

Mr. Minister of State, Minister of Justice, Keeper of the Seals, a few weeks ago, some English-speaking lawyers went on strike. They took to the streets of the North West and South West Regions and demanded inter alia the translation of the OHADA Uniform Acts into English...

Let me first of all clarify a concept that leads to confusion.

Going on strike is the result, after consultation, of employees who collectively cease to go to work because they submitted a professional claim to their employer and intend to support this professional claim by refusing to work.

Cessation of work, in our view, is not necessarily a noisy demonstration on the public highway, accompanied by violence and destruction.

In the Cameroon legal system, practice at the Bar is a liberal profession. The advocate is not an employee of a court. An advocate is remunerated by a client to perform a specific assignment in court.

In fact, Section 1 of Law No.90/59 of 19 December 1990 to Organize Practice at the Bar provides: "Practice at the Bar is a liberal profession which shall consist, against remuneration, of assisting and representing the parties before the law courts, conducting suits, pleading and giving legal advice".

The strike by advocates, therefore, does not concern the courts or the Minister of Justice.

The strike by advocates concerns only the latter and their employers, to wit, their clients.

Consequently, an advocate who ceases to represent or defend the interests of his client in court should be held professionally and ethically liable, and disciplinary action brought against him before the Bar Council.

I would like to add that the law also provides that all persons shall be entitled, without being represented by an advocate, to appear before any court except the Supreme Court, for the purpose of conducting a suit and pleading, on their own behalf or their spouse ... etc.

And in criminal matters, where the presence of a lawyer is compulsory for the defence, the courts issue summons, appoints advocates ex officio requiring designated advocates, to hold brief for the defendant.

As you can see, the functioning of courts is not necessarily impeded by the absence of lawyers.

The problem thus posed by a noisy demonstration in the street by advocates, who are supposed to be practitioners of the law, is not properly presented.

However, it should be noted that justice is not rendered for advocates.

Nor is justice rendered for Judicial and Legal Officers.

Justice is not rendered in the interest of the courts.

Justice is rendered on behalf of the people of Cameroon, for litigants.

It would therefore be appropriate, for the proper administration of justice, that advocates and their clients agree and that the courts be understanding of litigants when they wish to have their lawyers present at the hearing, without however further aggravating judicial delays that are vehemently deplored.

Now, let me answer your question and precisely that concerning the OHADA Uniform Acts.

I would say that this problem deserves particular attention because Cameroon inherited two judicial systems, one of which was essentially Common Law applied in Nigeria before October 1961.

When the issue of translation was raised in Cameroon, French was the only working language of OHADA. The Organization could not make these instruments available in English.

When the President of the Republic, His Excellency Paul BIYA, appointed me to the Ministry of Justice in 1996, we undertook to have an English translation of the Treaty of Port Louis to set up OHADA.

The instrument was published in English and French in the 21st edition of the Official Gazette of the Republic of Cameroon on 15 November 1997.

The Ministry of Justice also arranged for the translation into English of the available Uniform Acts.

They were published in English and French in special editions, of the Official Gazette of the Republic of Cameroon, of September 1999 and November 1999.

The Uniform Acts published mainly concern General Commercial Law, the Law on Commercial Companies and Economic Interest Group, the Organization of Simplified Recovery Procedures and the Organization of Collective Procedures for Wiping Off Debts;

These constitute the core of business law as applied internationally and as it should be applied in Cameroon.

You see for yourself, Madam TOUNA, that if the current claims relate only to the translation of the OHADA Acts into English then they are unfounded because all these instruments are available in English and French in Cameroon since 1999.

However, because for some people the translations were poor, Cameroon hired the services of EVERSHEDES an International firm that were paid by the African Development Bank.

Yet, some purists were not satisfied.

We were even dragged before French courts by this firm for failure to authorize the payment of the remainder of the fees (20%).

Fortunately, the Court of Appeal, Paris ruled in our favour.

