion, according to policy considerations rather than according to the precise legal standards. As observed earlier in this work, safe for bail in simple offenses which is mandatory, bail is discretionary in cases of misdemeanors and not granted for felonies which punishment of life imprisonment or a death. The discretionary powers of the granting authority is therefore very important in the granting of bail and the law doesn't define what should influence the discretionary powers of the granting authority. My personal observation as a practicing lawyer in both jurisdictions corroborated by Senior Barrister Achu Julius, a seasoned lawyer equally practicing in both jurisdiction, is that the manner in which the discretionary power is perceived and used by the judicial officers differs between the civil law and Common Law jurisdictions of Cameroon. While the judicial officers and magistrates use it positively in the Common Law jurisdiction like was seen the case of *Dido Motomba v. The People*,²⁷ where the court used its discretion to bail upon superficial examination of the grounds of appeal, the South- West Court of Appeal found that the Judgment maybe quashed because of the excessive and illegal sentence handed down by the Court, the judicial officers in the Civil law rather use it negatively to justify their refusal to grant bail. They say it clearly that the law does not obliged them to grant bail.

From the inception of the civil law, equity was fused with the law whereas in the common law equity is regarded as a separate branch of law – that is why the prime objective of the civil law is to ensure justice through the adoption of principles of equity whereas that of the common law is to create an avenue through which justice could be achieved. Small wonder that civil law is substance-oriented whereas the common law is procedural-oriented. This seems to justify why the judicial officers in the Common law jurisdiction use their discretionary powers positively and grant bail as opposed to their counterparts in the Civil law jurisdiction in Cameroon. Thus while the legal practitioners in the Civil law apply the law as it is, the Common Law practitioners moderate the law with morals, fairness and good reasoning which are elements capable of shaping the use of discretionary powers positively. The disparity in the processing of bail which is granted by the discretion of the officer. While the common law officers and magistrates use this power positively, the officers and magistrates of the Civil Law jurisdictions use it negatively to deny bail or extort money before granting bail. This equally play on the attitude of the courts towards

²⁷ Ruling in Suit No CASWR/10M/CR/2011 OF 18 JUNE 2011(unreported)

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the granting of bail. Due to the negative interpretation of discretionary powers in the civil law jurisdiction, the outcome is often a rejection to grant bail contrary to what obtains in the common law jurisdictions. Another implication is the prevalence of corruption in the bail process in the civil law jurisdictions compared with the common law jurisdictions.

4.3 The prevalence of corruption in the bail process in Civil law jurisdiction as opposed to the Common Law jurisdiction

The country is riddled with corruption but the negative use of discretionary powers in the granting of bail has increased incidences of corruption in the bail process in the civil law than common law jurisdictions. The administration of bail is plagued by corruption which is identified to be more in the Civil law jurisdiction where bail is sold probably because its application remains at the discretion of the granting officer as opposed to the Common law jurisdiction where bail is considered a right. In justifying such a difference in the rate of corruption between the English speaking West African countries as opposed to the high level of corruption of the French speaking countries, Transparency international explained that Judicial corruption in francophone West Africa stems from the systematic interference of the other branches of the government and the politicization of the affairs of the judiciary²⁸, combined with a lack of transparency and a distance from users that prevent citizens from holding magistrates to account²⁹.

The civil law judicial system was structured under colonization to mirror the French system. Some experts say that, after decolonization, West African states inherited the poor status and meagre resources of the judiciary in France prior to 1960. The relative initial homogeneity of these judicial structures has since been challenged by the many reforms undertaken since decolonization that have led to greater diversity between the organization of judiciary in the countries of the region include the publication of a bulletin on human and democratic rights. In many francophone West African countries the nomination of judges, after the successful completion of the judicial examination, is based on suggestions from *Conseil supérieur de la magistrature* (Judicial Council), composed of members of the executive and judicial branches of government as well as external individuals recognized for their intellectual and ethical authority. However, the strong influence of the executive

²⁸ Sofia Wickberg; Transparency International; *Initiative to reduce corruption in the judiciary in Francophone West Africa*, Published 9 May 2014 available online at <https://knowledgehub.transparency.org/helpdesk/initiative-to-reduce-corruption-in-the-judiciary-in-francophone-west-africa>, Accessed 11/07/2022 at 11:45am

²⁹ They presented initiatives in an attempt to reduce corruption by addressing the issues and make the judiciary more transparent, independent and accountable. Social accountability initiatives as well as programs focusing on the use of technology are featured as they have become increasingly popular methods of measuring accountability and transparency. They indicated that the judiciary is perceived by citizens of many West African countries to be a very corrupt institution. That in both in Senegal and Cameroon, respondents to Transparency International's Global Corruption Barometer, a representative household survey, placed the judiciary among the top three most corrupt institutions, with 73 per cent and 81 per cent of respondents respectively indicating that the judiciary was corrupt or extremely corrupt (Transparency International 2013)

