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# PARTICIPANTS' PAPERS

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## COUNTRY REPORT: CAMEROON

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### I. INTRODUCTION

Every society has laws that govern relationships between individuals. The violation of these laws leads to sanctions being meted out to defaulters. These violators, who are termed offenders, are generally of varied ages, from different social backgrounds and of both sexes. Offenders of different categories have problems which are peculiar to that category. Among these categories are young offenders, who are also termed minors.

Young offenders are generally considered in terms of their age at the date of commission of the crime. Every country has an age of penal majority below which any offender is termed a minor. Minors have always been considered to have special needs because of their relatively young age and immaturity and the impact of adverse socio-economic conditions which may drive them into crime. In addition, young offenders in custody are particularly vulnerable to poor conditions in correctional institutions such as overcrowding, poor nutrition, lack of access to adequate health care, bullying by older inmates and psychical and psychological disorders. The above situations, where they exist, necessitate planning for the special needs of this category in order to take appropriate action to ensure their protection and successful reintegration into society.

The protection of young offenders requires the formulation of government policies that take into account their particular needs and the effective implementation of same by all actors and stakeholders of the criminal justice system. Policy-making in this connection stipulates special procedures for the prosecution of young offenders, specialized probation services, legal assistance, and mitigation of sentences. On the other hand, correctional institutions which receive convicted minors have to adopt practices that will prevent minors from becoming victims of the negative effects of "prison culture" which generally result from poor custody conditions. It is only through an effective and efficient allying of these two aspects that successful social rehabilitation of the offender can be attained.

Social rehabilitation or reintegration of offenders has always been the difficult side of corrections. This is particularly true of young offenders who, before conviction, have relatively less developed criminal minds compared to their older counterparts. The prison environment can easily influence them and sometimes this takes a serious toll on them, making them worse at release. The question here is how can the prison environment be made more conducive to the social reintegration of young offenders, and all other offenders, as a whole? This question is particularly pertinent for developing countries who, because of the economic difficulties they face, allocate few resources for corrections. Correctional institutions in these countries generally face problems of overcrowding, a high rate of relapse and recidivism of offenders, resulting from poorly structured or insufficient rehabilitation programmes. Cameroon faces some of these problems today. Nevertheless efforts are being made within the context of penitentiary reform to reverse the situation.

### II. LEGAL AND INSTITUTIONAL ENVIRONMENT FOR THE TREATMENT OF JUVENILE OFFENDERS

Legal and statutory instruments provide rules for the handling of juvenile offenders. These cover the specific definition of juveniles in the legal sense, regulations on their prosecution, and directives for their custody. In Cameroon these instruments are the Penal Code, the Criminal Procedure Code and the presidential decree bearing on the penitentiary regime in Cameroon.

#### A. Legal Instruments

These are the Penal Code and the Criminal Procedure Code.

##### 1. Penal Code

The Penal Code of Cameroon in its section 80 sets the age at which a person attains full criminal

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responsibility at eighteen years. As such, a person aged eighteen years and over shall be responsible as an adult. It also provides that no criminal responsibility shall arise from an act or omission of a person of less than ten years. An offence committed by a person aged not less than ten years and not more than fourteen years may attract only such special measures as provided by law. Criminal responsibility is diminished for an offence committed by a person aged over fourteen and under eighteen. These ages are relevant at the date of commission of the offence. From the above, the age of penal majority in Cameroon is consequently eighteen years and there is no question of personal law. In practice, partial defence and mitigating circumstances may be applied to a young person under eighteen. A child over ten and under fourteen may be tried, but may not be sentenced to a penalty nor to a preventive measure provided by the criminal law for adults. He or she may be the subject only of such measures as are specially provided by the laws on juvenile delinquency. Finally, a child under ten has no criminal responsibility and may not even be tried for what he or she does. He or she may be the subject of special measures of care and protection but not of punishment nor of preventive measures applicable to older children.

