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The Legal and Institutional Framework on the Administration of Juvenile Justice in Cameroon

PROF. ELIZABETH NKONGHO* AND ITEM ARMSTRONG UMBU**

ABSTRACT

Children involved in the criminal justice system, whether as offenders or as victims, face particular difficulties, and their rights to justice are often violated. Protecting the human rights of children in the criminal process is therefore crucial if justice is to be genuine. In this context the enactment of domestic law, the ratification of international instruments protecting juvenile rights, the implementation of both, and the establishment of institutions charged with enforcing the protection of children's rights all bear significantly on the outcomes of juvenile justice. In Cameroon the juvenile justice system was introduced through the common law and the civil law inherited from Britain and France. After independence East Cameroon practised the civil law while West Cameroon practised the common law, which made Cameroon a bi-jural country. The law applicable to juveniles in West Cameroon consisted of the received Nigerian criminal procedure legislation together with the Children and Young Persons Ordinance, Cap. 32 of the Laws of Nigeria 1958. In East Cameroon the applicable instruments were the Code d'instruction criminelle and the French Code of Criminal Procedure of 1808, the Decree of 30 November 1928 on special jurisdictions for minors, the Decree of 30 October 1935 on the protection of minors, the Penal Code and, since 2005, the Criminal Procedure Code. At the regional and international levels Cameroon has ratified the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child and the Convention on the Rights of the Child, and its law is measured against the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. Institutionally, Cameroon has not created a dedicated juvenile court of the kind found in Belgium, Portugal, Spain, Kenya, South Africa and the United States. It has instead designated the Court of First Instance to sit in cases of juvenile delinquency, in a distinct composition and in camera, and has established borstal institutions and special prison sections and authorised non-governmental organisations to operate in the field. This article examines the legal and

* Author is a Head of Department at the Department of English Law, University of Buea, Buea, Southwest Region, Cameroon.

** Author is a PhD Research Fellow at the Department of English Law, University of Buea, Buea, Southwest Region, Cameroon.

institutional framework for the administration of juvenile justice in Cameroon and its effectiveness in protecting the rights of children in the justice system.

Keywords: *Legal Framework, Institutional Framework, Administration of Juvenile Justice, Cameroon*

I. INTRODUCTION

The normative framework for the administration of juvenile justice in Cameroon comprises the legal instruments and the institutions put in place to protect juveniles and to monitor and evaluate the way justice is administered to them. In order to protect juvenile offenders and juvenile victims, and to secure their right to justice, Cameroon has ratified, among other instruments, the Convention on the Rights of the Child¹ and the African Charter on the Rights and Welfare of the Child.² To comply with its obligations under those conventions, Cameroon has enacted a range of domestic legislation and has established institutions such as the court sitting in cases of juvenile delinquency, borstal institutions and special prison sections, and has authorised non-governmental organisations to operate in the field, all with a view to guaranteeing the protection of juvenile rights.

A. Background to juvenile justice in Cameroon

The present juvenile justice system in Cameroon, like that of most modern African states, has been shaped principally by the inheritance of French and British colonial law. During the colonial era the reformation of juvenile offenders was among the least of the concerns of the colonial administration.³ After independence, La Republique du Cameroun (East Cameroon) inherited a civil law system from the French administration, while West Cameroon, comprising the two Anglophone regions of the North West and the South West, inherited the common law tradition from Britain. This made the judicial system relating to juvenile justice in Cameroon bi-jural. Before the harmonisation of criminal procedure in 2005, the law applicable to juveniles in West Cameroon consisted of the received Nigerian criminal procedure legislation together with the Children and Young Persons Ordinance, Cap. 32 of the Laws of Nigeria 1958, which defined a child as a person under fourteen years of age and a young person as one between

¹ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC]. Adopted by G.A. Res. 44/25 (Nov. 20, 1989) and in force generally from Sept. 2, 1990. Cameroon signed on Sept. 25, 1990 and ratified on Jan. 11, 1993; under art. 49(2) the Convention entered into force for Cameroon on Feb. 10, 1993.

² African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49 (1990) [hereinafter ACRWC]. In force generally from Nov. 29, 1999; ratified by Cameroon on Sept. 5, 1997.

³ Alfred Abhulimhen-Iyoha & M.O. Oseghale, *Juvenile Justice Administration in Nigeria and Contemporary International Standards*, 8 J.L. & CRIM. JUST. 126, 127 (2020).

fourteen and seventeen years.⁴ In East Cameroon the applicable instruments were the Code d'instruction criminelle and the French Code of Criminal Procedure of 1808, the Decree of 30 November 1928 establishing special jurisdictions for minors, the Decree of 30 October 1935 on the protection of minors and preventive placement, and Law No. 58/203 of 26 December 1958 on the adaptation and simplification of criminal procedure.⁵

With the growth of concern about child protection at both the national and the international level, the Convention on the Rights of the Child now requires States Parties to recognise the right of every child accused of, or recognised as having infringed, the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.⁶

II. THE LEGAL FRAMEWORK FOR THE PROTECTION OF JUVENILES IN CAMEROON

The principal Cameroonian legislation addressing the special needs of juveniles consists of the penal law and the procedural law. Cameroon has also ratified a range of regional and international conventions and treaties intended to safeguard the administration of juvenile justice. A comparison of the penal law with the procedural law suggests that the procedural law pays considerably more attention to guaranteeing children's rights than the penal law does. That is itself a difficulty, because procedural law is not substantive: it lays down only the procedure to be followed in the administration of juvenile justice. The imbalance nonetheless indicates good faith on the part of the legislature. It may be likened to having the will to cure an epidemic but spending more on the means of transporting the medicine than on the medicine itself. A critical appraisal of the roles played by international, regional and national instruments in the protection of children's rights further suggests that the international instruments attend more closely to juvenile rights than the national ones do.⁷

⁴ S. Tabe Tabe, *A Critical Appraisal of the Juvenile Justice System under Cameroon's 2005 Criminal Procedure Code: Emerging Challenges*, 15 POTCHEFSTROOM ELEC. L.J. 147 (2012).

⁵ Tabe Tabe, *supra* note 4, at 150-52. The instruments repealed on the entry into force of the Criminal Procedure Code are listed in Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 746(1), which describes the Decree of 30 Nov. 1928 as establishing special jurisdictions for minors and Law No. 58/203 as relating to the adaptation and simplification of criminal procedure.

⁶ CRC, *supra* note 1, art. 40(1).

⁷ Thomas Ojong, *The Protection of Juveniles under Cameroon Criminal Law and Procedures through the Lens of International Standards*, 7 JURIDICAL TRIB. 201 (Special Issue, Oct. 2017).

What follows examines in turn the international, the regional and the national legal instruments that govern the administration of juvenile justice and the protection of the rights of minors in Cameroon.

III. INTERNATIONAL LEGAL INSTRUMENTS

International conventions and treaties constitute one of the most compelling bodies of rules regulating the administration of justice in both the national and the international arena. In states such as Cameroon they have been given a status superior to domestic law. Article 45 of the Constitution provides that duly approved or ratified treaties and international agreements shall, following their publication, override national laws, provided the other party implements the said treaty or agreement.⁸ Unlike the position in dualist states, no separate act of legislative domestication is required before Cameroonian courts may apply them. International human rights treaties prescribe the conduct that violates the human rights of individuals within a state, and they impose on States Parties duties that encompass the measures to be taken to guarantee the human rights of everyone within their territory. At the core of those obligations lies the duty to ensure the proper administration of justice and to protect human rights, a task that ordinarily calls for legislative and institutional mechanisms aimed at preventing abuses and extends to provisions criminalising violations. Indirectly, therefore, such treaties help to ensure that those who violate human rights are held accountable, prosecuted and punished.

A. The Convention on the Rights of the Child

The Convention on the Rights of the Child was established by General Assembly Resolution 44/25 of 20 November 1989 and entered into force generally on 2 September 1990. Cameroon signed it on 25 September 1990 and ratified it on 11 January 1993, so that under article 49(2) it entered into force for Cameroon on 10 February 1993.⁹

The States Parties to the Convention, acting in accordance with the principles proclaimed in the Charter of the United Nations, recognise that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world. They agree that everyone, including children, is entitled to all the rights and freedoms set out in the Convention without distinction as to race, colour, sex, language, religion, or

⁸ Constitution of the Republic of Cameroon, Law No. 96/06 of 18 Jan. 1996 amending the Constitution of 2 June 1972, as amended by Law No. 2008/001 of 14 Apr. 2008, art. 45.

⁹ CRC, *supra* note 1, art. 49; UNITED NATIONS TREATY COLLECTION, *Multilateral Treaties Deposited with the Secretary-General*, ch. IV.11.

political or other opinion, and they recognise that childhood is entitled to special care and assistance.¹⁰

The Convention provides in article 3 that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.¹¹ It thereby encourages all stakeholders to take the best interests of the child into account in the administration of justice. It also guarantees the child's right against arbitrary or unlawful interference with his or her privacy,¹² and it places the primary responsibility for the upbringing and development of the child on the parents and legal guardians, whose basic concern must be the best interests of the child.¹³

The Convention calls on all States Parties to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has the care of the child.¹⁴

Article 37 requires States Parties to ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment, and that neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons below eighteen years of age. No child may be deprived of liberty unlawfully or arbitrarily.¹⁵

The arrest, detention or imprisonment of a child must be carried out in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time, and every child deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age.¹⁶

B. The Optional Protocol on the involvement of children in armed conflict

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict was adopted by General Assembly Resolution 54/263 of 25 May 2000 and entered into force on 12 February 2002. Cameroon signed it on 5 October 2001 and

¹⁰ *Id.* pmb. and art. 2(1).

¹¹ *Id.* art. 3(1).

¹² *Id.* art. 16(1).

¹³ *Id.* art. 18(1).

¹⁴ *Id.* art. 19(1).

¹⁵ *Id.* art. 37(a), (b).

¹⁶ *Id.* art. 37(b), (c).

ratified it on 4 February 2013.¹⁷ The Protocol recognises the special need to protect children who are particularly vulnerable to recruitment or use in hostilities.

The Protocol condemns the recruitment, training and use of children within and across national borders in situations of armed conflict, and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals.¹⁸ Article 1 provides that States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of eighteen years do not take a direct part in hostilities,¹⁹ and article 3 requires States Parties to raise the minimum age for the voluntary recruitment of persons into their national armed forces above the age set in article 38(3) of the Convention.²⁰

C. The Worst Forms of Child Labour Convention

The Worst Forms of Child Labour Convention was adopted at Geneva on 17 June 1999 by the General Conference of the International Labour Organization at its eighty-seventh session, convened by the Governing Body of the International Labour Office, in view of the need for a new instrument on the prohibition and elimination of the worst forms of child labour as a matter of priority. Cameroon ratified it on 5 June 2002, and it took effect in the territory one year later.²¹

Article 1 provides that each Member which ratifies the Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.²² For the purposes of the Convention, the term child applies to all persons under the age of eighteen.²³

In the words of article 3, the worst forms of child labour comprise all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflict. They also include the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, and for illicit activities such as the production and trafficking of drugs as defined in the relevant international

¹⁷ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, May 25, 2000, 2173 U.N.T.S. 222 [hereinafter OPAC].

¹⁸ OPAC, *supra* note 17, pmbl.

¹⁹ *Id.* art. 1.

²⁰ *Id.* art. 3(1).

²¹ Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), June 17, 1999, 2133 U.N.T.S. 161 [hereinafter ILO Convention No. 182]. In force generally from Nov. 19, 2000; ratified by Cameroon on June 5, 2002.

²² ILO Convention No. 182, *supra* note 21, art. 1.

²³ *Id.* art. 2.

treaties, as well as work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.²⁴ Institutions vested with the power to monitor and enforce juvenile rights are called upon to penalise such practices.

D. The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights was adopted on 16 December 1966 and entered into force on 23 March 1976. Cameroon acceded to it on 27 June 1984.²⁵

Article 6 affirms that every human being has the inherent right to life and that no one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime.²⁶ The Covenant further provides that sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.²⁷ The effect is to prohibit courts trying juveniles from imposing capital punishment on minors.