But in fact, the underlying issue that seemed to be the claim of some practitioners was whether this OHADA legislation took into consideration Common Law principles.

It must be understood that the OHADA instruments are drawn up on the basis of international legal instruments that take into account all the legal and economic systems in force at the universal level.

I must add that, in parallel with this work, the Ministry of Justice had undertaken a specific approach with the Permanent Secretariat of OHADA, to amend the provision of the Treaty which established French as the sole working language of OHADA.

Thus, at the request of Cameroon, the Treaty of Quebec amended Article 42 of the OHADA Treaty to make English, French, Portuguese and Spanish the working languages of OHADA.

In 2008, when the Treaty of Quebec amended the Port Louis Treaty by introducing English as one of the working languages of OHADA, the Permanent Secretariat expressed the wish that the Ministry of Justice of Cameroon approve the English version prior to its publication.

The Ministry of Justice therefore set up a Committee composed of senior judges of the Supreme Court, Heads of Court of Appeal, as well as other Legal Officers working in the Ministry of Justice, mostly English-speaking, to review the Texts in English.

Meanwhile, the Council of Ministers of OHADA was updating some Uniform Acts and this slowed down reviewing of the translation.

The publication of the OHADA Uniform Acts in English in the OHADA Official Gazette on 24 November 2016, put an end to this long process which began several years ago.

Thus, it is not the alleged strike by advocates that led to the provision of the Uniform Acts in English.

I observe that the document produced by the Permanent Secretariat is a high-level scientific and technical work of about 600 pages.

It could not be produced in a hurry, in two weeks, to please demonstrators.

I wish to specify that the document produced in English is not a translation, but the original version of the Uniform Acts in English, published in the OHADA Official Gazette.

And as it is often the case in most international organizations, versions of an instrument may be understood or interpreted differently.

The most important thing to note is that OHADA Law is not a problem relating to persons who speak English, French, Portuguese or Spanish.

OHADA law is a modern, international and updated legal instrument applicable and enforced in our States.

It is now incumbent upon some of our lecturers, in our universities or in our training schools, to update their lectures in accordance with these instruments which are now applicable in the entire country.

Likewise, it is the duty of some legal practitioners to take note of our positive law and shy away from the nostalgia of the past in which they are confined.

As you can see, Mrs. TOUNA, the Government has done all it had to do to ensure that the OHADA Treaty and Uniform Acts are available in English and French.

And this has been the case since 1999.

Mr. Minister of State, during demonstrations in the North West and South West Regions, advocates were reportedly victims of violence. They deplored the fact that the State did not ensure their protection, despite their status as lawyers. What is your take on this?

The Ministry of Justice deplores the violence that reportedly took place regardless of their authors and the victims.

Cameroon's commitment to the Rule of Law and respect for Human Rights cannot be questioned under any circumstances whatsoever.

However, I would like us to have a clear view about the protection of advocates who demonstrate noisily in the streets.

Section 21(2) of the Law to organize practice at the Bar provides that no words spoken or documents produced by an advocate in court may give rise to any action against him. However, this is subject to the fact that such words constitute defamation as regards the facts of the case.

In other words, when an advocate is before a court, he enjoys the protection of the Legal Department and the President of the Court, within the limits set out in Section 21 mentioned above.

Furthermore, Section 15 of the Law to organize practice at the Bar provides that the advocate shall take the following oath: *"I swear as an advocate to perform my duties as counsel for the defence or as legal adviser in total independence and with dignity, conscientiousness, probity and humanness, in accordance with the ethics of my profession and with due respect to the courts and tribunals, and to the laws of the Republic"*.

As you can see, the advocate pledges to respect the Courts and Tribunals, the laws of the Republic and is bound by the duty of confidentiality as imposed by the rules and regulations governing him.

But, when these principles I have just mentioned are violated, in other words, when the advocate's behaviour contradicts the provisions I earlier cited; that is to say, where the advocate's behaviour out of court does not comply with the law and the framework set out in the above-mentioned provisions, he violates ordinary law.