Section 48 of the above code provides for parents, guardians or a person responsible under customary law for a person under eighteen who has committed an act defined as an offence to enter into recognizance to forfeit his right of guardianship over the said person if he or she shall commit a similar act within a space of one year, unless it is proven that he or she took reasonable steps to avoid the minor's committing the offence. It should be noted here that in the case where the right of guardianship over the minor is forfeited, his or her care becomes the responsibility of the State alone. Section 82 also provides for responsibility to be diminished for an offence committed by a person under eighteen years under compulsion of his or her parents or the person having charge of him or her, or responsible for him or her under customary law.

Referring to separation of minors under detention, section 29 provides that "An offender under the age of eighteen shall serve his sentence in a special establishment, or failing such establishment, shall be separated from offenders over that age."

## 2. Criminal Procedure Code

The law N° 2005/007 bearing on the Criminal Procedure Code promulgated on 27 July 2005, which entered into force on 1 January 2007, was unanimously acclaimed as a significant and decisive advancement in the protection of human rights and the consolidation of the rule of the law in Cameroon. This Code provides rules specific to the prosecution and trial of minors, beginning from the institution of prosecution proceedings to criminal record and costs arising from measures for the protection and treatment of juveniles.

The legal framework of arrest and police custody for juveniles is the same as that for adult offenders given that the Criminal Procedure Code makes no distinction between the two categories in this domain. Arrest is subject to the presentation of a warrant or by virtue of the law in case of *in flagrante delicto*. The law also provides for the respect of the physical and psychological integrity of the person arrested (sections 30 to 38).

In the case of police custody, persons are detained in a police cell for a period not exceeding forty-eight hours and a person cannot be remanded into police custody on Saturdays, Sundays or public holidays. A person in police custody is guaranteed the right to health, visitors and legal aid (sections 118-126).

Referring specifically to the prosecution and trial of juveniles, in the domain of institution of prosecution, the law provides that a preliminary inquiry shall be compulsory for a felony or misdemeanour committed by minors aged under eighteen. An infant shall not be prosecuted by direct summons except in cases of a simple offence. The state counsel or the examining magistrate shall inform the parents, guardian or custodian of the minor that proceedings have been instituted against him or her (section 700). Also, the state counsel has to investigate fully to reveal the personality of the minor. This covers the material and moral situation of his or her family, his or her character antecedents, his or her attendance at school and general behaviour, and his or her conditions of upbringing. This investigation is entrusted to the social welfare service or a medical officer as the case may be. He or she may also by reasoned ruling be placed in a welfare reception centre (section 701). The examining magistrate may also entrust the custody of a minor to his or her parents, guardian, custodian, any trustworthy person, welfare centre, observation home, specialized institution, vocational training or health centre, as the case may be, and may specify the duration of such

custody in the best interests of the juvenile (section 702). A certificate of apparent age may be delivered by a medical officer in the absence of a birth certificate (section 703).

As concerns the temporary detention of juveniles after the institution of prosecution, the law provides that a minor from twelve to fourteen years of age shall not be remanded in custody except when he or she is accused of capital murder, murder, or assault occasioning death. It continues that a minor aged between fourteen and eighteen may be remanded in custody only if this measure is considered indispensable (section 704 and 705). Detention of infants can only be carried out in a borstal institution or a special section of a prison meant for the detention of minors. He or she may be detained in a prison for adults where the above are absent but must be separated from them (section 706). When a minor is transferred or brought before an examining magistrate or before the court, steps shall be taken to prevent any contact with adult detainees or the public (section 707). In the case of release on bail, the examining magistrate or the court may require a written undertaking to be of good behaviour and appear before the court when he or she is required to do so, a recognizance entered into by his or her father, mother or guardian to guarantee his or her appearance in court or an oral engagement by a person worthy of trust guaranteeing this appearance (section 708).

In the domain of trial of the juvenile, the Criminal Procedure Code provides that the court shall be cognizant of the social welfare report drawn by the examining magistrate only after the infant has been found guilty (section 717). Also, the presiding magistrate shall explain to the minor in simple language the charges brought against him or her. Irrespective of the infant's reply, the court shall hear the testimonies of witnesses, enable the minor or his or her representatives to put relevant questions to the witness and hear any statement the minor may wish to make and in which case the presiding magistrate shall put questions to the witness, or to the minor as he or she deems fit (section 718).