The Covenant also requires that all persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person, that accused juvenile persons be separated from adults and brought as speedily as possible for adjudication, and that the penitentiary system comprise treatment of prisoners the essential aim of which is their reformation and social rehabilitation, juvenile offenders being segregated from adults and accorded treatment appropriate to their age and legal status.²⁸

E. The Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination was adopted by General Assembly Resolution 2106 (XX) of 21 December 1965 and entered into force on 4 January 1969. Cameroon signed it on 12 December 1966 and ratified it on 24 June 1971.²⁹

The States Parties to that Convention proceed from the consideration that all human beings are equal before the law and entitled to equal protection of the law against any discrimination and against any incitement to discrimination.³⁰ The United Nations Declaration on the

²⁴ *Id.* art. 3.

²⁵ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]. Cameroon acceded on June 27, 1984.

²⁶ ICCPR, *supra* note 25, art. 6(1)-(2).

²⁷ *Id.* art. 6(5).

²⁸ *Id.* art. 10(1)-(3).

²⁹ International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195 [hereinafter ICERD].

³⁰ ICERD, *supra* note 29, pmbl.

Elimination of All Forms of Racial Discrimination of 20 November 1963 had already affirmed the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person.³¹ Read together, these instruments require all actors involved in the administration of juvenile justice to avoid discrimination of any kind.

F. The Protocol to prevent, suppress and punish trafficking in persons

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, was adopted and opened for signature by General Assembly Resolution 55/25 of 15 November 2000 and entered into force on 25 December 2003. Cameroon signed it on 13 December 2000 and ratified it on 6 February 2006.³²

The States Parties to the Protocol declare that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognised human rights.³³

Article 3(c) provides that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if it does not involve any of the means set out in article 3(a), and article 3(d) defines a child as any person under eighteen years of age.³⁴

States Parties are required to adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set out in article 3 of the Protocol when committed intentionally.³⁵ Each State Party must also ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation, and must consider implementing measures to provide for the physical, psychological and social recovery of victims, including in cooperation with non-governmental organisations, other relevant organisations and elements of civil society, by providing appropriate housing, counselling and information, medical, psychological and material assistance, and employment,

³¹ United Nations Declaration on the Elimination of All Forms of Racial Discrimination, G.A. Res. 1904 (XVIII) (Nov. 20, 1963).

³² Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319 [hereinafter Trafficking Protocol].

³³ Trafficking Protocol, *supra* note 32, pmbl.

³⁴ *Id.* art. 3(c)-(d).

³⁵ *Id.* art. 5(1).

educational and training opportunities. In applying those provisions each State Party must take into account the age, gender and special needs of victims, in particular the special needs of children.³⁶

Although international conventions play an important part in safeguarding the interests of children in the administration of juvenile justice in Cameroon, Cameroon has also signed and ratified a number of regional instruments in this field.

IV. REGIONAL LEGAL INSTRUMENTS

Cameroon is party to a number of regional instruments intended to secure an efficient juvenile justice system and to guarantee the rights of juveniles. The principal ones are considered below.

A. The African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights, commonly called the Banjul Charter, was adopted at Nairobi in June 1981 and entered into force on 21 October 1986. Cameroon signed it on 23 July 1987 and ratified it on 20 June 1989, depositing its instrument on 18 September 1989.³⁷ Several of its provisions protect the rights of children.

Articles 4 and 5 of the Charter provide that human beings are inviolable, that every human being is entitled to respect for his life and the integrity of his person, and that no one may be arbitrarily deprived of that right. Every individual has the right to the respect of the dignity inherent in a human being and to the recognition of his legal status, and all forms of exploitation and degradation, particularly slavery, the slave trade, torture and cruel, inhuman or degrading punishment and treatment, are prohibited.³⁸ Applied to children, these guarantees prohibit their arbitrary deprivation of life and their exploitation and degradation.

Article 7 provides that every individual, including a minor, is entitled to have his cause heard: this comprises the right of appeal to competent national organs, the right to be presumed innocent until proved guilty by a competent court or tribunal, the right to defence including the right to be defended by counsel of his choice, and the right to be tried within a reasonable time by an impartial court or tribunal. The article further provides that no one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was

³⁶ *Id.* arts. 6(3), 6(4), 6(6).

³⁷ African Charter on Human and Peoples' Rights, June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 1520 U.N.T.S. 217 [hereinafter Banjul Charter]. The Charter was adopted by the Eighteenth Assembly of Heads of State and Government at Nairobi and records only the month of adoption. See also Ojong, *supra* note 7, at 214 n.75.

³⁸ Banjul Charter, *supra* note 37, arts. 4-5.

committed and that no penalty may be inflicted for an offence for which no provision was made at the time it was committed.³⁹

The Charter also requires the State to ensure the elimination of every discrimination against women and to ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions, and it provides that the aged and the disabled shall have the right to special measures of protection in keeping with their physical or moral needs.⁴⁰ To secure respect for and implementation of the Charter, an African Commission on Human and Peoples' Rights was established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.⁴¹

B. The African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child was adopted on 11 July 1990 and entered into force on 29 November 1999. Cameroon signed it on 16 September 1992 and ratified it on 5 September 1997.⁴² It was adopted in recognition of the fact that the child, by reason of his physical and mental immaturity, needs special safeguards and care, and it remains the principal African instrument on the rights and welfare of the child.

Article 2 of the Charter defines a child as every human being below the age of eighteen years.⁴³ Article 3 provides that every child is entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the Charter irrespective of the child's or his parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.⁴⁴ Courts and other stakeholders are thus required to treat every child equally, whatever the child's status or background.

Article 4 provides for the best interests of the child. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration, and in all judicial or administrative proceedings affecting a child who is capable of communicating his own views an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, those views being taken into consideration by the relevant authority in accordance with the provisions of appropriate law.⁴⁵

³⁹ *Id.* art. 7(1)-(2).

⁴⁰ *Id.* art. 18(3)-(4).

⁴¹ *Id.* art. 30.

⁴² ACRWC, *supra* note 2; Ojong, *supra* note 7, at 214 n.76.

⁴³ ACRWC, *supra* note 2, art. 2.

⁴⁴ *Id.* art. 3.

⁴⁵ *Id.* art. 4(1)-(2).

Article 5 postulates that every child has an inherent right to life and provides expressly that death sentence shall not be pronounced for crimes committed by children.⁴⁶

States Parties have undertaken to ensure that their constitutional legislation recognises the principle that a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws,⁴⁷ although in practice some member states remain reluctant to confer nationality on a foreign child born in their territory. The Charter also guarantees the child's freedom of expression, freedom of association and freedom of thought, conscience and religion, subject to law, while recognising the duty of parents and, where applicable, legal guardians to provide guidance and direction in the exercise of those rights.⁴⁸

The Charter requires States Parties to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment, including sexual abuse, while in the care of a parent, legal guardian or school authority or any other person who has the care of the child.⁴⁹ In compliance with the Charter, Cameroon has incorporated much of this protection into its Criminal Procedure Code and other domestic legislation, and has designated the Court of First Instance as the court that sits in cases of juvenile delinquency.⁵⁰

Article 17 makes provision for the special treatment to be accorded to minors in the administration of juvenile justice. It provides that every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others. States Parties must in particular ensure that no child who is detained or imprisoned or otherwise deprived of his liberty is subjected to torture, inhuman or degrading treatment or punishment, and that children are separated from adults in their place of detention or imprisonment.⁵¹

⁴⁶ *Id.* art. 5(1), (3).

⁴⁷ *Id.* art. 6(3)-(4).

⁴⁸ *Id.* arts. 7-9.

⁴⁹ *Id.* art. 16(1).

⁵⁰ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 713.

⁵¹ ACRWC, *supra* note 2, art. 17(1), (2)(a)-(b).

The Charter further establishes an African Committee of Experts on the Rights and Welfare of the Child within the Organization of African Unity to promote and protect the rights and welfare of the child.⁵²

C. The Maputo Protocol

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted at Maputo on 11 July 2003 and in force since 25 November 2005, calls on States Parties to eliminate every discrimination against women and to ensure the protection of the rights of women as stipulated in international declarations and conventions. Cameroon signed it on 25 July 2006 and ratified it on 13 September 2012. Several of its provisions also protect children.⁵³

States Parties are required to enact appropriate national legislative measures guaranteeing that the minimum age of marriage for women shall be eighteen years, so that any marriage below that age is an early marriage.⁵⁴

The Protocol also provides that a woman and a man shall have equal rights with respect to the nationality of their children, except where this is contrary to a provision in national legislation or to national security interests, and that a woman and a man shall jointly contribute to safeguarding the interests of the family and protecting and educating their children.⁵⁵

Article 7(c) provides that in the case of separation, divorce or annulment of marriage, women and men shall have reciprocal rights and responsibilities towards their children, and that in any case the interests of the children shall be given paramount importance.⁵⁶ The Protocol likewise requires States Parties to recognise and enforce the right of salaried women to the same allowances and entitlements as those granted to salaried men for their spouses and children.⁵⁷

Article 13(l) recognises that both parents bear the primary responsibility for the upbringing and development of children, and that this is a social function for which the State and the private sector have secondary responsibility.⁵⁸

⁵² *Id.* art. 32.

⁵³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, July 11, 2003, OAU Doc. CAB/LEG/66.6 [hereinafter Maputo Protocol]. Cameroon deposited its instrument of ratification on 28 Dec. 2012.

⁵⁴ Maputo Protocol, *supra* note 53, art. 6(b).

⁵⁵ *Id.* art. 6(h)-(i).

⁵⁶ *Id.* art. 7(c).

⁵⁷ *Id.* art. 13(k).

⁵⁸ *Id.* art. 13(l).

D. The Protocol on the rights of persons with disabilities in Africa

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa was adopted at Addis Ababa on 29 January 2018 and entered into force on 3 May 2024. Cameroon signed it on 5 February 2020 and ratified it on 6 June 2022.⁵⁹ It responds to the inadequacy of the normative and institutional framework for the protection and promotion of the rights of persons with disabilities, including children, and encourages States Parties to take effective measures, including policy, legislative, administrative, institutional and budgetary steps, to ensure respect for, and the promotion and fulfilment of, the rights and dignity of persons with disabilities without discrimination on the basis of disability.

The Protocol calls on member states to take account of children with disabilities in drafting policy and legislation and in developing national plans, programmes and activities in every sphere of life, and to ensure the effective participation of persons with disabilities and their representative organisations, including women and children with disabilities, in all decision-making processes. It also calls on member states to modify or abolish existing policies, laws, regulations, customs and practices that discriminate against children with disabilities.⁶⁰

Article 11, on harmful practices, calls on States Parties to take all appropriate measures to eliminate harmful practices perpetrated on persons with disabilities, including witchcraft, abandonment, concealment, ritual killings and the association of disability with omens, and to provide appropriate support and assistance to victims of such practices.⁶¹

States Parties are further required to recognise that persons with disabilities, including children, are equal before the law and entitled without discrimination to the equal protection and equal benefit of the law, and to ensure that children with disabilities enjoy the right to education on an equal basis with others, including access to general tertiary education, vocational training and lifelong learning. Public infrastructure and buildings should be planned so as to be accessible to children with disabilities.⁶²

V. NATIONAL LEGAL INSTRUMENTS

At the national level a range of legislation addresses the special needs of minors and seeks to secure the smooth administration of juvenile justice. The principal instruments are the

⁵⁹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, Jan. 29, 2018 [hereinafter Disability Protocol]. Cameroon deposited its instrument of ratification on 14 Sept. 2023.

⁶⁰ Disability Protocol, *supra* note 59, art. 4.

⁶¹ *Id.* art. 11.

⁶² *Id.* arts. 6, 15-16.

Constitution, the Penal Code, the Criminal Procedure Code, the law on judicial organisation and the Code of Military Justice.

