

# **THE RIGHT TO FAIR TRIAL AS GUARANTEED UNDER THE CAMEROON CRIMINAL LAW SYSTEM: A CRITICAL APPRAISAL OF THE CAMEROON CRIMINAL PROCEDURE CODE**

Written by *Bolima Sylvia Ambang*

*PhD Holder, University of Yaounde II Soa, Cameroon*

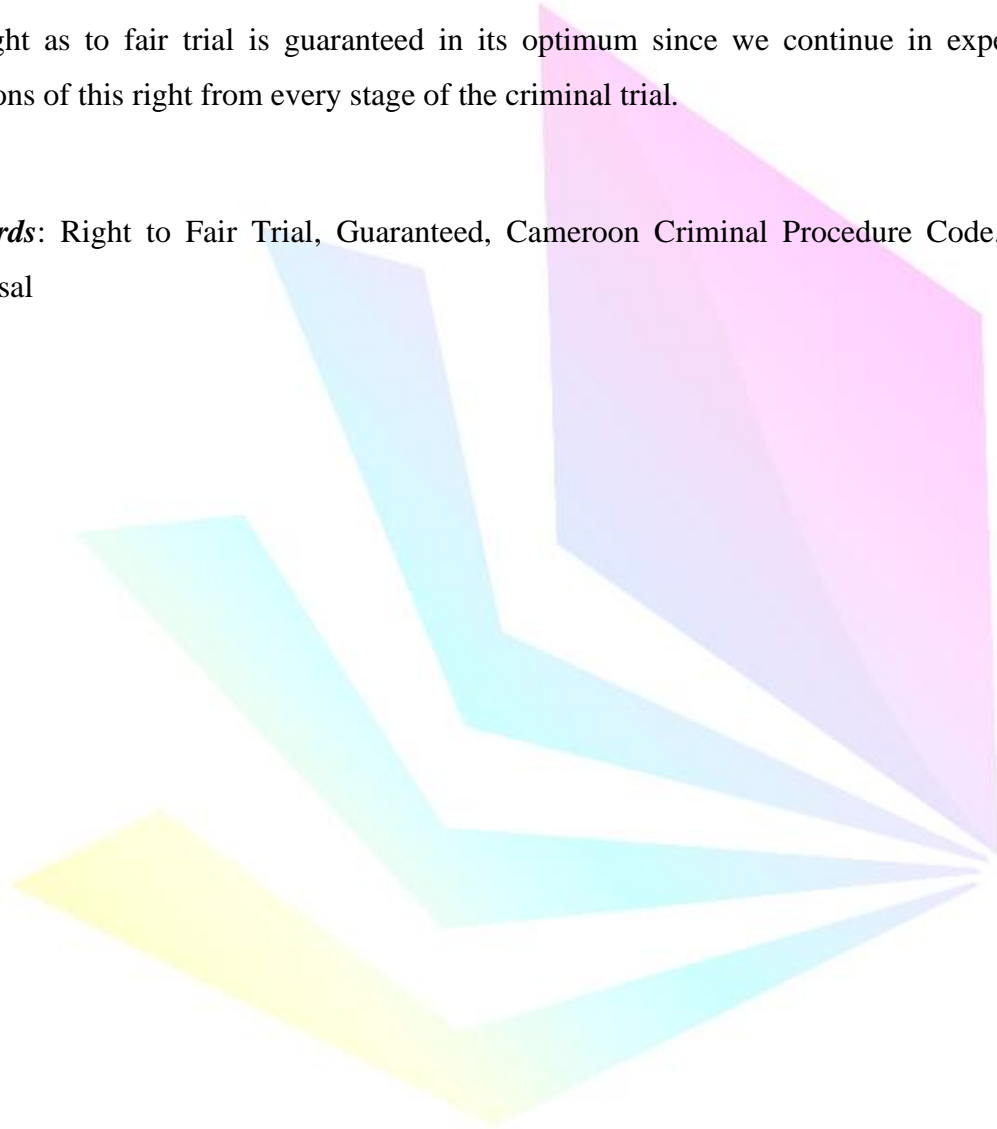
---

## **ABSTRACT**

The right to fair trial is a fundamental safeguard in ensuring that individuals are protected from aspect of unlawful or arbitrary deprivation of their human rights and freedoms, especially the right to those pertaining to liberty and security of person. It relates to the administration of justice in both civil and criminal proceedings. The administration of justice entails two aspects: the institutional, which comprises an independent and impartial court or tribunal; and procedural, which focuses on a fair and public hearing. This right is an aspect of international recognition of human right which is designed in protecting individuals from unlawful or arbitrary deprivation of his or her basic right of freedom. This right has been enshrined and laid down in relevant legal dispositions like that of article 14 of the International Covenant on Civil and Political Right 1966 which provides that “*everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law*”. Cameroon on its part has contributed immeasurably in ensuring that this right as stipulated in international documents as to fair trial, acknowledged in their local laws and legislation especially in the country constitution being the most important law of the land, and its Criminal Procedure Code ensuring the safeguard of this fundamental human right protection. Even though with the establishment of relevant criminal dispositions and laws, these laws, for a long period, have become obscure and obsolete in its applicability in respect of the guaranteed that parties are being giving as to the safeguard and respect of this right of fair trail, be it at the pre-trial, trial and even post trial phase of the Criminal Procedure Code. The objective of this paper is in

entertaining whether the Cameroon Criminal Procedure Code has really ensured in its relevant provisions that right as to fair trial stipulated in international dispositions are enforced to the latter. Have parties involved in the trial process enjoyed this fundamental protection offered by acceptable and recognised human right instruments in which Cameroon is a party in respect of the right of fair trial? What has the Cameroon Criminal Procedure Code done in ensuring that this right as to fair trial is guaranteed in its optimum since we continue in experiencing violations of this right from every stage of the criminal trial.