He is bound by his behaviour and words spoken out of the context of Sections 15 and 21 which I have just mentioned.

It is thus obvious that the advocate who violates his Rules and Regulations or his Oath exposes himself to any subsequent eventuality,

because he is responsible for the foreseeable consequences of violating the law.

In the prevailing circumstances, such advocate is not only responsible for the ensuing violence , but also for the prejudice suffered by pupils, students and parents as a result of the disruption of lectures and even the disruption of economic and social activities in the Regions concerned.

... Mr. Minister of State, what about the property seized?

Indeed, it was brought to my attention that some advocates are complaining about losing their gowns and wigs.

But, may I recall that operations aimed at maintaining order are not handled by the Ministry of Justice.

This problem, which allegedly stems from operations aimed at maintaining order, is not within the purview of the judicial authority that is not responsible for the management of exhibits.

Seizures carried out by Judicial and Legal Officers are made in accordance with Sections 35 and 45 of the Penal Code.

However, concerning the excesses you are referring to and which were allegedly committed against some advocates in the North West and South West Regions, I have requested the Procureurs General for the North West and South West Regions to investigate the matter with a view to determining the responsibilities of persons concerned. And as you are quite aware, investigations are confidential as provided for by the Criminal Procedure Code.

At the end of these investigations, all those who committed offences will be brought before the courts, if the prosecution so requires.

Furthermore, during these investigations, Procureurs General may, if they deem it necessary, serve as facilitators by contributing in finding

solutions to the management of the exhibits retained during operations aimed at maintaining order.

Mr. Minister of State, the demonstrations initiated by advocates led, a few days ago, to damages in several towns of the North West Region, especially Bamenda. Excesses were even noted which resulted in the unfortunate destruction of public buildings and the Nation's emblems. What does the law provide in such circumstances?

Let me refer you, from memory, to Sections 187, 227, 230, 231, 232, 233 of the Penal Code, widely published by your newspaper and for which I wish to thank you, Mrs. TOUNA.

Certainly, there are still other texts.

I really imagine that if perpetrators of the acts you referred to are advocates, then they are aware of the sections mentioned above because they master the law.

They are quite aware of what awaits them, especially when they are held responsible for the obvious consequences of their behaviour.

Mr. Minister of State, beyond the issue of translation of legal instruments into English, some English-speaking advocates have the profound feeling that everything is done in the judicial system in Cameroon to eradicate their unique cultural base: the legal principles of the Common Law. They even go further to demand the independence of the English-speaking Regions and, eventually, the return to federalism...

I fully understand your question.

And all the more so because during the consultation we had on 22 November at the Ministry of Justice, Barrister Bernard MUNA, former President of the Bar, clearly stated on behalf of some English-speaking

advocates that the issue is not the translation of the OHADA Uniform Acts into English.

He averred that the problem lies elsewhere...

To this end, I would like to say, first of all, that the Republic of Cameroon, as provided in Article 1 of the Constitution, is one and indivisible.

That provision has not changed.

Now, regarding the first part of your question, I would like to say that Cameroon, based on its official languages, English and French that have the same status, is a bilingual country.

This State, with a population of about 23 million people, is not only attached to its biculturalism and bi-juralism, but also and above all, as I have often stated, its leaders take pride in belonging to great regional or international groups that use these languages inherited from the English and French administrations.

The aim, in this case, is to preserve and promote the coexistence of the two systems in a unified and original judicial practice, which will be the hallmark of Cameroon in the community of Nations.

This is the case with the Criminal Procedure Code, the Penal Code; as it is equally the case with the OHADA Uniform Acts, and as it will be the case with other forthcoming laws.

It is an irreversible process.

Official languages are a vector of communication throughout the world.

Cameroonians imbibe the underlying cultures of our two official languages and are well integrated into these educational systems.