A. The Constitution

The Preamble to the Constitution enshrines provisions that safeguard the rights of juveniles. No single article of the Constitution addresses juvenile justice as such, but the Preamble, which restates the substance of the ratified international instruments, sets out inalienable rights that bear directly on it.

The Preamble declares that the people of Cameroon proclaim that the human person, without distinction as to race, religion, sex or belief, possesses inalienable and sacred rights. It affirms the State's commitment to protect women, the young, the elderly and the disabled, and expresses the determination to secure equality before the law, freedom of movement, the privacy of the home and of correspondence, and freedom from arbitrary arrest and detention. It also places on the State the obligation to guarantee the child's right to education and provides that primary education shall be compulsory.⁶³

The Preamble further affirms the attachment of the people of Cameroon to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations, the African Charter on Human and Peoples' Rights and all duly ratified international conventions relating thereto.⁶⁴

Article 65 provides that the Preamble shall be part and parcel of the Constitution.⁶⁵ It follows that, although the rights of juveniles are not expressly addressed in the body of the Constitution, they are guaranteed by the combined operation of articles 65 and 45, the latter giving duly ratified treaties precedence over national law.⁶⁶ There is nonetheless a case for amending the Constitution so that it addresses the fundamental issues of juvenile justice directly and unambiguously.

B. The Penal Code

i. The age of criminal responsibility

Section 80 of the Penal Code divides minors into four bands by reference to age. No criminal responsibility arises from the act or omission of a person aged less than ten years, who is presumed *doli incapax* and is taken to lack the capacity to understand the consequences of his

⁶³ Constitution, *supra* note 8, pmb1.

⁶⁴ Constitution, *supra* note 8,

⁶⁵ Constitution, *supra* note 8, art. 65.

⁶⁶ *Id.* art. 45.

acts.⁶⁷ An offence committed by a person aged not less than ten and not more than fourteen years may attract only such special measures as may by law be provided,⁶⁸ so that responsibility in this band turns not only on the elements of the offence but also on what the common law calls mischievous discretion.⁶⁹ For an offence committed by a person aged over fourteen and under eighteen years responsibility is diminished.⁷⁰ A person aged eighteen years or over is fully responsible as an adult,⁷¹ and the age that governs is the age attained at the date of the commission of the offence.⁷² The concept of majority in Cameroon is not uniform, since it varies from one branch of the law to another, but the age of criminal majority is eighteen years, so that a person under that age is a minor for the purposes of criminal proceedings and is entitled to the corresponding special protection. The minimum age was fixed in the light of the international obligation to establish an age below which children are presumed not to have the capacity to infringe the penal law.^{73,74}

A child of ten to fourteen years is thus criminally responsible and may be tried, but may not be sentenced to a penalty or to a preventive measure provided by the criminal law for adults; only special measures may be taken against him if he is found guilty,⁷⁵ and the court must admonish him before ordering one of them.⁷⁶ Because what is imposed is a measure and not a penalty, the court makes an order of judicial placement against a minor found guilty of an offence rather than passing a sentence of imprisonment in a regular prison.⁷⁷

ii. The responsibility of parents and guardians

The Penal Code also engages the responsibility of those who have charge of the minor. Where a person under eighteen years has committed an act defined as an offence, the President of the District Court may require his parents, guardian or the person responsible under customary law to enter into a recognizance, to be forfeited if the minor commits a similar act within a year, unless the obligor proves that he took all reasonable steps to prevent the minor from committing

⁶⁷ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 80(1).

⁶⁸ *Id.* s. 80(2).

⁶⁹ Tabe Tabe, *supra* note 4, at 160.

⁷⁰ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 80(3).

⁷¹ *Id.* s. 80(4).

⁷² *Id.* s. 80(5).

⁷³ ACRWC, *supra* note 2, art. 17(4).

⁷⁴ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), G.A. Res. 40/33, r. 4.1 (Nov. 29, 1985) [hereinafter Beijing Rules].

⁷⁵ Ojong, *supra* note 7, at 215-16.

⁷⁶ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 724.

⁷⁷ Decree No. 2001/09/PM of 20 Mar. 2001, art. 7(1) (Cameroon).

the offence.⁷⁸ Conversely, responsibility is diminished for an offence committed by a person under eighteen years under the compulsion of his parents or of the person having charge of him or responsible for him under customary law.⁷⁹

iii. Protection of juveniles against sexual offences

Child sexual abuse may be described as any sexual activity with a minor by an adult or an adolescent. Although minors are rarely the perpetrators of such offences, they are very often the victims, and juvenile victims must then seek redress before the competent court. Sexual offences are generally those in which sexual gratification is the offender's predominant or overt motivation.⁸⁰

Some of these offences take the form of a sexual aggression committed by violence against a non-consenting person; in others the perpetrator alleges the victim's consent. In the special case of minors the acts are punishable even where the other party claims that the minor consented, since a minor is treated as lacking the capacity to give a valid consent. The sexual offences most often committed against minors and punished by the Penal Code are rape, indecency towards young people and immoral earnings.

Rape is punished under section 296 of the Penal Code, which provides that whoever by force or moral ascendancy compels any person, whether above or below the age of puberty, to have sexual intercourse with him shall be punished with imprisonment for from five to ten years.⁸¹ A marriage freely consented to between the offender and the victim has no effect on the prosecution and conviction.⁸² The penalty is doubled where the offender has authority over the victim or custody of the victim by law or by custom, is a public servant or a minister of religion, or is helped by one or more others.⁸³

The courts have not always dealt consistently with the rape of minors. In *The People v. Sakwe Stephen* the accused, who had raped a girl below the age of sixteen, was sentenced to ten years' imprisonment.⁸⁴ In *The People v. Bigingi Amubngwa*, by contrast, the accused was convicted of unlawful sexual intercourse with a girl under sixteen and received the lighter sentence of five

⁷⁸ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 48.

⁷⁹ *Id.* s. 82(a).

⁸⁰ CARLSON ANYANGWE, CRIMINAL LAW IN CAMEROON: SPECIFIC OFFENCES 499 (2011).

⁸¹ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 296.

⁸² *Id.* s. 297.

⁸³ *Id.* s. 298.

⁸⁴ *The People v. Sakwe Stephen*, Suit No. HCF/9.c/87 (1987) (unreported), cited in Ojong, *supra* note 7, at 204.

years' imprisonment with hard labour.⁸⁵ For an offence of that gravity, and whatever the plea in mitigation, the aggravating circumstances available to the court might have been expected to weigh more heavily in favour of the vulnerable victim.

The penalties for indecency towards a minor vary with the age of the juvenile. The Penal Code organises them in two groups: indecency towards a child under sixteen, and indecency towards a minor between sixteen and twenty-one years.⁸⁶ By virtue of section 346, whoever commits an indecent act in the presence of a child under the age of sixteen is punished with imprisonment for from two to five years and with a fine of from twenty thousand to two hundred thousand francs. The penalty is doubled where the offence is accompanied by assault or where the offender is one of the persons described in section 298. Where the offender has sexual intercourse with the victim, notwithstanding the victim's consent, the penalty is imprisonment for from ten to fifteen years, and where the indecency takes the form of rape the penalty is imprisonment for from fifteen to twenty-five years, rising to life imprisonment where the offender is one of the persons described in section 298.⁸⁷ Section 346(3) therefore forbids absolutely any sexual intercourse with a person under sixteen, irrespective of consent.

In *The People v. Dominic Mathew Akpan* the accused was charged on two counts under section 346(3) with having sexual intercourse with two girls, both aged about seven. The girls gave evidence that they had been bathing in a nearby pool when the accused invited them to his house, took them to his bedroom and forcibly had carnal knowledge of them one after the other. He was convicted and sentenced to ten years' imprisonment.⁸⁸ In *The People v. Evaristus Ndong* the accused was sentenced to fifteen years' imprisonment with hard labour for having had sexual intercourse repeatedly with a girl whose age was determined to be eleven.⁸⁹

Immoral earnings are dealt with by section 294 of the Penal Code, which provides that whoever procures, aids or facilitates another person's prostitution, or shares in the proceeds of another's prostitution, whether habitually or otherwise, or is subsidised by any person engaging in prostitution, shall be punished with imprisonment for from six months to five years and with a fine of from twenty thousand to one million francs. Whoever lives with a person engaging in prostitution is presumed to be subsidised by that person unless he shows that his own resources

⁸⁵ *The People v. Bigingi Amubngwa*, Suit No. HCSW/38c./85 (1985) (unreported), cited in Ojong, *supra* note 7, at 204-05.

⁸⁶ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, ss. 346-347.

⁸⁷ *Id.* s. 346(1)-(4); see Ojong, *supra* note 7, at 217 (on the application of s. 346(4)).

⁸⁸ *The People v. Dominic Mathew Akpan* (1968) W.C.L.R. 33, cited in Ojong, *supra* note 7, at 205, and discussed in ANYANGWE, *supra* note 80, at 48-49.

⁸⁹ *The People v. Evaristus Ndong* (1971-1973) U.Y.L.R. 145, cited in Ojong, *supra* note 7, at 205, and in ANYANGWE, *supra* note 80, at 527.

are sufficient to support him.⁹⁰ The punishment is doubled where the offence is accompanied by coercion or fraud, where the offender is armed, where the offender is the owner or manager of, or otherwise in charge of, an establishment in which prostitution is habitually practised, where the offence has been committed to the detriment of a person under twenty-one, or where the offender is the father, mother, guardian or person with customary responsibility for the victim; and on conviction the court may disqualify the offender from being the guardian or curator of any person under twenty-one and from having custody of such a person.⁹¹

The Code protects minors more specifically by punishing a person who, having custody of a person under eighteen years of age by law or by custom, allows that person to reside or work in an establishment where prostitution is habitually practised or to work in a prostitute's house.⁹²

What amounts to prostitution has been given a wide meaning. In *R v De Munck* a mother was charged, among other things, with attempting to procure her daughter, then about fifteen, to become a common prostitute. She permitted the girl to take men to the house in which she herself lived and allowed them to be alone with the girl in circumstances from which sexual connection would naturally be inferred. Although the medical evidence established that the girl was *virgo intacta*, the Court of Criminal Appeal held that the term prostitute is not confined to a woman who offers her body for ordinary sexual intercourse in return for payment, and that prostitution is proved if it is shown that a woman offers her body commonly for lewdness for payment in return. The conviction was upheld.⁹³

iv. Offences committed against children and their parents

The Penal Code contains a number of provisions protecting minors against offences such as abortion, assault on a woman with child, infanticide, cloud on parentage, corruption of youth and the supply of drink to youths, which violate the physical integrity of the minor or of the minor's family.

Section 337 punishes the practice of abortion. Any woman procuring or consenting to her own abortion is punished with imprisonment for from fifteen days to one year or with a fine of from five thousand to two hundred thousand francs, or with both. Whoever procures the abortion of a woman, notwithstanding her consent, is punished with imprisonment for from one to five years and with a fine of from one hundred thousand to two million francs. Those penalties are

⁹⁰ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 294(1)-(2).

⁹¹ *Id.* s. 294(3), (5).

⁹² *Id.* s. 345.

⁹³ *R v De Munck* [1918] 1 K.B. 635, 637-38 (Crim. App.).

doubled where the offender habitually engages in abortion or practises the profession of medicine or an allied profession.⁹⁴

The prohibition is reinforced by the Code of Medical Ethics, which forbids any practice or act of abortion.⁹⁵ The prohibition is not absolute: sections 337 and 338 do not apply to acts performed by a qualified person and proved necessary to save the mother from grave danger to her health, and where a pregnancy results from rape an abortion performed by a qualified medical practitioner, after certification by the prosecution that there is a good case, constitutes no offence.⁹⁶ Those exceptions nonetheless fall short of article 14(2)(c) of the Maputo Protocol, which requires States Parties to protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape and incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.⁹⁷

Section 338 punishes assault on a woman with child. Whoever by violence against a woman with child, or against a child being born, causes, whether intentionally or not, the death or permanent incapacity of the child is punished with imprisonment for from five to ten years and with a fine of from one hundred thousand to two million francs.⁹⁸

Infanticide is dealt with by section 340, which reduces the punishment for murder within the meaning of sections 275 or 276, or for abetment of such murder, by a mother of her child within one month of the birth, to imprisonment for from five to ten years, without reducing the penalty as against any other offender or accessory.⁹⁹

Section 341 punishes cloud on parentage with imprisonment for from five to ten years, and applies to any person whose conduct has the result of depriving a child of the evidence of his true parentage.¹⁰⁰ The offence rests on the premise that a child has the right to know the identity of his biological parents, so that any conduct depriving the child of the evidence of that identity is punishable. The removal or exchange of newborn children in maternity units is the paradigm case, and the commercialisation of newborn children, with or without the consent of their parents, falls within the mischief the section is intended to suppress. The risk is not hypothetical:

⁹⁴ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 337(1)-(3).