In full trial the minor shall be assisted by counsel or by any other person who is a specialist in the protection of children's rights. This is different to the procedure for adults. Where the minor has no counsel, the court shall on its own motion assign one to him or her (section 719). Under pain of nullity the trial of the juvenile shall be conducted *in camera*. This notwithstanding, persons entitled to attend the hearing shall be the infant's parents, custodian or guardian, witnesses, counsel, the representatives of services or institutions dealing with problems relating to children and probation officers. The presiding magistrate may also authorize the presence of representatives of organizations responsible for the protection of human rights and the rights of the child at the hearing and read out the statement of the social welfare officer (section 720). The court shall stay trial only where the minor's age cannot be ascertained, where it is deemed necessary to proceed to further medical examination, psychological examination or other inquiry, or if it is deemed necessary to fix an observation period. Judgment shall be pronounced at a public hearing in the presence of the minor but his or her name or initials or those of his or her family members shall not be mentioned in it (section 721). A minor may also be tried in default if he or she has absconded or disappeared and the court can in this case order measures to ensure his or her appearance by a reasoned decision demanding the infant to be brought and detained in a prison (section 723).

In connection to applicable measures and penalties, a minor aged fourteen years or younger, if found guilty, can be subject to the following measures:

- Entrusting the infant to the custody of his or her parents, guardian, custodian or any trustworthy person;
- Placing him or her on probation;
- Placing him or her in a vocational or health centre;
- Placement in a specialized institution;
- Requiring him or her to enter into preventive recognizance (section 724).

In the case of a minor aged more than fourteen years but less than eighteen years, if found guilty, the court by reasoned decision shall pass sentence. In the case of a non-suspended term of imprisonment, only probation may be ordered in addition. The probation order takes effect after the term of imprisonment has been served (section 725). When delivered, the measures and judgment provided above shall place the infant in custody for a period as is necessary for his or her education until he or she attains civil majority. Before decision on the merits, the court may order provisional probation for a length of time as an observation period.

Probation of the juvenile is provided as a means of support, protection, supervision and education under the trust of parents, guardians, or custodians (section 730). Regular probation officers shall be appointed by joint order of the Minister of Justice and the Minister of Social Affairs. They shall co-ordinate the action of voluntary probation officers (section 731). A voluntary probation officer is designated either in the judgment or decision of the court (section 732). The law also provides that probation measures may be reviewed at any time and at the request of the legal department, the infant himself or herself, his or her parents or guardian or the probation officer (section 737).

In the domain of appeals, appeals in juvenile cases can be brought before the Court of First Instance sitting on cases of juvenile delinquency (section 739). All judgments delivered against minors are entered in the criminal record (section 741). It is also worth noting that imprisonment in default of payment does not apply to infants (section 736).

Mentioning costs arising from trial and measures of protection of juveniles, the Code provides that all judgments delivered by courts sitting in cases of juvenile delinquency shall be exempted from stamp duty and shall be registered free of charge (section 727). Also, travelling expenses incurred by regular and voluntary probation officers in the course of their assignments shall be refunded and the fees of counsel assigned by the court on its own motion shall be paid as expenses incurred in criminal matters.

### **B. Statutory Instrument**

The statutory instrument is Presidential Decree N° 92/052 of 27 March 1992 on the penitentiary regime in Cameroon.

This instrument in its section 2 provides for the creation of five categories of prisons which are: orientation prisons, relegation centres, production prisons, school prisons and special prisons. School prisons and special prisons are of special interest to the correction of juveniles because the former are designed for the theoretical and practical training of minors in order to ensure their reintegration into society, while the latter are reserved for minors who are subject to a particular regime. Meanwhile, the application of this provision for the creation of the above correctional institutions for minors is still awaited.

Concerning custody within the penitentiary establishment, section 20 (4) provides that a special section be reserved for minors. They are not subject to the same punishment regime as adult offenders and they can only be assigned maintenance work within the correctional institution.

Other laws and rules and regulations exist for the treatment of juvenile offenders but these are applied by the social services of the Ministry of Social Affairs. Such juvenile cases are handed to them by the victims of the crime after negotiation with the parents or guardians. These are cases which are not under prosecution.