**Keywords:** Right to Fair Trial, Guaranteed, Cameroon Criminal Procedure Code, Critical Appraisal



## **INTRODUCTION**

The administration of justice in Cameroon is based on substantive and procedural, customary, as well as, aspects of general principles of law. Cameroon has ratified many treaties and international law which have overriding effects on national law and procedure when it comes to fair trial. This right as to fair trial is a foundational principle of every stable and democratic society. This norm facilitates due legal processes and manifests the rule of law in all aspects of the administration of justice. That is why various national and international legal regimes establish safeguards for guaranteeing this fundamental right in aspect of trials. Universally recognized for some time both at the international and national level, the right to a fair trial is fundamental to humankind, and closely connected with the principles of natural justice. Notwithstanding the harmony of application under the Cameroon Criminal Procedure system<sup>i</sup>, fair trial rights possess an ‘inherent proclivity towards criminal trials.’ Being a fundamental right, the right to a fair trial contains unchallengeable principles which those bestowed with the sole responsibility in the strict administration of justice must ensure that this right is being respected and guaranteed to the latter without any lacuna of infringement or violation. These principles as to the implementation and enforcement of such right accompanied by rules and procedures are implemented during the entire process of a court trial.<sup>ii</sup> The issue here is in verifying whether this right has been stipulated in relevant human right disposition in which the state of Cameroon has implemented in traverse its national laws and dispositions. In order in providing a refined response as to the inside or understanding of this inherent right of every given society especially that under discussion, one will be tempted in posing certain fundamental questions as to understanding the concept of this right as to fair trial, and even having an overview of its rational or objectivity in order to be ascertain that the State of Cameroon has really on its part respected this right before engaging to its protection and effective guaranteed.