⁹⁵ Decree No. 83-166 of 12 Apr. 1983 on the Code of Medical Ethics (Cameroon), s. 29(1); cited in Ojong, *supra* note 7, at 223.

⁹⁶ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 339(1)-(2).

⁹⁷ Maputo Protocol, *supra* note 53, art. 14(2)(c).

⁹⁸ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 338.

⁹⁹ *Id.* s. 340.

¹⁰⁰ *Id.* s. 341.

a three-day-old infant was taken from the maternity ward of the Baptist Hospital at Ekoumdoum, Yaounde, on 3 August 2024 while the mother had gone to buy food, and was recovered three days later.¹⁰¹

To combat the corruption of youth, section 344 provides that whoever, in order to satisfy the desires of another person, habitually excites, encourages or facilitates the debauch or corruption of any person under eighteen years of age is punished with imprisonment for from one to five years and with a fine of from twenty thousand to one million francs, the penalty being doubled where the victim is under sixteen years. On conviction the court may in addition deprive the offender of parental power for the same period and disqualify him from being the guardian or curator of any minor.¹⁰²

Section 348 punishes, with a fine of from five thousand to fifty thousand francs, a person licensed to sell intoxicating liquor for consumption on the premises who admits to those premises a person under sixteen years of age who is not accompanied by a person over twenty-one responsible for supervising him; a person licensed to sell beverages for consumption on the premises who sells or offers, whether on those premises or in any other public place, intoxicating liquor to a person under eighteen years of age not so accompanied; and whoever makes a person under twenty-one years of age drunk.¹⁰³ On a subsequent conviction the punishment becomes imprisonment for from fifteen days to one month and a fine of from ten thousand to one hundred thousand francs, and the court may order the closure of the licensed premises and the publication of its judgment; the section does not apply to a person who proves that he was misled as to the age of the minor or as to the age or authority of the person accompanying him.¹⁰⁴ Read literally, the section leaves unpunished the admission of a minor to licensed premises in the company of an adult over twenty-one, and the consumption of liquor by a child in a private place not open to the public. That literal reading is difficult to reconcile with the mischief the legislature evidently sought to cure, which was to keep intoxicating liquor away from children altogether; a purposive construction is to be preferred. The mischief is a live one. In late December 2023 video footage of minors drinking alcohol in a bar, with no adult present, circulated widely in Cameroon, and the brewer whose products appeared in it issued a public statement invoking section 348 of the Penal Code.¹⁰⁵

¹⁰¹ *Yaounde: le bebe vole a Ekoumdoum retrouve a Nkoabang*, JOURNAL DU CAMEROUN (Aug. 6, 2024).

¹⁰² Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 344.

¹⁰³ *Id.* s. 348(1).

¹⁰⁴ *Id.* s. 348(2)-(3).

¹⁰⁵ Societe Anonyme des Brasseries du Cameroun, Communiqué: *Consommation d'alcool par les mineurs* (Douala, Dec. 28, 2023).

The failure to return a minor to the person to whom custody has been granted by an order of court, whether permanent or temporary, is punished under section 179 of the Penal Code with imprisonment for from one month to one year and with a fine of from five thousand to one million francs, the imprisonment extending to three years where the offender has been deprived of parental power.¹⁰⁶ A person in charge of a child who fails to return him to those having the right to claim him back is punished under section 355 with imprisonment for from one to five years and with a fine of from twenty thousand to two hundred thousand francs.¹⁰⁷

v. Offences against the liberty of children

Cameroonian law protects minors against acts and conduct that deprive children of liberty, including forced labour, kidnapping, forced marriage and the abuse of bride price.

Under section 292 of the Penal Code, whoever for his personal interest compels another to do any work or to render any service which that other has not offered of his own free will is punished with imprisonment for from one to five years or with a fine of from ten thousand to five hundred thousand francs, or with both.¹⁰⁸ The prohibition of forced labour is reinforced by the Labour Code, which forbids forced or compulsory labour and defines it as any labour or service demanded of an individual under threat of penalty and which the individual has not freely offered to perform,¹⁰⁹ and by the law on combating trafficking in persons and slavery, which defines the exploitation of persons to include the exploitation of labour, forced labour, slavery and practices similar to slavery.¹¹⁰

Section 352 punishes with imprisonment for from one to five years and with a fine of from twenty thousand to two hundred thousand francs whoever, without force or fraud, takes or entices away any person under eighteen years of age against the will of those to whom custody belongs by law or by custom, or procures that person to leave that custody.¹¹¹ Section 353 punishes with imprisonment for from five to ten years, and with a fine of from twenty thousand to four hundred thousand francs, whoever by force or fraud takes or entices away a person under the age of twenty-one against the will of those to whom custody belongs.¹¹² Under either of those sections the punishment becomes imprisonment for life where the person kidnapped is

¹⁰⁶ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 179.

¹⁰⁷ *Id.* s. 355.

¹⁰⁸ *Id.* s. 292.

¹⁰⁹ Law No. 92/007 of 14 Aug. 1992 on the Labour Code (Cameroon), s. 2(3)-(5).

¹¹⁰ Law No. 2011/024 of 14 Dec. 2011 relating to the Fight against Trafficking in Persons and Slavery (Cameroon), s. 2(d).

¹¹¹ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 352(1).

¹¹² *Id.* s. 353.

under the age of thirteen or where the offender acts with intent to obtain, or obtains, a ransom, and becomes the death penalty where the minor dies as a result of the kidnapping.¹¹³

Forced marriage is an offence in Cameroon. Section 356 punishes with imprisonment for from five to ten years, and with a fine of from twenty-five thousand to one million francs, whoever compels anyone to marry, the term of imprisonment not being less than two years, whatever the mitigating circumstances, where the victim is under eighteen; and it punishes in the same way whoever gives a boy or a girl under eighteen in marriage.¹¹⁴ Section 357, on the abuse of bride price, does not outlaw the institution of bride price, nor does it penalise the mere giving or receiving of bride price. Because bride price is in practice often abused, the law attacks those aspects of the institution that give it the colour of a sale of the bride, by making it an offence to demand an excessive bride price or to receive bride price in circumstances akin to false pretences.¹¹⁵

Section 355-1 punishes any parent who interferes with the exercise by the other parent of a right of visit granted by court order to a child they have in common, with imprisonment for from six months to one year, or with a fine of from fifty thousand to five hundred thousand francs, or with both.¹¹⁶ Section 355-2 punishes with a fine of from fifty thousand to five hundred thousand francs a parent of sufficient means who refuses to send his child to school, the penalty rising to imprisonment for from one to two years where the offence is repeated.¹¹⁷

C. The Criminal Procedure Code

Before the harmonisation of criminal procedure, different procedures applied in the civil law and the common law jurisdictions of Cameroon. Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code, which came into force on 1 January 2007, was rightly regarded as a decisive advance in the protection of human rights and the consolidation of the rule of law in Cameroon.¹¹⁸ The Code lays down rules specific to the administration of juvenile justice, running from the institution of prosecution proceedings through to the criminal record of the juvenile and the costs arising from measures for the protection and treatment of juveniles.¹¹⁹

¹¹³ *Id.* s. 354.

¹¹⁴ *Id.* s. 356(1)-(3).

¹¹⁵ *Id.* s. 357; see ANYANGWE, *supra* note 80.

¹¹⁶ *Id.* s. 355-1.

¹¹⁷ *Id.* s. 355-2(1)-(2); Ojong, *supra* note 7, at 223 n.128.

¹¹⁸ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 747 (as originally enacted, providing for entry into force on the first day of the thirteenth month following promulgation, namely 1 Aug. 2006); the date was postponed to 1 Jan. 2007 by Law No. 2006/008 of 14 July 2006 amending s. 747. See Tabe Tabe, *supra* note 4, at 149.

¹¹⁹ *Id.* ss. 700-743.

i. Distinctive safeguards in the prosecution and trial of juveniles

The Criminal Procedure Code lays down a series of safeguards that apply to a minor and not to an adult, from the institution of proceedings through to the criminal record of the juvenile offender.

The institution of criminal proceedings relating to minors. Criminal proceedings against a minor are instituted before the court vested with competent jurisdiction. Whichever authority sets the proceedings in motion, the State Counsel or the Examining Magistrate is obliged to inform the parents, guardian or custodian of the infant that proceedings have been instituted against the minor.¹²⁰

The compulsory preliminary inquiry. Section 700(1) provides that a preliminary inquiry shall be compulsory for a felony or a misdemeanour committed by a minor aged less than eighteen years, the inquiry being carried out in accordance with the rules of ordinary law subject to the special provisions governing minors.¹²¹ Except in the case of a simple offence, an infant may not be prosecuted by direct summons.¹²²

The Examining Magistrate must carry out all measures of investigation necessary to reveal the personality of the minor. He may in particular order a social investigation into the material and moral situation of the family of the minor, his character and antecedents, his attendance at school and general behaviour, and the conditions of his upbringing, entrusting the investigation to the social welfare service or, failing that, to any other qualified person.¹²³ He may also order a medical examination and psychiatric tests, and may by a reasoned ruling place the minor in a welfare reception centre or an observation centre.¹²⁴ Where the age of the infant cannot be established from a birth certificate, it is determined by a medical officer who issues a certificate of apparent age.¹²⁵

Temporary detention and remand in custody. A minor of twelve to fourteen years of age shall not be remanded in custody except where he is accused of capital murder or of assault occasioning death.¹²⁶ A minor aged between fourteen and eighteen may be remanded in custody only if the measure is considered indispensable.¹²⁷ The use of ‘shall’ in the first provision leaves the court no discretion, whereas the permissive ‘may’ in the second leaves the detention of the

¹²⁰ *Id.* s. 700(4).

¹²¹ *Id.* s. 700(1)-(2).

¹²² *Id.* s. 700(3).

¹²³ *Id.* s. 701(1)-(2).

¹²⁴ *Id.* s. 701(3)-(4).

¹²⁵ *Id.* s. 703(1).

¹²⁶ *Id.* s. 704.

¹²⁷ *Id.* s. 705.

older group to the judgment of the judicial authority concerned.¹²⁸ In this respect the Code is in line with the Beijing Rules, which provide that detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.¹²⁹ Whatever the position on detention, the presumption of innocence applies to every suspect, defendant and accused.¹³⁰

Infants may be detained only in a borstal institution or in a special section of a prison meant for the detention of minors; where there is no borstal institution or special section, the infant may be detained in a prison for adults but must be separated from them.¹³¹ Where minors are being transferred, or brought before an Examining Magistrate or before the court, steps must be taken to prevent any contact with adult detainees or with the public.¹³²

A juvenile under detention may be granted bail. The Examining Magistrate may entrust the custody of a minor to his parents, guardian, custodian or any other trustworthy person, to a welfare centre or observation home, to a specialised institution, or to a vocational training or health centre. Any such order must state the reasons for the custody and specify its duration, which may not exceed the date when judgment is delivered, and measures of custody must be taken in the best interests of the minor and may be cancelled or changed at any time.¹³³ Where an infant is released on bail, the Examining Magistrate or the court may require a written undertaking to be of good behaviour and to appear when required, a recognizance entered into by a parent, guardian or custodian, or an oral engagement by a person worthy of trust guaranteeing the minor's appearance.¹³⁴

The court with competent jurisdiction in matters of juvenile delinquency. Section 713 provides that the Court of First Instance sitting in cases of juvenile delinquency has jurisdiction to try all felonies, misdemeanours and simple offences committed by minors aged more than ten but less than eighteen years, while adding that where there are accomplices or co-offenders who are adults only the ordinary law courts shall have jurisdiction to hear the case.¹³⁵ Where an infant is involved in the same case as one or more adults, the preliminary inquiry is carried out in conformity with the rules of ordinary law, subject to the special provisions on minors.¹³⁶

¹²⁸ Ojong, *supra* note 7, at 219.