## **III. THE CARE OF JUVENILE OFFENDERS AND THEIR REHABILITATION**

The Cameroon government has been taking measures to ensure care and reintegration of juvenile offenders, although these are usually limited by economic difficulties. These actions can be perceived at the level of policy-making and penitentiary practice. These notwithstanding, there still exist problems and challenges for the amelioration of juvenile corrections.

### **A. Policy-Making**

Before December 2004, the Penitentiary Administration in Cameroon was attached to the Ministry of Territorial Administration and Decentralisation. This situation created many administrative bottlenecks and delays in the criminal justice system because files had to move between the Ministry of Territorial Administration and Decentralisation and the Ministry of Justice. The former managed convicts while the latter managed those awaiting trial and appellants. This situation led to discriminatory management of inmates in the same prison in favour of convicts. Minors with special needs were also sometimes neglected. This situation has been reversed since 8 December 2004, when the Penitentiary Administration was attached to the Ministry of Justice. Delays in justice, poor treatment of offenders and violation of prisoners' rights have declined in penitentiaries.

The government has elaborated a five year plan (2007-2012) for increasing assistance to female and

juvenile offenders. In the case of juveniles, although financial resources are limited, partnership with civil society organizations, philanthropists and other persons of goodwill has greatly contributed to ameliorating the custody conditions of juveniles. An example is the recent commitment of the Cameroonian football star Samuel Eto'o to provide beds and bedding to minors in all ten central prisons in the country. This has already been done for the central prisons of Yaounde and Douala. The commitment by the government to create elementary, secondary and high schools in all prisons in the near future as need arises is another case in point. These will be used for the academic training of juveniles.

An important aspect of reintegration is professional training. In Cameroon most young offenders who find themselves in prison are from poor social backgrounds and/or broken homes; most lack elementary education and their involvement in crime basically stems from poverty and lack of care. They need professional training in order to acquire skills which they can use to make an honest living after release or probation. Not all prisons in Cameroon have workshops for this purpose but efforts are being made, with the help of stakeholders, to create them in all prisons.

### **B. Penitentiary Practice**

Since minors are mostly first time offenders and victims of broken homes and peer pressure, their treatment in penitentiaries has to relate to their mentality and psyche as teenagers. Minors need psychosocial care, material assistance, educative talks, training, legal assistance and links with their families. Prisons should therefore have facilities for compulsory education and training given the fact that at their age, minors are untrained and most do not have basic education. In addition to the above they must be separated from adult offenders.

In Cameroonian prisons, minors are always separated from other inmates. In cases where there is no separate section in the prison reserved for minors, a ward is set apart for them and is specially guarded. This is to avoid bullying by older inmates, theft, drug abuse, etc. It should be noted that these illicit activities are perpetrated by some adult inmates. Superintendents in charge of prisons always have a 'special eye' on the minors' section because they are particularly vulnerable. It is also worth mentioning that the practical application of discipline and punishment of minors is different from that of adult offenders. More emphasis is placed on sensitivity and education than on repression.

Cameroonian prisons have a Bureau of Socio-cultural, Educative and Leisure Activities and a Bureau of Training. Teaching and educative talks are provided for all inmates with particular attention given to minors. They are given lectures on topics such as the prevention of sexually transmissible infections and HIV/AIDS, personal hygiene, responsible behaviour, etc. Also, training in carpentry, masonry, and tailoring is carried out where workshops for these skills exist.

### **C. Problems and Challenges in the Care and Reintegration of Juveniles**

Many problems plague corrections as a whole, and juvenile corrections in particular, in Cameroon. Among these are overcrowding in prisons and insufficient human, material, and financial resources to effectively and efficiently carry out penitentiary activity. Also, the government faces the challenges of setting up a correctional system adapted to political, economic, social and legal evolutions.

Overcrowding is a major problem in Cameroonian prisons because many prisons were constructed before independence, which was more than 47 years ago. Prisons built for 1,000 inmates today have 3,000 or more inmates. Although minors constitute a small quota of the number of inmates in Cameroon (2,600 out of 22,564 or 11.52% of the total number of inmates), they suffer from this situation because of the absence of special prisons for them. Overcrowding creates poor living conditions and facilitates the spread of contagious diseases. There is a need to build new prisons.