## **UNDERSTANDING THE NOTION OF THE RIGHT TO FAIR TRIAL**

The right to fair trial comprises of rights that guaranteed the minimum protection that is offered to an individual during a process be it civil or criminal process. It is mostly advantageous to an

accused in a criminal trial to acquire a minimum procedural protection during the administration of justice through an independent and impartial court or tribunal. This therefore provides a boundary in which a court cannot go without compromising fairness and effectiveness in the application of justice. It therefore ensures that this fundamental right and privileges of parties in a process should be established on the basis of fairness in the criminal process, without which such a process can be abused and manipulated to restrict individual liberties, which in every indication will deny such individual his or her fundamental protection and even affects the administration of justice. This right has gain ground not only in national legislation, but also on the international and customary application.

### ***International Covenant on Civil and Political Right and the Right to Fair Trial***

This international instrument or disposition was the first in kind in officially prescribing the specific details and the extend of application of this right as to fair trial in its basic provision of *Article 14* by providing that “*everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established which gives reasoned judgment*”<sup>iii</sup>

This area of the law does not only limit itself in looking at aspect of fair trial as to independent or impartial tribunal, but equally expands by entertaining others aspects of fair trial such as that to presumption of innocence<sup>iv</sup>, right to be informed of the charge<sup>v</sup>, free from retrospective criminal law<sup>vi</sup>, the right to appeal<sup>vii</sup>, that as to compensation for wrongful conviction<sup>viii</sup>, and the right not to be tried and punished for the same offence<sup>ix</sup>. This issue here in not providing the provision of the law as to the recognition of this right as to fair trial, but rather in finding out whether this right as stipulated by this international legal temperament has been applicable to all of its member states who has not only signed but equally ratified the covenant in question and ensuring that this area of the law is effectively guaranteed and applicable. It is no doubt that Cameroon as a State of Law has not only be a mere spectator or observer of the instrument, but equally see to that the provision of this area of the law as stipulated by the International Covenant on Civil and Political Right should be implemented to the latter and respected by its judiciary system when ensuring and administering justice as to fair trial.

### ***A General Acceptable Practice in Law***

Although the parameter of the right to fair trial was never recorded until the putting into place of the International Covenant on Civil and Political Right of 1966, most of those rights spelled out in the doctrine as to fair trial rights have always been recognised to be the principles that are fundamental to the protection of human dignity as a whole. This long tradition was an application of the *Magna Carta of 1215* in its concept of due process and rule of law in the application of the right of an individual to a fair trial in court and the minimum guarantees to an accused in criminal proceedings. To this effect the Universal Declaration of Human Right 1948 being the most acceptable human right document has rightly stipulated in its **article 10** and **11** of the right to an equal, fair and public hearing before an independent and impartial court. This notwithstanding shows that this aspect of the law has a customary or natural law inclination. Even though the protection of this right if of legal essence as stipulated in written text, its origin and features is as old as human existence. The fact that Cameroon Criminal law system is codified in a postulated by a positive law in question,<sup>x</sup> its origin and content is an inspiration of natural or customary law in nature, where human dignity and safety is the fundamental of every society in question governed by morality and justice. From the preliminary, court processes, arrest, legal notification, investigation and even judgement, the end result is that of justice in which the right to fair trial is included. The problematic here is not in determining whether the right to fair trial is acceptable and guaranteed under the Cameroon Criminal Procedure Code, but rather in determining whether this right is acceptable in relevant national dispositions since *article 3 of the 1996 Constitution*<sup>xi</sup> which talks about the aspect of legality in every recognition and application of the law.

## **LEGAL GUARANTEES IN THE PROTECTION OF FAIR TRIAL IN CAMEROON**

In the respect of human right and that of human dignity as provided by relevant human right provisions of essence in the application of every state of law in which human right of utmost importance of recognition. The state of Cameroon is not exception in application and enforcement of laws in which that of the right to fair trial in its primordial concerned. The

country in its attempt in ensuring the smooth implementation of the human right have a series of proliferated laws, legal provisions, and institutions having overlapping mandates in various documents regarding the protection and guaranteed as to the right to fair trial.