¹²⁹ Beijing Rules, *supra* note 74, r. 13.1.

¹³⁰ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 8.

¹³¹ *Id.* s. 706.

¹³² *Id.* s. 707.

¹³³ *Id.* s. 702.

¹³⁴ *Id.* s. 708.

¹³⁵ *Id.* s. 713.

¹³⁶ *Id.* s. 716.

The courts with jurisdiction to try a minor are the court of the place where the offence was committed, the court of the place of residence of his parents, custodian or guardian, the court of the place where the minor has been found, and the court of the place where the minor has been placed permanently or provisionally.¹³⁷

The composition of the court. The Court of First Instance sitting in cases of juvenile delinquency comprises a magistrate of the bench as President, two assessors as members, a representative of the Legal Department and a registrar.¹³⁸ Assessors and alternate assessors are appointed for a term of two years by a joint decision of the Ministers in charge of Justice and of Social Affairs, and are chosen from among persons of both sexes of Cameroonian nationality aged at least thirty years who are known for the interest they take in matters affecting juveniles or for their competence in that field.¹³⁹ Before assuming their duties they take an oath before the Court of First Instance to be true and loyal in the discharge of their duties and scrupulously to keep the secrets of deliberation.¹⁴⁰ Assessors have the right to deliberate and vote on the sentences and measures to be taken against the infant.¹⁴¹ Where assessors who have been duly summoned fail to be present, the President sits alone after ascertaining their absence and mentions the fact in the judgment.¹⁴² A special register is kept in the registry containing all decisions relating to infants of less than eighteen years.¹⁴³

The hearing in camera. Unlike the trial of an adult, the trial of a juvenile offender is not conducted in open court. Under pain of the trial being declared a nullity, the hearing of any matter in which a juvenile is implicated must be in camera.¹⁴⁴ The only persons entitled to attend are the parents, the infant's custodian or guardian, the witnesses, counsel, the representatives of services or institutions dealing with problems relating to children, and probation officers. The Presiding Magistrate may in addition authorise the presence of representatives of organisations responsible for the protection of human rights and the rights of the child, and may read out the statement of the social welfare officer and put any relevant question to the infant or to his parents or guardian.¹⁴⁵ The Presiding Magistrate may at any time request the infant to withdraw during

¹³⁷ *Id.* s. 714.

¹³⁸ *Id.* s. 709(1).

¹³⁹ *Id.* s. 709(2).

¹⁴⁰ *Id.* s. 709(3).

¹⁴¹ *Id.* s. 710.

¹⁴² *Id.* s. 711.

¹⁴³ *Id.* s. 712.

¹⁴⁴ *Id.* s. 720(1).

¹⁴⁵ *Id.* s. 720(2).

all or part of the rest of the hearing, and may likewise order the witnesses to withdraw after giving evidence.¹⁴⁶

Restrictions on the punishment applicable to minors. Where a minor aged fourteen years or less is found guilty, the court must admonish him before ordering one of the following measures: entrusting the infant to the custody of his parents, guardian, custodian or any trustworthy person; placing him on probation; placing him in a vocational or health centre; placement in a specialised institution; or requiring him to enter into a preventive recognizance.¹⁴⁷ Where a minor aged more than fourteen but less than eighteen years is found guilty, the court must by a reasoned decision pass sentence in accordance with sections 80(3) and 87 of the Penal Code and order one of those measures; in the case of a non-suspended term of imprisonment only probation may be ordered in addition, and the probation order takes effect after the term of imprisonment has been served.¹⁴⁸

A minor may not be sentenced to death. Because responsibility is diminished, section 87 of the Penal Code requires that the penalty of death or of loss of liberty for life be reduced to loss of liberty for from two to ten years, that a term of imprisonment incurred in the case of a felony be reduced to loss of liberty for from one to five years, and that in the case of a misdemeanour the maximum penalty, whether of loss of liberty or of fine, be reduced by half and the minimum brought down to that provided by section 92(1) of the Code.¹⁴⁹ Even where a minor is committed to serve a term of imprisonment, he must not be allowed to associate with adult prisoners.¹⁵⁰

When one of the measures provided for in sections 724 and 725 has been decided upon, the judgment places the infant in custody until the end of his education or until he attains civil majority. A minor placed in an authorised institution or granted leave of absence by its director is deemed to be in a state of legal detention and is arrested by warrant in the event of escape and sent back to the institution. The court may, before a decision on the merits, order provisional probation for a particular length of time as an observation period.¹⁵¹ All judgments delivered by courts sitting in cases of juvenile delinquency are exempt from stamp duty and are registered free of charge.¹⁵²

¹⁴⁶ *Id.* s. 720(3).

¹⁴⁷ *Id.* s. 724.

¹⁴⁸ *Id.* s. 725.

¹⁴⁹ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 87(1)(a)-(c).

¹⁵⁰ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 706(2).

¹⁵¹ *Id.* s. 726.

¹⁵² *Id.* s. 727.

Where a minor aged fourteen to eighteen years is found guilty of a simple offence, the court reprimands the minor as well as his parents, guardian or custodian and warns them of the consequences of a repetition, the reprimand being entered in a special register. Where the minor fails to appear, the reprimand is served on his parents, guardian or custodian by registered letter containing the same warning. In the case of a previous conviction the measures and penalties provided for under sections 725 and 726 apply.¹⁵³

The language of judgment matters as much as its content. Since what is imposed on a minor found guilty is in principle an order of judicial placement and not a sentence, the vocabulary of conviction and sentence is inapt in juvenile matters. The rule received in West Cameroon put the point expressly: the words ‘conviction’ and ‘sentence’ were to cease to be used in relation to children and young persons, and any reference to a person convicted, to a conviction or to a sentence was to be construed in their case as a reference to a person found guilty of an offence, to a finding of guilt, or to an order made upon such a finding.¹⁵⁴ The reasoning behind the usage is that a juvenile, and particularly a first offender, should be corrected with a view to the life ahead of him: the aim of a reformatory system is to bring about a change in the personality and character of the offender so as to make him a useful member of society, and to preserve the child’s reputation and secure his rehabilitation and reintegration.¹⁵⁵ The sentiment is captured in Oscar Wilde’s observation that the only difference between the saint and the sinner is that every saint has a past and every sinner has a future.¹⁵⁶

The criminal record of juvenile offenders. All judgments delivered against minors pursuant to sections 725 and 726 are entered in the criminal record, but mention of a judgment passed against a minor is made only on extracts of the criminal record issued to magistrates and public services.¹⁵⁷

ii. The general rights enjoyed by juveniles under the Criminal Procedure Code

The general safeguards of a fair trial apply to the juvenile as they apply to any other accused person, but several of them take a particular form where the accused is a minor.

¹⁵³ *Id.* s. 729(1)-(3).

¹⁵⁴ Children and Young Persons Act 1933, 23 & 24 Geo. 5 c. 12, s. 59 (U.K.) (‘Abolition of the words conviction and sentence’), the model for the Children and Young Persons Ordinance, Cap. 32 of the Laws of Nigeria 1958, which applied in West Cameroon until the entry into force of the Criminal Procedure Code. The 2005 Code carries no equivalent provision in terms, but the distinction it draws between the measures ordered under s. 724 and the sentence passed under s. 725 is to the same effect.

¹⁵⁵ Tabe Tabe, *supra* note 4, at 166-68.

¹⁵⁶ OSCAR WILDE, A WOMAN OF NO IMPORTANCE act 3 (1893). The remark is often misattributed to Mahatma Gandhi.

¹⁵⁷ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 741.

The presumption of innocence. The presumption of innocence is established in a number of Cameroonian provisions in favour of any suspect or accused person: any person suspected of having committed an offence is presumed innocent until his guilt has been legally established in the course of a trial in which he is given all necessary guarantees for his defence, and the presumption applies to every suspect, defendant and accused.¹⁵⁸ Its practical consequence for a minor is far-reaching, for it deprives the minor's plea of the effect that a plea has in the trial of an adult.

The right to be informed of the charge. Every juvenile who is arrested or detained must be informed in simple language by the judicial authority concerned of the facts and grounds of his arrest, and at trial the Presiding Magistrate is bound to explain to the minor in simple language the nature of the charge brought against him and then to enquire whether he admits the commission of the offence as principal or as accessory.¹⁵⁹ The requirement rests on the elementary proposition that a person is *prima facie* entitled to his liberty and is required to submit to restraints on it only if he knows in substance the reason why the restraint is imposed. The Convention on the Rights of the Child expresses the same idea in requiring that the child be informed promptly and directly of the charges against him, and if appropriate through his parents or legal guardians, and have legal or other appropriate assistance in the preparation and presentation of his defence.¹⁶⁰

The right to remain silent. As soon as investigations are opened, the judicial police officer must, under penalty of nullity, inform the suspect of his right to counsel and of his right to remain silent.¹⁶¹ A juvenile may therefore decline to answer questions during the preliminary investigation until his counsel arrives, so that his defence may be better prepared.

The right to be brought promptly before a court. A juvenile arrested for a criminal offence has the right to be brought promptly before a competent court. Promptness must be assessed in the light of the object and purpose of the requirement, which is to protect the individual against arbitrary interference by the state, so that the flexibility available in interpreting the notion is very limited: it implies a delay not exceeding a few days, and a delay of four days and six hours has been held to be too long.¹⁶² Under Cameroonian law the time allowed for remand in police

¹⁵⁸ *Id.* s. 8.

¹⁵⁹ *Id.* s. 718(1).

¹⁶⁰ CRC, *supra* note 1, art. 40(2)(b)(ii).

¹⁶¹ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 116(3).

¹⁶² *Brogan v. United Kingdom*, App. Nos. 11209/84, 11234/84, 11266/84 & 11386/85, para. 62, 145-B Eur. Ct. H.R. (ser. A) (1988), (1989) 11 E.H.R.R. 117 (holding that even the shortest of the four periods of detention, four days and six hours, fell outside the constraints as to time permitted by art. 5(3) of the European Convention on Human Rights).

custody may not exceed forty-eight hours, renewable once, and may exceptionally be extended twice more with the written approval of the State Counsel, reasons being given for each extension.¹⁶³ The Court of First Instance has the further advantage of summary jurisdiction, so that a juvenile who commits an offence can be charged and tried before it without the complications of procedure before the High Court.

The right to counsel. Every person must be informed on arrest of the right to be assisted by a lawyer.¹⁶⁴ Counsel for the defendant has the right to defend his client whenever the client appears before the Examining Magistrate, must be notified in writing of the date and time of appearance at least forty-eight hours in advance where he resides within the seat of the court and at least seventy-two hours where he resides outside it, and must be given access to the case file twenty-four hours before each interrogation or confrontation.¹⁶⁵ A minor must be assisted by counsel or by any other person who is a specialist in the protection of children's rights, and where the minor has no counsel the court must, of its own motion, assign one to him. Where assigned counsel, having been summoned with written proof of service, fails to attend two consecutive sessions, the court assigns another and mentions the fact in the record book and in the judgment.¹⁶⁶

The right to adequate time and facilities for the defence. A juvenile charged with a criminal offence has the right to adequate time and facilities for the preparation of his defence, which includes access to the documents and other evidence he needs in order to prepare it.¹⁶⁷

The right to an independent and impartial court. The juvenile has the right to have his case heard and determined by an independent and impartial court.¹⁶⁸ Independence requires the court to decide the matters before it impartially, on the basis of the facts and in accordance with the law, without restriction, inducement, pressure, threat or external influence or interference from any quarter, and free from inappropriate influence from the executive or the legislature or from judicial colleagues. Impartiality is intended to protect the juvenile against actual and presumed bias, and a judge should accordingly recuse himself from any proceeding in which he has an interest.