The insufficiency of human, material and financial resources affects the functioning of penitentiary establishments. There is a quantitative and qualitative shortage of penitentiary personnel. This has been caused by the prolonged lack of recruitment due to economic difficulties. The economic problems faced by the country makes it difficult to provide sufficient material for the functioning of vital penitentiary structures such as schools, playgrounds and training workshops. Also, the budgetary provisions for prisons are usually limited.

In recent years, corrections as a discipline has evolved, especially its legal framework and respect of human rights. The government has taken up the challenge to adjust the correctional system to these evolutions by elaborating a new penitentiary regime which will lay more emphasis on reintegration measures rather than the security of penitentiary establishments. The new regime will take particular care of the special needs of each category of offenders, of which juveniles are the most vulnerable. This falls within the reforms envisaged by the government.

#### **IV. ENVISAGED REFORMS IN THE CORRECTION OF JUVENILES AND RECOMMENDATIONS**

Under the auspices of the President of the Republic, a certain number of reforms of the penitentiary system as a whole and correction of juveniles in particular have been envisaged. These cover the areas of prison infrastructure, capacity building of penitentiary personnel, reform and organization of the National School of Penitentiary Administration and the development of a collaborative relationship between the Penitentiary Administration and stakeholders.

##### **A. Reforms**

Reform efforts are being undertaken in four initiatives.

##### **1. Infrastructure**

The need for new infrastructure has been emphasized as a means of solving the major problem in prisons, which is overcrowding. By building operational structures for the custody of inmates, conditions of detention shall be improved. This will offer inmates better living conditions and increase possibilities for the carrying out of activities favourable to reintegration. Some of these penitentiary structures will be used for the custody of minors and women, who represent special categories. The problem of the negative effects of the incarceration of juveniles with adult inmates will consequently be solved.

##### **2. Capacity Building of Penitentiary Personnel**

The training of Cameroon's penitentiary personnel emphasizes the security aspects of their jobs and places less emphasis on resocializing activities. This has always led the Penitentiary Administration to resort to personnel of other ministries such as social workers, teachers, nurses, guidance counsellors, and clergy in order to carry out activities of resocialization such as training, counselling, education etc.

Proposed reforms in the above area are the improvement of performance through the reinforcement of the institutional capacities of the Penitentiary Administration, the reinforcement of the capacities of its human resources so as to enable them to respond to the demands of its missions, the modernization of management practices and methods and the development of a resocializing dimension of penitentiary activity.

In this connection, penitentiary personnel shall be trained in methods of treatment of prisoners which respect human rights, ensure discipline, and work towards social rehabilitation. This is necessary because the strength and major resource of any institution is its staff and the capacity building of personnel is instrumental in the attainment of objectives. Many penitentiary workers do not understand the job of corrections. They view their jobs as keeping inmates inside the prison so as to protect public safety. They do not understand that they have to work with inmates and be role models so as to encourage and assist them to correct their criminal behaviour. Juveniles in particular can be resocialized through this approach.

##### **3. Reform and Organization of the National School of Penitentiary Administration**

In Cameroon the National School of Penitentiary Administration is in charge of the training of penitentiary personnel. This institution therefore plays an important role in the orientation and application of the government's penitentiary policy. The reform of the school covers the building of new structures in order to make it a sub-regional institution for central Africa, the adjustment of teaching syllabi to the evolution of knowledge, and the creation of specializations. Personnel will be better trained in human rights, vocational activities, social sciences, psychology, security, etc. With this we can expect greater responsibility and accountability from prison staff. The existence of specializations will also permit some personnel to train in the treatment of juveniles.