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power on these councils prevents them from guaranteeing the independence of the judiciary.³⁰

The foregoing suggest that the rate of corruption which is higher in the Civil law jurisdiction affects the processing of bail. Many litigants cannot afford the amount needed to bribe in order to be granted bail. The judicial officers in civil law jurisdiction exploit the fact that granting of bail is discretionary and make money in the process. This explains why bail is easily granted in the Common law jurisdiction than the Civil law jurisdiction of Cameroon and therefore presents a disparity in the administration of the laws regulating bail in Cameroon. The discretionary power of granting bail constitute one of the weaknesses of the CPC.

4.4 Non-traditional notion of bail in the Civil law jurisdiction as opposed to the common Law jurisdiction

There is a biblical saying that ‘Knock and it shall be open, ask and it shall be given.’ With the exceptions of bail as of right in simple offences and bail granted *suo moto* by the judicial officer, bail generally must be applied for, either orally or in writing by the suspect, accused or defendant. However for one to apply for bail, he must *prima facie* know of the existence and the procedure of applying for bail. While the persons in the Common jurisdiction of Cameroon by their colonial past know and have enjoyed the granting of bail during criminal litigations, this concept is strange in the Civil law jurisdictions which before the promulgation of the CPC were using the “*Code d’instruction Criminelle*.” by this code, a suspect was either remanded into custody or released out rightly or temporary (*liberte provisoire*) and there was no need for any security or an undertaking for him to appear at a given date and time. Whenever he is needed, he will be summoned to appear. *Stricto sensu*, there is neither a word in French legal jargon that is the exact equivalent of the word “bail,” nor is there a concept under the continental Civil Law system that is perfectly identical to the concept of bail. The only concept that looks like bail is that of “*liberte provisoire sous caution*” as provided for by the article 113, 114 and 120 of the repealed CIC; but it had a restricted scope of application, for it could be granted only by Examining Magistrate and applicable only where the imprisonment sentence was more than six months.³¹ From this background, many people in the Civil Law jurisdiction of Cameroon are still not aware of the modification brought by the CPC relating to the granting of bail in criminal litigations. In law, the courts do not give what a party has asked. There are relatively fewer applications for bail in the Civil law jurisdiction as opposed to the Common law jurisdiction, reasons being that there applications for bail in the Civil law jurisdiction since litigants are not aware of its existence.

³⁰Transparency International; [Initiatives to reduce corruption in the judiciary in francophone West Africa 333 2014.pdf \(transparency.org\)](https://www.transparency.org/pdfs/333_2014.pdf) available online at <https://knowlegdehub.transparency.org> visited on 10/03/22 at 2pm.

³¹ Fonkwe J Fongand & Eware Ashu supra

2. CONCLUSION

Bail presupposes that an individual who ought to be under detention is granted freedom or liberty in the fulfilment of certain conditions. The person release is requested to appear on a given date and place for the continuation of either the investigation or trial against him is deeply rooted in the criminal law of Cameroon. Both the domestic and international legal instruments promoting and enforcing the processing of bail in criminal litigation are harmonized and of general application in Cameroon. This article has pinpointed the reasons why there exist disparity in the processing of bail within the two legal systems in Cameroon.

However this gap or disparity in the application of bail within the two legal systems in Cameroon can be reduced or eradicated this disparity, there is need for: law reform. The provisions of sections 118(2) and 218(1) should be revised. Contrary to the present disposition of section 118(2) to the effect that bail should not be granted in cases of felony or a misdemeanor committed flagrante delicto, bail should be granted to all the offenses especially because the offenders at this benefit from the presumption of innocence; Regular training of judicial officials, the government should organize constant training sessions to drill these officers on the necessity of granting bail and the implications of not respecting the laws and institutions put in place for the processing of bail and equally organized exchange programs where some officers from the Civil law jurisdiction are sent to the Common law jurisdiction to experience how bail is process in that jurisdiction. This will go a long way to reduce the disparity in the processing of bail within the two jurisdictions and therefore improve on our human right records; Strengthening Judicial Independence. The Legal Department and the courts should stop acting as an arm of the executive and promote the independence of the judiciary. The government should stop interfering with the decisions of granting bail especially in matters where the State is having an interest; the discretionary powers in the granting of bail should be guided by good reasoning and not used as a means to extort money from suspects, accused persons or defendants before granting them bail.

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