The right to be present at the trial. A juvenile has the right to be present at his trial. Where the juvenile has absconded or disappeared, the court may order any measures it deems necessary

¹⁶³ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 119(2).

¹⁶⁴ *Id.* s. 116(3).

¹⁶⁵ *Id.* s. 172(1)-(3).

¹⁶⁶ *Id.* s. 719(2)-(4).

¹⁶⁷ *Id.* ss. 8(1), 172(3); CRC, *supra* note 1, art. 40(2)(b)(ii).

¹⁶⁸ Banjul Charter, *supra* note 37, art. 7(1)(d); ICCPR, *supra* note 25, art. 14(1).

to ensure his appearance, and may in particular, by a reasoned decision, order that the infant be brought and detained in a prison. The minor must appear at the earliest possible date before the court which made that decision. Where the minor cannot be found and the interest of third parties requires that the matter be adjudicated upon, the minor is tried in absentia.¹⁶⁹

The right to an interpreter. Where a witness does not speak one of the official languages understood by the registrar and the Examining Magistrate, an interpreter must be called in. The interpreter must not be less than twenty-one years of age, and the registrar, the witnesses and the parties may not perform the functions of an interpreter.¹⁷⁰

iii. Procedure at the trial of a minor

Minors are by definition immature and lack the developed understanding needed to follow a criminal trial and to appreciate its consequences. The law therefore places the Presiding Magistrate under a duty to explain to the minor in simple language the nature of the charges brought against him.¹⁷¹

In an ordinary trial the Presiding Magistrate causes the charge to be read out to the accused at the commencement of the trial and asks him whether he pleads guilty or not guilty.¹⁷² On a plea of guilty the procedure in section 360 applies, and on a plea of not guilty that in section 365.¹⁷³ The position is different in a juvenile trial. Irrespective of the infant's reply the court must hear the testimonies of witnesses, enable the minor or his representatives to put relevant questions to them, and hear any statement the minor himself may wish to make, in which case the Presiding Magistrate puts questions to the witnesses or to the minor as he deems fit.¹⁷⁴

The Court of First Instance sitting in cases of juvenile delinquency applies the procedure applicable in ordinary courts, subject to the provisions of section 721 and following, which preserve the special rights accorded to minors and in particular the right to a defence counsel.¹⁷⁵ The court may not stay the trial except where the minor's age cannot be ascertained, where a further medical, medico-psychological or other examination is deemed necessary, or where it is deemed necessary to fix an observation period.¹⁷⁶

¹⁶⁹ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 723.

¹⁷⁰ *Id.* s. 183(1).

¹⁷¹ *Id.* s. 718(1).

¹⁷² *Id.* s. 359(1).

¹⁷³ *Id.* ss. 360, 365.

¹⁷⁴ *Id.* s. 718(2).

¹⁷⁵ *Id.* s. 719(1).

¹⁷⁶ *Id.* s. 721(1).

The social welfare report drawn up in accordance with section 702(2) is taken into consideration only after the infant has been found guilty.¹⁷⁷ Judgment is pronounced at a public hearing in the presence of the minor and may be published, provided that no mention is made of the minor's name or initials and that no personal or family particulars are disclosed concerning him, under pain of the penalties provided for in section 198 of the Penal Code.¹⁷⁸ The court may also order the restitution of any goods or chattels impounded by law.¹⁷⁹

iv. Probation and the review of probation

Probation of a juvenile is a measure whereby an infant is entrusted to his parents, guardian or custodian and is supervised by specially trained persons known as probation officers. It consists of means of support, protection, supervision and education.¹⁸⁰ The re-education of infants placed on probation is entrusted to regular and voluntary probation officers acting under the authority of the President of the Court of First Instance.¹⁸¹

Regular probation officers are appointed by a joint order of the Minister in charge of Justice and the Minister in charge of Social Affairs, and are responsible for directing and coordinating the action of voluntary probation officers and for re-educating infants specially entrusted to their care by the court.¹⁸² A voluntary probation officer is designated either in the judgment or by order of the President of the Court of First Instance, and reports to the President on his mission according to the calendar fixed in the judgment or order and whenever circumstances warrant.¹⁸³

The parents, guardian or custodian of an infant placed on probation are bound to supervise, protect, educate and support the minor, to abstain from any act likely to impede the work of the probation officer, and to present the minor to the President of the court according to the calendar fixed in the judgment or order.¹⁸⁴ In the event of death, serious illness, change of address or unauthorised absence of the minor, they must inform the probation officer without delay.¹⁸⁵ Where one of those obligations is infringed, the President of the court may, after receiving the opinion of the Legal Department, order the parents, guardian or custodian to enter into a

¹⁷⁷ *Id.* s. 717. The cross-reference in s. 717 to s. 702(2) appears to be a drafting slip: s. 702(2) governs the reasons for and duration of a custody order, while the social investigation and the report of the social welfare service are provided for by s. 701(2).

¹⁷⁸ *Id.* s. 721(2).

¹⁷⁹ *Id.* s. 722.

¹⁸⁰ *Id.* s. 730.

¹⁸¹ *Id.* s. 731(1).

¹⁸² *Id.* s. 731(2).

¹⁸³ *Id.* s. 732.

¹⁸⁴ *Id.* s. 733.

¹⁸⁵ *Id.* s. 734.

recognizance, with sureties if necessary, to pay a sum fixed by reference to their financial situation in the event of a fresh infringement.¹⁸⁶ The provisions on imprisonment in default of payment do not apply to infants.¹⁸⁷

All measures taken against juveniles by virtue of section 724 may be reviewed at any time at the request of the Legal Department, the infant himself, his parents, guardian, custodian or the probation officer. Both the court which pronounced the initial decision and the court of the place where the parents, guardian or custodian of the infant reside have jurisdiction to entertain an application for review.¹⁸⁸

v. Setting aside judgments in default, and appeals

A judgment of the Court of First Instance sitting in cases of juvenile delinquency is subject to an application to set aside, or to an appeal to the Court of Appeal or to the Supreme Court, in the manner and within the time limits provided in the Code. Appeals do not, however, stay the execution of any measure pronounced against a minor, and the ordinary law procedure in respect of applications to set aside and of appeals applies to judgments passed against minors. Appeals may be lodged by the parents, the guardian, the custodian, counsel or the probation officer without any power of attorney.¹⁸⁹

Appeals against judgments of the Court of First Instance are brought before the Court of Appeal sitting in cases of juvenile delinquency,¹⁹⁰ which is composed of a President who is a magistrate of the bench, two assessors as members, a representative of the Legal Department and a registrar, the provisions on the deliberation and absence of assessors and on the special register applying before it as before the court of first instance.¹⁹¹

D. The law on judicial organisation

The judiciary is organised by Law No. 2006/015 of 29 December 2006 on judicial organisation, as amended and supplemented by Law No. 2011/027 of 14 December 2011, which also lays down provisions specific to minors.¹⁹²

Section 15(1)(a) confers on the Court of First Instance jurisdiction in criminal matters to try all offences classified as misdemeanours or simple offences, to hear applications for bail, and to

¹⁸⁶ *Id.* s. 735.

¹⁸⁷ *Id.* s. 736.

¹⁸⁸ *Id.* s. 737.

¹⁸⁹ *Id.* s. 738.

¹⁹⁰ *Id.* s. 739.

¹⁹¹ *Id.* s. 740.

¹⁹² Law No. 2006/015 of 29 Dec. 2006 on Judicial Organization (Cameroon), as amended and supplemented by Law No. 2011/027 of 14 Dec. 2011.

try felonies committed by minors without adult co-offenders or accessories.¹⁹³ Only the last of those limbs is specific to minors. It follows that where a felony is committed by a minor together with adult abettors, the competent court is no longer the Court of First Instance sitting in juvenile matters, and the adult co-offender draws the minor before the court having jurisdiction under the ordinary law.¹⁹⁴

Because the Court of First Instance is not exclusively a juvenile court, its ordinary configuration is altered for the trial of a juvenile: it sits collegially in the composition prescribed by section 709 of the Criminal Procedure Code, and it sits in camera and not in open court.¹⁹⁵

Appeals lie to the Court of Appeal, which has jurisdiction to hear appeals against judgments delivered by courts other than the Supreme Court and the Court of Appeal itself, and against the rulings of the Examining Magistrate; its benches hear appeals against decisions rendered by the corresponding benches of the Courts of First Instance and the High Courts.¹⁹⁶

E. The Code of Military Justice

The Code of Military Justice also protects juveniles. Section 8 of Law No. 2017/012 of 12 July 2017 sets out the offences over which the Military Tribunal has exclusive jurisdiction, which extend in defined circumstances to civilians as well as to servicemen.¹⁹⁷ Section 9 then provides that minors under eighteen years of age who are offenders, co-offenders or accomplices in respect of the offences listed in section 8 fall within the jurisdiction of the courts dealing with juvenile delinquency, which in Cameroon means the Court of First Instance sitting in juvenile matters, and that in such cases the State Prosecutor shall refer the case file to the competent legal department after separation of the proceedings.¹⁹⁸

A juvenile is therefore in no circumstances to be tried before a military court. Where a matter involving a juvenile is brought before the Military Tribunal, the prosecutor must separate the juvenile from the co-offenders or accomplices and refer the file to the competent legal department of the Court of First Instance. The approach adopted by the legislature is intended to shield minors from the rigid trial procedure that characterises military justice.

¹⁹³ Law on Judicial Organization, *supra* note 192, s. 15(1)(a).

¹⁹⁴ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 713.

¹⁹⁵ *Id.* s. 709(1).

¹⁹⁶ Law on Judicial Organization, *supra* note 192, s. 22(a), (2).

¹⁹⁷ Law No. 2017/012 of 12 July 2017 to lay down the Code of Military Justice (Cameroon), s. 8.

¹⁹⁸ Code of Military Justice, *supra* note 197, s. 9. The English text of s. 9 refers to ‘minors aged 18 (eighteen) years’; the French text in the same bilingual gazette reads ‘les mineurs de dix-huit (18) ans’, that is, minors under eighteen.

VI. THE INSTITUTIONAL FRAMEWORK FOR THE ADMINISTRATION OF JUVENILE JUSTICE

The institutional framework for the administration of juvenile justice in Cameroon consists of the courts, prisons, social services and correctional facilities designed to secure the smooth administration of juvenile justice. Those institutions operate at the international, the regional and the national level.

A. International institutions

International institutions help to establish the norms and standards that require states to treat juveniles with dignity. They guide legal reform and press for the existence of a specialised justice system for minors in every member state. They also contribute to accountability by monitoring violations, collecting data, conducting investigations, creating awareness and reporting on human rights violations. The most important of them for present purposes is the Committee on the Rights of the Child.

i. The Committee on the Rights of the Child

The Committee on the Rights of the Child consists of eighteen experts of high moral standing and recognised competence in the field covered by the Convention.¹⁹⁹ Its principal function is to receive reports from States Parties on the measures they have adopted to give effect to the rights recognised in the Convention.²⁰⁰ States Parties to the Optional Protocols also submit additional reports on the implementation of those protocols.

The initial report must be submitted within two years of the entry into force of the Convention for the State Party concerned, and thereafter every five years.²⁰¹ General guidelines indicate what a report must contain. After giving basic information on its population and on the general institutional and judicial framework of the country, the reporting State must provide information on the measures taken to protect children's rights under eight broad heads: general measures of implementation, the definition of the child, general principles, civil rights and freedoms, family environment and alternative care, basic health and welfare, education, leisure and cultural activities, and special protection measures. The purpose of initial and periodic reports is to show what States Parties are doing to bring their laws and administrative practices into conformity with the Convention.

¹⁹⁹ CRC, *supra* note 1, art. 43(2), as amended. The original text provided for ten experts; the amendment increasing the membership to eighteen was approved by G.A. Res. 50/155 (Dec. 21, 1995) and entered into force on Nov. 18, 2002.