However, this does not mean that Cameroonians should become intellectual and cultural foreigners in their own country.

The legislator carefully states in Article 1 of the Constitution: *"The official languages of the Republic of Cameroon shall be English and French, both*

languages having the same status. The State shall guarantee the promotion of bilingualism throughout the country".

However, the part of the same Article that provides that the Republic "*shall endeavour to protect and promote national languages*" is not read.

We tend to neglect these languages which underpin our values and cultures, and we do not give them the place they deserve.

More often than not, we restrict our cultures to rituals and folklore without seeing how they influence our behaviours.

We even tend to consider those who communicate in their mother tongues as tribalistic and sectarian.

We find it normal that English and French are our ordinary languages of communication.

You can imagine how disappointed our grandparents would be, they who we have raised to the rank of "National Heroes", if they came out of their graves; they who fought for the independence of Cameroon and in order that Cameroonians should remain Cameroonians to the core.

They would then realize that they had shed their blood in vain! Since some Cameroonians seem to give the impression that they are fighting today to defend foreign cultures in Cameroon, while we can very well assimilate foreign languages and cultures without self denial, without depriving the Cameroonian legislator of the right to enact national laws which are different from those inherited from trusteeship administrations, but which allow us to be in line with modern law.

Let me remind you that, Cameroon has maintained the Customary Courts at the judicial level and that there is a Traditional Law Section at the Judicial Bench of the Supreme Court.

Besides, the Traditional Law Section is presided over by a high ranking super scale Judge.

As you can see, the judiciary guarantees the survival of our national traditions and cultures.

Now, can all English-speaking Judicial and Legal Officers be posted to the English-speaking Regions and all French-speaking Judicial and Legal Officers to French-speaking Regions? In fact, Mr. Minister of State, do English-speaking Cameroonians have a problem in the Ministry of Justice?

I would simply say that there is a staffing problem in the Ministry of Justice.

However, I would like to point out that the English-speaking Judicial and Legal Officer is no different from the French-speaking Judicial and Legal Officer, apart from the fact that one has a good command of English and the other a good command French.

The training provided at ENAM should contribute in the long term in bridging this difference.

We are working with the Minister of Public Service and Administrative Reform to quickly achieve this goal.

In the Ministry of Justice, we employ Judicial and Legal Officers whose profile corresponds to an available position and we ensure that this provision of the Rules and Regulations governing the Judicial and Legal Services is scrupulously respected.

Nevertheless, Judicial and Legal Officers may exhibit different language skills in courts, either because of their Region of origin or the school they attended during training.

And as I earlier said, there is a constraint relating to available staff and the requirements of the Rules and Regulations governing the Judicial and Legal Services, which lay down the positions that Judicial and Legal Officers may hold according to their scales.

However, is it is neither illegal nor illegitimate for a French-speaking Judicial and Legal Officer to work in courts in the North West and South West Regions, and for an English-speaking Judicial and Legal Officer to

work in the eight other Regions of the Republic, especially as the texts drafted and applied in judicial matters are not intended to set up two judicial systems because justice is rendered on behalf of the people of Cameroon who are one.

Indeed, our diversity is wealth for the Cameroonian.

This asset is not intended to divide us, either intellectually or culturally.

The President of the Republic, His Excellency Paul BIYA, Chairman of the Higher Judicial Council, is particularly following up these issues.

On 9 July 2015, he ordered the preparation of the Justice Forum "*with a view to continuing the modernization of our judicial system*".

These ongoing deliberations are well advanced.

The President of the Republic said that he would submit the conclusions of the Forum to the Higher Judicial Council.

In the meantime, on 16 December, the President of the Republic ordered the setting up of a Committee to reflect over and examine problems plaguing legal practice in Cameroon, in both the English-speaking and French-speaking Regions of the country.

The results of the deliberations, which have already started, will be submitted to him for his consideration.

I thank you, Mr. Minister of State, for granting us this interview.

I thank you Mrs. TOUNA.