### ***Constitutional Guarantees and Safeguards***

The Cameroon Constitution<sup>xiii</sup> considered as the highest law of the law has not been silent as to the stipulation of the right to fair trial; it has provided in its preamble<sup>xiii</sup> that “the law shall ensure the right of every person to a fair hearing before the courts”, and even extends in criminal matters to the effect that: “every accused person is presumed innocent until found guilty during a hearing conducted in strict compliance with the right of defence”. This really shows a strict recognition and application of the doctrine as to fair trial in the country’s constitution. The question here is not whether the constitution of the country has enacted or stated legal dispositions as to the doctrine of fair trial; the issue is that stating the law is one thing, implementing or enforcing this law is another. Stipulating the right to fair trial and its legal basis is not a condition *sinequanon* that right is applicable to the latter. It is of great essence that the text talks about the aspect of everyone as to fair hearing before the court of law<sup>xiv</sup>, but it has failed in providing under what situation will there be fair hearing or trial, whether it is at the level of pre-trial, the trial proper or even at the level of the post-trial after the judgment has been pronounced. The scope of fair hearing has not been defined by the law, so it is now left in the hands of the courts or judges in defining what will amount to fair hearing, and if this is the case, there is a presumption that justice will be massacre in question. Even the Country’s’ main criminal text has not been able in defining this concept as to what will amount to fair hearing or the standard in establishing fair hearing.<sup>xv</sup>

### ***The Place of Judicial Independence***

Accepting and considering the judiciary in Cameroon as the sole organ in charge of the interpretation of the law and even the application of textual safeguard, the right to fair trial of great essence as it provides in its **Article 37** regarding judicial independence. This indication is in the affirmative as we experienced the concept of separation of powers in Cameroon where the judiciary is separated from other powers like the executive and the legislative, therefore a positive step that aspect of fair trial can be effectively practiced since justice is left in the hand

of the judiciary whose main responsibility is in ensuring that justice has its place. This same Article 37 is problematic in its application and enforcement of the fair trial doctrine because in sub-Section (3) it states that; “the President of the Republic shall guarantee the independence of judicial power<sup>xvi</sup>”. This is a clear indication that Cameroon Judicial System is not independent as Article 37 claimed to establish. The fact the President guarantees the independence of the judiciary through the appointment of judges is a fallacy as to the effective implementation of the justice system talk less to the application of the doctrine of fair trial.

### ***Legislative affiliations and Standards***

Fair Trial is not only an aspect of human right protection and also constitutional basis, the Cameroon Legislator has not been silent in establishing the doctrine of fair trial and its applicability. This aspect is a clear indication of the law as provided under the Cameroon Judicial Organisation<sup>xvii</sup>; in its **Section 2** which provides that; “*Justice shall be administered on the territory of the Republic in the name of the people of Cameroon.*” From every perspective as provided by the section above, justice is not an individual commodity, it belongs to the public, and so under no circumstance should someone be deprived of justice or access to justice being as aspect to fair trial in both civil and criminal proceedings. This is what the law provides, it’s textual, but as far as application is concerned, this is a hyperbolic plethora in the enforcement of justice in Cameroon, we continue in experiencing restriction as to access to justice in Cameroon especially as far the judiciary is concerned.

Legislative guarantees continues in **Section 3** of the *2016 Judicial Organisation* law which talks about the different organisation of the judiciary ranging from the Court hearing a case in 1<sup>st</sup> Instance<sup>xviii</sup>, courts with appellate jurisdiction<sup>xix</sup> and Special Courts<sup>xx</sup> all clear indication that justice is separated for there to be smooth and effective application of Justice to all since each of the procedure differs from one court to another and therefore a proper application of the fair trial in the administration of justice.