²⁰⁰ *Id.* art. 44(1).

²⁰¹ *Id.* art. 44(1)(a)-(b).

Reports matter not only because they encourage States Parties to take their obligations seriously, but because they give the State Party and the Committee the basis for a dialogue. The Committee may request further information on implementation and, after examining a report, issues Concluding Observations containing a general evaluation, noting the positive developments of the reporting period and identifying the areas that require follow-up and improvement, together with recommendations.²⁰²

The weakness of Concluding Observations is that they are not legally binding on States Parties. Whether to act on them is left to the government concerned, which is not necessarily favourable to the protection of children's rights. Where reports are overdue the Committee has no power to impose legally binding measures; if a State Party persistently fails to report, the Committee may, after notifying it, proceed to consider the situation prevailing in the country on the basis of other available information. There is, in short, no sanction against a defaulting state.

African states were slow to begin reporting under the Convention, but the position has since improved. Notwithstanding that Concluding Observations are not binding, the Committee's functions remain important, because its observations give the State Party a detailed response on the strengths and weaknesses of its implementation. Those observations, and the reports on which they are based, show that the recurrent obstacles to implementation include harmful cultural practices, shortcomings in the education and health systems, the non-registration of newborn children, especially in rural areas, child labour, and the unfavourable position of juvenile offenders.

B. Regional institutions

At the regional level the protection of juvenile rights is entrusted principally to the African Committee of Experts on the Rights and Welfare of the Child.

i. The African Committee of Experts on the Rights and Welfare of the Child

The African Committee of Experts on the Rights and Welfare of the Child, established under article 32 of the African Charter on the Rights and Welfare of the Child, monitors the implementation of that Charter.²⁰³ It comprises eleven members who serve in their personal capacity for a term of five years.²⁰⁴ The Charter spells out the rights that African states must guarantee to children living within their jurisdiction, and remains the principal instrument of the African human rights system for the promotion and protection of the rights of the child.

²⁰² *Id.* art. 45(d).

²⁰³ ACRWC, *supra* note 2, art. 32.

²⁰⁴ *Id.* arts. 33(1), 37(1). Article 37(1) originally made members ineligible for re-election; as amended by the Assembly at its Twenty-Fourth Ordinary Session on 31 Jan. 2015, a member may be re-elected once.

Article 42 provides that the functions of the Committee are to promote and protect the rights enshrined in the Charter, and in particular to collect and document information, to commission interdisciplinary assessment of problems in Africa in the field of the rights and welfare of the child, to organise meetings, to formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa, to cooperate with other African, international and regional institutions and organisations concerned with the promotion and protection of the rights and welfare of the child, to monitor the implementation of the Charter, and to interpret its provisions at the request of a State Party, an institution of the Organization of African Unity or any other person or institution recognised by the Organization.²⁰⁵

The Committee submits a report on its activities to every ordinary session of the Assembly of Heads of State and Government every two years,²⁰⁶ and it may receive communications from any person, group or non-governmental organisation relating to any matter covered by the Charter.²⁰⁷

The role of the Committee. Like the Committee on the Rights of the Child, the African Committee not only promotes children's rights but also monitors their implementation. The State reporting procedure under the African Charter on the Rights and Welfare of the Child resembles that under the Convention: States Parties must report on the measures they have adopted to give effect to the Charter and on the progress made in the enjoyment of those rights, submitting an initial report within two years of the entry into force of the Charter for the State Party concerned and thereafter every three years.²⁰⁸

The reporting guidelines require states to address the general measures of implementation, the legislative and administrative measures taken, the definition of the child, the general principles of non-discrimination, the best interests of the child, the protection of the right to life, respect for the views of the child and the promotion of the child's participation, the civil rights and freedoms of minors, health and welfare, education and leisure, and the special protection measures adopted. Compared with the guidelines under the Convention, an additional head is added, since States Parties must indicate the measures taken to give effect to the duties of the child. The inclusion of duties is consistent with the practice of the African human rights system, although the duties of parents are not included in that section, which sits awkwardly with the concept of duties as a means of strengthening the realisation of human rights.

²⁰⁵ *Id.* art. 42.

²⁰⁶ *Id.* art. 41.

²⁰⁷ *Id.* art. 44(1).

²⁰⁸ *Id.* art. 43(1).

The Committee meets twice a year in ordinary session and its Chairperson may convene extraordinary sessions at the request of the Committee or of a State Party.²⁰⁹

The Committee is empowered under article 45 of the Charter to resort to any appropriate method of investigating any matter falling within its ambit, whether an allegation of a violation of the rights of the child or the measures taken by a State Party to implement the Charter, and it may request from States Parties any information relevant to the implementation of the Charter.²¹⁰ In practice it may set up sub-committees or working groups to conduct an investigation, and may designate a Special Rapporteur from among its members or an independent expert to accompany them on mission. It prepares a preliminary report on the situation of the rights of the child in the country concerned and a final report making recommendations to the State Party, which are also transmitted to the public and private institutions responsible for monitoring and implementing the rights of the child. The State is then invited to submit a written reply setting out the measures taken to follow up the recommendations, and may be asked to include that information in its next report.

C. National institutions

At the national level a large number of ministerial departments are involved in the social protection of the child, but juvenile rights protection is carried out primarily by the Ministry of Justice, the Ministry of Social Affairs and the Ministry of Women's Empowerment and the Family.

Juvenile protection in Cameroon operates at three levels. The primary level consists in the supervision of children by their families, the State seeking to restore to the family the powers and responsibilities of the primary guarantor of the welfare of the child. The secondary level consists in preventive institutions that monitor and intervene to prevent a minor from becoming delinquent. The tertiary level consists in the services available to children who have suffered a violation or are at risk of abuse. The institutional actors involved in child protection across these three levels accordingly include families, non-governmental organisations and the ministries in charge of justice, women's empowerment, social affairs, health and education.

i. The Ministry of Justice

The Ministry of Justice is the central authority involved in the administration of justice. It develops and oversees the implementation of the policy, the legislation and the specialised services engaged in the administration of juvenile justice. Its remit covers civil and criminal

²⁰⁹ African Committee of Experts on the Rights and Welfare of the Child, *Revised Rules of Procedure* (2015).

²¹⁰ ACRWC, *supra* note 2, art. 45(1).

matters, pardon, the protection of human rights, State litigation, the supervision of the auxiliaries of justice, legislation, the fight against corruption and penitentiary administration. It is accordingly the department principally responsible for the application of the law through the ordinary and the special courts, among which the Court of First Instance has been given competence over felonies, misdemeanours and simple offences committed by juveniles.²¹¹

The Ministry seeks to ensure that the administration of juvenile justice is oriented towards the rehabilitation of the child rather than incarceration, in conformity with international standards, and fosters collaboration between the stakeholders involved, including the judicial police, the courts, the social services and non-governmental organisations. It also oversees juvenile remand centres and correctional facilities, is responsible for ensuring that juveniles are kept in healthy conditions and separated from adult inmates, and implements programmes intended to reduce recidivism among juvenile offenders and to provide psychological support for young offenders. Beyond that, it plays a part in the delivery of services to vulnerable children, being responsible for the issue of placement orders and of authorisations for adoption.

ii. Juvenile courts

In Belgium, Portugal, Spain, Kenya, South Africa and the United States, among others, there exists a special court of criminal jurisdiction for the hearing and trial of children and young persons alone. Cameroon has no such court in its judicial organisation. What it has instead is a mode in which an existing court sits: the Court of First Instance, which also tries misdemeanours and simple offences and hears civil and matrimonial matters between adults, is designated to sit in cases of juvenile delinquency. The absence of a dedicated forum has been identified as one of the principal weaknesses of the Cameroonian system.²¹² The designation is nonetheless more than nominal. In *Christel Adodoma Ngowo Mba v. Gawa Mirabel Yaka* the South West Court of Appeal treated the court sitting in juvenile matters as a wholly different setting: it may occupy the same premises as the Court of First Instance and be staffed by the same magistrates, but it is a differently constituted court following a different procedure, and the judge sits in an entirely different capacity to try the simple offences, misdemeanours and felonies committed by minors.²¹³ What makes it a distinct forum is above all its composition. The assessors who sit with the presiding magistrate are welfare specialists, and the court cannot be properly constituted without them; a juvenile trial conducted before a court not so constituted is illegal

²¹¹ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 713; Law on Judicial Organization, *supra* note 192, s. 15(1)(a).

²¹² Tabe Tabe, *supra* note 4, at 164-66.

²¹³ *Christel Adodoma Ngowo Mba v. Gawa Mirabel Yaka*, South West Court of Appeal.

and prejudicial to the rights of the juvenile.²¹⁴ Nor does the court sit in open session: the hearing is in camera under pain of nullity.²¹⁵

Magistrates have been encouraged by circular not to apply adult judicial procedure to children.²¹⁶ In practice, however, the shortage of personnel and resources means that children are often brought before a judge who has had no training in juvenile justice and who applies the penalties provided in the Penal Code without regard to the special procedures and safeguards laid down for the protection of juveniles. Cases have been reported in which magistrates confused judicial placement with sentencing and committed juveniles found guilty of simple theft to terms of imprisonment in regular prisons.²¹⁷

iii. Prisons

Before December 2004 the penitentiary administration in Cameroon was attached to the ministry responsible for territorial administration. That arrangement created administrative bottlenecks and delays, because files had to move between that ministry, which managed convicts, and the Ministry of Justice, which managed detainees awaiting trial. It also led to the discriminatory management of inmates within the same prison, in favour of convicts and to the detriment of minors with special needs, who were sometimes neglected. The position changed in December 2004, when the penitentiary administration was attached to the Ministry of Justice, with a consequent reduction in delay and in the ill-treatment of offenders.²¹⁸

Most young offenders who find themselves in prison in Cameroon come from poor social backgrounds or broken homes. Most lack elementary education, and their involvement in crime stems largely from poverty and want of care. They need vocational training so as to acquire skills with which to make an honest living after release or while on probation, but not all prisons in Cameroon have workshops for the purpose, although efforts are being made with the help of stakeholders to create them.

Under the penitentiary regime prisons are classified by the nature of their activity into five categories: orientation or selection prisons, relegation centres, production prisons, school prisons and special prisons.²¹⁹ School prisons and special prisons are of particular interest for

²¹⁴ Ojong, *supra* note 7, at 221-22 (citing Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 3, which makes the infringement of a rule of criminal procedure an absolute nullity where it is prejudicial to the rights of the defence or contrary to public policy).

²¹⁵ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), s. 720(1).

²¹⁶ Circular No. 0007/7128/DAJS of 27 Jan. 1995 on the Pre-Trial Detention of Minors (Cameroon), cited in Ojong, *supra* note 7, at 202 n.7.

²¹⁷ Tabe Tabe, *supra* note 4, at 166; Ojong, *supra* note 7, at 216.

²¹⁸ Decree No. 2004/320 of 8 Dec. 2004 on the Organization of the Government (Cameroon).

²¹⁹ Decree No. 92/052 of 27 Mar. 1992 on the Penitentiary Regime (Cameroon). The five categories were restated by the Minister of State for Justice before the National Assembly, CAMEROON TRIBUNE (Apr. 9, 2017). By

the correction of juveniles, because they are designed for the theoretical and practical training of minors with a view to their reintegration into society, the latter being reserved for minors subject to a particular regime. The creation of these institutions is, however, still awaited in most prison facilities in the country.

As to the custody of minors within penitentiary establishments, an offender under the age of eighteen must serve his sentence in a special establishment or, failing such an establishment, must be separated from offenders over that age.²²⁰ In Cameroonian prisons minors are accordingly separated from other inmates, and where there is no separate section a ward is set aside for them and specially guarded, so as to avoid bullying by older inmates, theft and drug abuse. Superintendents keep a particular watch on the minors' section because minors are especially vulnerable. The practical application of discipline and punishment to minors also differs from that applied to adults, with more emphasis placed on education than on repression. Cameroonian prisons have a bureau of socio-cultural, educational and leisure activities and a bureau of training; teaching and educational talks are provided for all inmates with particular attention to minors, covering such topics as the prevention of sexually transmitted infections, personal hygiene and responsible behaviour, and training in carpentry, masonry and tailoring is provided where workshops exist.

iv. The Ministry of Social Affairs

The Ministry of Social Affairs is responsible for the protection and promotion of socially vulnerable children, working with the ministerial departments concerned. It is responsible for preventing juvenile delinquency, combating social exclusion and human trafficking, protecting victims of physical abuse, and initiating the procedure for the protection of children in difficulty.