#### 4. Collaboration Between the Penitentiary Administration and Stakeholders

Such collaboration existed in the past but it was insufficient because of the limited access to prisons generally allowed by the government to civil organizations who want to get involved in resocialization activities. One of the objectives of penitentiary reform is the development of collaboration between the Penitentiary Administration and other stakeholders involved in the care of inmates so as to favour collective action in the execution of penalties, promote mechanisms to evaluate the impact of treatment on the inmate, and from this, orientate criminal policy. In this perspective, the introduction of alternative forms of punishment as a means of reducing overcrowding in prisons has been envisaged. In addition, since public opinion is generally hostile to prisoners and even penitentiary personnel, sensitization of public opinion and the community is necessary. This can only be achieved with the help of stakeholders. Community complaints of lenient actions and procedures for particular categories will be reduced since the community will be made to understand the importance and necessity of such actions. It should be noted that complaints of lenient treatment of some offenders, most of the time minors, which in Cameroon usually take the form of public manifestations of dissatisfaction, lead judges to become harder on offenders so as to please the public. Increased collaboration will also facilitate community based care and reintegration programmes for juveniles. Such activities are presently absent in Cameroon.

### **B. Recommendations**

Several recommendations can be made to complete the reforms to ameliorate penitentiary activity. These involve individualization, premature release measures (probation, parole, and release on licence), identification and computerization of information and indeterminate sentencing.

#### 1. Indeterminate Sentencing

This does not exist in Cameroonian penal law. Indeterminate sentencing gives authority to judges to give a sentence range (minimum and maximum) to a criminal, within which, if he or she is of good conduct in prison, he or she serves the minimum period and in the contrary circumstance, serves the maximum period. The law here should be clearly defined to fix a sentence range for each offence. Judges will pronounce the specified sentences and prisoners will make an effort to change positively so as to spend less time in prison. If he or she feigns an improvement and goes on to repeat his or her crime when released, he or she will then be given the maximum penalty for the offence committed. This measure is particularly useful for juveniles who may have been lured into crime by peer pressure or psychological imbalance.

#### 2. Identification and Computerization of Information

To effectively fight criminality there should be a mastery of information relating to it. The government should make sure convicted prisoners' files have pictures and finger prints and these should be computerized. The manual calculation of sentences and keeping of files in Cameroonian prisons does not favour an effective follow up and monitoring of criminality. Record services in prisons should be computerized and there should be a network link between all prisons. With this, it will be easier to sort out recidivists and control the execution of penalties. Also the registry of the court should be computerized and linked to the computer network of prisons so as to ensure that all certificates of non-conviction delivered are given to persons whose criminal records are clean as provided by law.

#### 3. Early Release Measures

These are probation, parole and release on licence.

Probation is provided by law in Cameroon but its effective application is limited because of the financial resources required. It is exclusively directed towards juveniles. Nevertheless there is a need to involve more penitentiary personnel in probation work in the future given that they, most of the time, have a better knowledge of the criminal, social and character antecedents of the juvenile. This is especially applicable when he or she is a recidivist.

Parole is not provided by law in Cameroon, but it can be introduced as a measure for adult inmates. Release on parole should be accorded to adult inmates who exhibit good conduct in prison. In such circumstances, they should promise to be of good behaviour. If they do not abide by that undertaking, they will be reincarcerated.

Release on licence is provided by Cameroonian penal law. Its grant and revocation is by presidential decree. This makes it a difficult process for the inmate. There is a need to create regional commissions for the grant and revocation of release on licence to ease the process.

#### 4. Individualization

In order for custody and reintegration to succeed, they should take into account the individual capacities, abilities, behaviour and antecedents of each prisoner. All prisoners do not have the same needs. The case of minors shows that their age makes them more vulnerable to prison culture. Individualization can only succeed if there is a good observation strategy within the prison to identify inmates of good behaviour and allow them to benefit from early release. It is also necessary to adapt the education and training provided within the prison to the needs of each prisoner.

### **V. CONCLUSION**

The legitimate objective of penitentiary activity is reintegration. In order to achieve this, individual situations and capacities should be taken into account. Juveniles constitute a particular category within the prison milieu. The issue of accomplishing a positive character change through immersion in the 'criminal society' that is prison has always been raised. Any reforming or reshaping under such circumstances will probably be in a negative direction. Most of the time, when inmates begin to behave in a socially acceptable manner, it is largely as a result of their own initiative and not because of the system. Ideally, the factors that lead to these circumstances should be understood and controlled. Poor individualization is one of them. In the case of minors, rigorous separation and discipline is necessary in order that probation and other special measures of protection can lead to reintegration.