### ***The Cameroon Criminal Procedure Code and the Application of the right to Fair Trial***

As a fundamental principle of fair trial as explicitly enshrined in Article 10 of the Universal Declaration of Human Rights, which contend that, an individual accused in a criminal trial is not the only person who has rights and interests deserving of respect. That there is a well-

recognized public interest in the securing of convictions of guilty persons and the vindication of the rights of the victims of criminal conduct. Such opinions to the best of this Research's knowledge, does not transcend the very essence of the principle of fair trial in criminal justice. Going by the numerous lacunas as appeared in the Code, it would have appeared fair trial is completely a night mare in proceedings touching the criminal justice system in Cameroon. There are so many determinants defining the concept of fair trial under the code, it which the absence of such elements can affect the effective application of justice in the applicability of the said doctrine. The Cameroon Criminal Procedure code has experienced lots of lacunas regarding these essential components of fair trial. Elements such as:

- a) Language
- b) Presumption of innocence
- c) The right to defence
- d) Public conduct of hearing and,
- e) That of double jeopardy.

#### ***Difficulty in understanding the language of the Code***

It is the merit in every subject matter especially under the common law system that decides the case first and even determines the principle applicable in the case afterwards. It is only after a series of determinations on the same subject-matter, that it becomes necessary to 'reconcile the cases', as it is called, that is, by a true induction to state the principle which has until then been obscurely felt. And this statement is often modified more than once by new decisions before the abstracted general rule takes its final shape. A well settled legal doctrine embodies the work of many minds, and has been tested in form as well as substance by trained critics whose practical interest is to resist it at every step. In this regard, placing the word in the code is one thing, and the judicial interpretation of the wordings found in this code for the better and apt understanding is another. Such understanding and complexities is a clear infusion of ***Section 3 and 4(2)*** of the code in question.

***Section 3*** is to the effect that;

(1) The sanction against the infringement of any rules of criminal procedure shall be absolute nullity when it is:



- (a) Prejudicial to the rights of the defence as defined by legal provisions in force;
  - (b) Contrary to public policy.
- (2) Nullity as referred to subsection (1) of this section shall not be overlooked.

It may be raised at any stage of the criminal proceedings by any of the parties and shall be raised by the trial court of its own motion.

Section 4: (2) Cases of relative nullity shall be raised by the parties in liminalities before the trial court. It shall not be considered after this stage of the proceedings.

*From the on-going of the above article, it is that the Code is clear in saying that any inconsistency found in the rule of the trial process, such trial in its entirety will be a nullity and where the infringement is prejudicial to the defence and where there has been a lack of diligence to observe public order accordingly.*

Looking at this position of the law one can say there are lots of lacunae in its application cause the code has failed in providing the actions and activities that will amount to infringement, it just says Any, and to our humble opinion this provision is vague and can have a huge impact in the fair trial process when it comes to applicability. It was in the position of the code in providing the various actions or activities which will be vague and gives room for nullity in case of infringement.

**Sections 3 (1) and 4 (2)** of the Code, prescribes absolute and relative nullities respectively for infringement of any rules of criminal procedure, such instructions as contained therein, smacks the bedrock of the rational of a common law Judge or Jurist who thinks or opines that, nullity should be predicated upon the miscarriage of justice caused by the omission as opposed to omission per se. for instance, could it be observed judicially correct for nullity to be affected on a criminal investigation containing omission with regards to **section 124 (1)** of the Code to the effect that, the;

*(1) The judicial police officer shall mention in his report the reasons for remanding the suspect in police custody, the length of time within which he was subjected to questioning, the interval of rest during questioning, the day and hours when he was either released or brought before the State Counsel.*

*(2) The suspect shall sign the said entries and, in the manner, prescribed in Section 90 (3), (4), (5) and (7). Where he refuses to sign, the judicial police officer shall mention that fact in his report.*

(3) *These entries shall be made in a special register kept in all the judicial police stations where suspects may be remanded. The said register shall be submitted to the State Counsel for inspection and control.*

The answer will be in the negative, for such omissions as aforementioned shall not lead to any miscarriage of justice. Consequently, the provisions of said sections are built on very loose foundation and are bound to collapse with obvious dangerous repercussions on the principle of a fair trial since the code has failed in providing an extensive interpretation of what will amount to nullity.

### ***Situation and position of the doctrine of Presumption of Innocence***

According to Article 14(2) of the ICCPR “*Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law<sup>xxi</sup>.*” As a basic component of the right to a fair trial, the presumption of innocence, *inter alia*, means that the burden of proof in a criminal trial lies on the prosecution and that the accused has the benefit of the doubt. The Cameroon Criminal Code on its part has not been patient as to adumbrating and placing the doctrine of presumption of innocence in its application. **Section 8 of the Code** opines that;

1) Any person suspected of having committed an offence shall be presumed innocent until his guilt has been legally established in the course of a trial where he shall be given all necessary guarantees for his defence.

(2) The presumption of innocence shall apply to every suspect, defendant and accused.

From the above Section one can conclude without any fear of contradiction that any person who is found guilty of committing an offence is deemed to be presumed innocent until proven guilty and has a good legal establishment within the Cameroon Criminal law context. But by virtue of all the lacunae that this code is experiencing, there is really a nuance when it comes to the application of this principle of presumption. The code has failed in providing what will happen to parties when infringement of the said principle is experienced. What about when the accused has to undergo all manners of inhumane treatment all in the name of confession<sup>xxii</sup>. Sometimes the accused has to experience threat<sup>xxiii</sup> as to loss of life forcing him/her accepting that he or she committed the offence, and thus this contributes to a gross violation of the doctrine of fair trial and even that of presumption of innocence.

It is of all in accepting that during the aspect of presumption of innocence it is the sole responsibility of the party alleging allegations against the accused that the said person really committed the offence in question.

### ***Criminal Procedure Code and the Concept of Proof***

Sections 307 and 310 are very instrumental when relating with aspects of burden of proof. Section 307 and 310 are read alongside respectively: The burden of proof shall lie upon the party who institutes a criminal action.

#### ***Section 310:***

- (1) The judge shall be guided in his decision by the law and his conscience.
- (2) His decision shall not be influenced either by public rumour or by his personal knowledge of the facts of the case.
- (3) His decision shall be based only on the evidence adduced during the hearing.

It is a miserable state of things where the law is vague and uncertain in spelling out both the letter and the spirit of the law. The above provisions really portray contentious infringement yet, undermining most prominently the institution of a fair trial within criminal proceedings. There is no mention therein of the exceptions to which the vague, ambiguous rules should apply. Its suggestions therefore can force one to deduce that evidence may be obtained through any measure and means if possible. The implicit suggestion of violation leaves a large scope for corruption as it suggests that proof in such instances can be invented, withheld, overlooked, trivialized, with little or no regard to both its authenticity and veracity. The Research is of the proclivity then, that this provision of the Code lends itself to the courts applying the provisions *ultra liticum*. Statutes made for the public benefit ought to be broadly construed and interpreted.

**Section 309** of the Code further tolerates and extends the proclivity of the ambiguous, unqualified and oppressive nature of the Code rendering it thus incompetent.

#### ***Section 309*** reads:

Any accused, who pleads any fact in justification of an offence or to establish his criminal irresponsibility, shall have the burden of proving it.

**Section 310** of the Code presents a contradiction of two tests to be applicable simultaneously in aspect of proof by the judge with the conjunctive between the words law and his conscience.

### **Section 310**

- 1) The judge shall be guided in his decision by the law and his conscience.
- (2) His decision shall not be influenced either by public rumour or by his personal knowledge of the facts of the case.
- (3) His decision shall be based only on the evidence adduced during the hearing.

The first test in question is an objective one where the judge is therefore called in applying the law and the second test subjective, where he is called not to be influenced by his personal knowledge of the facts of the case in reaching his decision. There is a nuance existing because it is practically problematic for the judge to have room to apply his conscience without influence of public rumour or personal knowledge. If the judge is to be guided by both the law and his conscience in adjudicating as mentioned in the above sub-sections, the principle of a fair trial is therefore undermined as the judge becomes the almighty with too much power at the detriment of the defence.

### ***Professional Secret and the existence of State Privilege***

Here comes another vexation of the code in the application of the principle of fair trial when examining elements of claim of state privilege or professional secrets contained in section 325 (2) of the Code.

**Section 325 (2)** reads: *(2) Subject to the provisions of section 322 (2), any person summoned as a witness shall be bound to appear and take oath before giving evidence. However, and unless otherwise provided for by law, the oath taken shall not relieve the witness of his obligation to keep the secrets which have been confided to him by reason of his profession.* To note to the best of our knowledge in criminal proceedings or justice, when prosecuting witnesses are called in a Court of law, they are obliged by the same law to speak the truth, the whole truth and nothing but the truth. Therefore, with the arrangement as contained in the aforesaid section, it is for sure clear that evidence given can amount to reservation of such evidence or information that could lead to the unravel the truth existing in a criminal trial; and with aspect of these of reservation of evidence or information in any criminal trial or proceedings, it becomes unpredictable with the principle of a fair trial.

From the above mentioned, it is but obvious that the sections are constructed on very loose grounds which give occasion for further interpretations, consequently conferring too much discretion and prerogative in the hands of the trial judge.

### ***Examination of Witnesses***

In the determination of any criminal charge against him/her, everyone is entitled to be examined, or have examined the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him. I believe that in every criminal case the process of examination of witnesses is perfectly defined during the course of the trial proper. The prosecution who is claiming that the accused is guilty of the crime committed calls a witness in trial through what is known in the criminal trial as examination-in-chief, considered as the first type of examination, after that such witness is cross examined by the defence counsel, and re-examined by the party of the prosecution. This therefore relayed that for there to be a proper administration of fair trial in any criminal trial, these three examinations must be carried out. Looking at the situation at hand, it is but normal that the prosecution counsel carries out the examination in chief in order to show that the accused is guilty of the allegations elicited against him/her, and it is also important for the accused to cross -examined the witnesses of the prosecuting counsel so as to test the accuracy of the evidence carried out during examination-in-chief. This is to propel that cross examination is out to destroy the malevolent intention that the prosecution had during examination-in-chief. So, what happen when the prosecution witness in the trail is absent? Will this not affect the smooth application of the doctrine of fair trial? So, to this effect as stipulated by **Section 336** of the code, it will be a super statement in concluding that examining witnesses called up by the prosecution is dynamic and complete.

The case becomes more complicated when talking about those judicial officers who took down statement and even conducted an investigation procedure in adducing the guilt of the accused are never called up to be examined in chief by the prosecution counsel. We experienced in rare circumstances where the prosecution will ask the judicial officer in answering questions dealing with the examination-in-chief. This really is a fallacy and oblivious on the side of the code and a threat to the application of the element of fair trial which the Code is claiming to safeguard and protect.

### ***Guaranteeing of the Right to Appeal***

It of common understanding and legal parlance that after the judgment of the criminal trial where the accused is convicted, this accused has the right to go on appeal in accordance with the time limit prescribed by the Code. It is clear from the Code in its **Section 440** by stating that; *(1) The time-limit allowed for filing an appeal shall be ten (10) days with effect from the day following the date the judgment after full hearing was delivered, for all the parties, including the legal Department.* Is of great and exceptional applause that both the letter and the spirit of the law are wonderfully respected. The same law is to the opinion that the strict application of the law can cause grave injury on the parties in question.<sup>xxiv</sup> The law has to understand that unforeseen exigencies are but normal in everyday transaction talk less in criminal issues which can occur for appeal to take effect in respect of the time limit stipulated by the Code. What happen if the applicant is ill? Should this not be taken into consideration in providing an extension of the date reserved for the appeal? It will grave injustice and a nail on the camel back if the law will not give room in situation of such magnitude.

### **CONCLUSION**

In all its ramifications and applications, the issue of fair trial in Cameroon is more of a window dressing, as issue of fundamental human right has always being a disgrace with the tendency that fundamental human right is violated and most of the time, provisions of the law not respected. It is surprising that the country effort in enacting a Criminal Law Code handling issues of fair trial from pre-trial, trial and even post trial has been issues of ramshackle affecting the entire criminal process and proceedings. One cannot be proud of the criminal process of the country especially when the right of parties especially the accused are threatened; and there is a continuous violation and manipulation of the process which in all its application was supposed to ensure that justice should be for the interest of all. The Criminal Procedure Code of 2005 in Cameroon with its principal objective being that of maintaining and applying justice for the interest of the parties has lost its original reason of existence. There was lots of expectation at its initiation as many was of the reasoning that the code will be able in handling issues of criminal justice, and those who sought justice will be satisfied. The situation has been in the contrary as most of the time the Code has failed in attaining its proper objective creating

room for lots of questioning and one cannot be proud to confirm the position of its *Section 1* which states that “*everyone is equal before the law*”. Furthermore, the Code is seen as an exhibition of the hidden agenda of a democratic pretension. In an environment where the violation of rules is a common national practice; where the judiciary does appear to be severed from the executive limb; where police abuse generally goes unpunished, where the prosecution and Legal Department are not prosecuted for malicious prosecutions, where cogently adduced evidence is not tenured in hearings, amounting to inefficient, prejudiced proceedings, and where the entire penal structure is fashioned after an accusatory culture which thrives on finding the accused guilty to be proven innocent. One needs to ponder however, with the advent of human rights and the emphasis on the institution of a fair trial; is the Code as it is now presented will suffice? The answer will obviously be in the negative.

To turn this negative outcome into an affirmative and hopeful actuality, a review or reform of the Code could be the required recourse to bring the Code to meet up the requirements of the principles of a fair trial and consequently the law on human rights.

From the initial placement of the Code as issue of fair trial is concerned, one can really say that the Code has change its original objective of existence; that from expectations to procrastination.

## ENDNOTES

---

<sup>i</sup>Law N°2005 of 27 July 2005 on the CRIMINAL PROCEDURE CODE harmonising the Cameroon Criminal Procedure matters

<sup>ii</sup> These include the pre-trial, trial and equally the post-trial of the criminal process.

<sup>iii</sup> Article 14(1) of the International Covenant on Civil and Political Right 1966 herein referred to as ICCPR

<sup>iv</sup> Ibid, Article 14(2) of the ICCPR 1966

<sup>v</sup>Ibid, Article 14(3) ICCPR

<sup>vi</sup>Ibid, Article 14(4)

<sup>vii</sup>Article 14(5)

<sup>viii</sup>Article 14(6)

<sup>ix</sup>Article 14(7)

<sup>x</sup>Supra, the Cameroon Harmonised Criminal Procedure Code of 2005

<sup>xi</sup> Law No.96/06 of 18<sup>th</sup> January 1996 Constitution to amend the Constitution of 2<sup>nd</sup> June 1972

<sup>xii</sup>Supra,

<sup>xiii</sup> Article 65 of the 1996 Constitution is to the effect that the Constitution of Cameroon is considered as an integral part of the Constitution.

<sup>xv</sup> Ibid, Section 302(1) of the Criminal Procedure Code.

---

<sup>xvi</sup>Article 37(3) of the 1996 Constitution.

<sup>xvii</sup>Law No. 2006/015 of 29 December 2006 on Judicial Organization in Cameroon

<sup>xviii</sup>This includes the Court of First Instance or otherwise known as the Magistrate Court, the High Court and even Customary or Alkali Courts.

<sup>xix</sup>The Appeal Courts found in every region of the country, and Supreme Court being the highest court of the land.

<sup>xx</sup>*Here we have the Military Court.*

<sup>xxi</sup>*This Covenant is read alongside* European Convention, Article 6(2); American Convention, Article 8(2); African Charter, Article 7(1)(b); and ICC Statute, Article 66(1).

<sup>xxii</sup>The aspect of intimidation, torture, fear and duress, and even undue influence that the accused undergoes for the sake of adducing confession.

<sup>xxiii</sup>Section 102 of the Cameroon Penal Code which emphasises on the aspect of threat which is not supposed to use in aspect of incrimination of an offence.

<sup>xxiv</sup>Summa lex crus Summa lexinjuria