To that end the Ministry operates technical units, namely social centres in the subdivisions and social action services in schools, universities, hospitals, courts, police stations and prisons, whose missions include child protection. It also runs specialised institutions and agencies, among them accommodation and observation centres, transit accommodation centres, reception centres for children in distress, re-education centres, rehabilitation institutions and nursery care homes and workshops.

administrative rank, prisons are separately classified as central, principal and secondary: African Commission on Human and Peoples' Rights, *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Mission to Cameroon* 11 (2002).

²²⁰ Law No. 2016/007 of 12 July 2016 on the Penal Code (Cameroon), as amended by Law No. 2019/020 of 24 Dec. 2019, s. 29.

The principal shortcomings that account for the Ministry's less than optimal performance are the uneven distribution of human resources across the regions and their concentration in urban centres, the lack of material resources, and the inadequacy of social training centres.

v. Rehabilitation and reformation centres

Offenders of different categories have problems peculiar to their category, and minors have always been regarded as having special needs because of their relative youth and immaturity and the adverse socio-economic conditions that may drive them into crime. Young offenders in custody are particularly vulnerable to poor conditions in correctional institutions, including overcrowding, poor nutrition, want of access to adequate health care, bullying by older inmates, and physical and psychological disorder. Those conditions make it necessary to plan for the special needs of this category in order to secure their protection and their successful reintegration into society.

Social rehabilitation has always been the difficult side of correctional work. That is particularly so of young offenders who, before conviction, have relatively less developed criminal dispositions than their older counterparts. The prison environment often influences them adversely and can leave them worse off on release. The question is how the prison environment can be made more conducive to the social reintegration of young offenders, a question that is especially pertinent in developing countries which allocate few resources to corrections. Correctional institutions in such countries generally face overcrowding and high rates of relapse and recidivism resulting from poorly structured or insufficient rehabilitation programmes.²²¹

Detention is in principle a measure of last resort of the shortest appropriate duration, and detention before trial is to be avoided so far as possible and limited to exceptional circumstances.^{222,223} Cameroonian law provides for alternatives to the detention of children, although their practical application is open to question. The Decree of 30 November 1928, which established the special jurisdictions for minors and was repealed on the entry into force of the Criminal Procedure Code, provided for alternative measures in respect of children between ten and fourteen years of age, under which the judge might order that the child be subjected to measures of guardianship, surveillance, education, reform or assistance, and, where the juvenile was found guilty, might by reasoned decision either send the child back to his

²²¹ Jumari du Plessis & Antoinette Lombard, *Challenges for Rehabilitation of Sentenced Offenders within the Framework of Unit Management in the Department of Correctional Services: Bethal Management Area*, 54 SOC. WORK/MAATSKAPLIKE WERK 481 (2018).

²²² CRC, *supra* note 1, art. 37(b).

²²³ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, r. 17 (Dec. 14, 1990).

family or place him until his majority in the care of a trustworthy person, in an appropriate boarding institution or in a charitable institution.²²⁴ Within the framework of probation, children between fourteen and eighteen subjected to a criminal sanction may also be made the object of alternative measures, including placement in the care of a person or institution designated by the court.²²⁵

Only six centres for the detention and re-education of juveniles have been created in Cameroon since independence: the reception and observation centre at Douala, established by Decree No. 72/461 of 2 September 1972; the Borstal Institute at Buea, established by Decree No. 73/115 of 22 March 1973; the child welfare institute at Betamba, established by Decree No. 73/333 of 25 June 1973; the Home Ateliers at Douala, established by Decree No. 85/256 of 26 February 1985; and the child welfare institutes at Maroua and at Bertoua. Together they had a combined intake capacity of six hundred and sixty places, made up of one hundred and twenty at each of the Borstal Institute, Betamba and the Douala centre, sixty at each of Maroua and Bertoua, and one hundred and eighty at the Home Ateliers. That capacity has been described as insufficient for the level of juvenile delinquency, and the creation of a facility in every region has been recommended.²²⁶

The scale of the problem can be judged from the prison statistics. At 31 October 2020 persons under eighteen made up 2.6 per cent of the prison population of Cameroon, and at 15 April 2024 the total prison population stood at 34,419 against an official capacity of 20,955 across seventy-six establishments, an occupancy level of about 164 per cent.²²⁷ Earlier, on the visit of the Special Rapporteur on Prisons and Conditions of Detention in Africa in 2002, the numbers of minors recorded in individual establishments were fifty-seven at Yaounde Central, seventy-four at Douala Central, thirty-one at Bamenda Central, twenty-eight at Maroua Central, twenty-six at Garoua Central, eight at Bafang Central and three at Mfou Central.²²⁸

The Borstal Institute, Buea. A borstal institute is a state re-education centre for children in conflict with the law. The Borstal Institute at Buea was created by Decree No. 73/115 of 22 March 1973 and is placed under the Ministry of Social Affairs.²²⁹ Its object is the implementation of government social policy in the field of juvenile delinquency, social

²²⁴ Tabe Tabe, *supra* note 4, at 151-52.

²²⁵ Law No. 2005/007 of 27 July 2005 on the Criminal Procedure Code (Cameroon), ss. 724-725, 730.

²²⁶ Tabe Tabe, *supra* note 4, at 170-71 (figures as at 2012).

²²⁷ INSTITUTE FOR CRIME & JUSTICE POLICY RESEARCH, *World Prison Brief: Cameroon* (figures for Oct. 31, 2020 and Apr. 15, 2024).

²²⁸ African Commission on Human and Peoples' Rights, *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Mission to Cameroon* 12 (2002).

²²⁹ Decree No. 73/115 of 22 Mar. 1973 (Cameroon); Tabe Tabe, *supra* note 4, at 170; Ojong, *supra* note 7, at 202 n.7.

maladjustment, irresponsible parenthood and disregard of the rights of the child as enshrined in the Convention on the Rights of the Child, to which Cameroon is a party, and its programme is directed to the re-education, the socialisation and the economic reintegration of minors aged between twelve and seventeen years.

The categories of minor for whom the centre caters are delinquent children, socially maladjusted children, children in conflict with the law, street children, and orphaned and abandoned children. In each case the status of the child must be determined by a social inquiry report. The institute is concerned with the protection, re-education, rehabilitation and reinsertion of juvenile delinquents, socially maladjusted young people and abandoned, street and destitute children aged twelve to seventeen whose moral upbringing, security or education is likely to be compromised, and it is the first option to be considered once a minor is found to have come into conflict with the law.

To meet those objects the institute is organised in five sections. The educative and re-socialisation section secures the re-education, rehabilitation and social reinsertion of trainees. The professional training section provides training, skills development and the promotion of self-employment in such fields as woodwork, motor mechanics and driving, welding, livestock, agriculture and information technology. The school section offers academic, civic and moral education to trainees and to children of the surrounding neighbourhood. The medico-sanitary section attends to the health needs of trainees and staff. The documentation section collects and preserves data and information about the institute and makes them available to the public and to researchers.

The National Commission for the Protection of Children in Moral Danger, Delinquent or Abandoned. A national commission for the protection of children in moral danger, delinquent or abandoned was established by presidential decree in 1990.²³⁰ It is a consultative body responsible for issuing opinions and formulating proposals on any question relating to national policy for the protection of children and the prevention and treatment of the social maladjustment of young people.

Chaired by the Minister responsible for Social Affairs, the Commission includes representatives of the Ministers responsible for justice, territorial administration, national education, youth and sports, labour and social security and finance, and of the General Delegate for National Security. It meets at least twice a year on the convocation of its President, presents its opinions, proposals

²³⁰ Decree No. 90/524 of 23 Mar. 1990 establishing a National Commission for the Protection of Children in Moral Danger, Delinquent or Abandoned (Cameroon); cited in Ojong, *supra* note 7, at 202 n.7.

and recommendations in the form of reports or minutes signed by its President and secretary, and is required to submit to the Government an annual report on the application of the regulations in force in this field.

vi. The Ministry of Women's Empowerment and the Family

The Ministry of Women's Empowerment and the Family is responsible for studying and proposing strategies and measures to strengthen the promotion and protection of the family, and for studying and proposing measures for the promotion and protection of the rights of children. Its child protection measures are implemented through its decentralised services and specialised technical units.

Observing and monitoring child development is an important means of ensuring that children's developmental needs are met, since the earliest possible detection and intervention assist the child's development. In Cameroon the concept of child protection is complex, because childhood is understood by reference to a given environment and to the particular stage of development of the minor to be protected. It is therefore essential to identify the risk factors and the specific vulnerabilities attaching to each developmental stage, whether pre-natal, post-natal, infancy, childhood or adolescence, and to understand the relationship between the structural and natural factors that determine the capacity of the family to protect the child.

vii. The Cameroon Human Rights Commission

The Cameroon Human Rights Commission was established by Law No. 2019/014 of 19 July 2019 to address human rights questions at the domestic level.²³¹ Section 68 repeals Law No. 2004/16 of 22 July 2004 relating to the establishment, organisation and functioning of the National Commission on Human Rights and Freedoms, together with Law No. 2010/4 of 13 April 2010 amending and supplementing certain of its provisions.²³²

The Commission is an independent institution with legal personality and financial autonomy, with its headquarters at Yaounde. It was established as a body for consultation, monitoring, evaluation, dialogue, conciliation and deliberation in the promotion and protection of human rights. It has three standing sub-commissions, on the promotion of human rights, on the protection of human rights and on the prevention of torture in places of detention,²³³ and it may set up working groups and any other body that may assist it in the discharge of its duties.

²³¹ Law No. 2019/014 of 19 July 2019 relating to the Establishment, Organisation and Functioning of the Cameroon Human Rights Commission.

²³² Law No. 2019/014, *supra* note 231, s. 68.

²³³ *Id.* s. 34.

The Commission receives information concerning cases of violation of human rights and freedoms and studies all questions relating to their promotion and protection. It makes proposals to the Government and to international organisations on the measures to be taken in cases of violation, and it may refer such cases to the competent national or international authorities. Where it is seized of a case of violation, including a violation of the rights of the child, it investigates and reports.

In its promotional role the Commission contributes to the development of a human rights culture, popularises human rights instruments, creates public awareness, organises seminars, workshops and conferences, collects documentation and encourages research, prepares and publishes documents, reports and awareness-raising tools, contributes to the drafting of periodic country reports, and advocates the signature of human rights instruments by the Government and Parliament, working with United Nations agencies, regional and national human rights institutions and civil society organisations.

The Commission produces an annual report on the human rights situation in Cameroon, which is forwarded to the President of the Republic, the President of the Senate, the President of the National Assembly, the Prime Minister, the President of the Constitutional Council, the First President of the Supreme Court, the ministers in charge of justice, territorial administration and external relations and any other relevant government service, and which is published at the instance of its Chairperson.

In its protective role the Commission may request the competent authorities to carry out searches and to produce documents or evidence, refer established violations to the minister in charge of justice, use dialogue, mediation and conciliation between parties in non-criminal matters, and provide legal assistance. It conducts investigations, carrying out the necessary inspections, accessing any place where a violation is alleged and gathering the necessary information; it may request the competent authorities to put an end to established violations and request the assistance of the forces of law and order; it may intervene before any court as *amicus curiae*, on a written request submitted to the President of the competent court before any decision on the merits, presenting its arguments orally or in writing; and it participates in monitoring the implementation of the recommendations made by international and regional human rights mechanisms, including the bodies established by treaties ratified by Cameroon. As a mechanism for the prevention of torture, it conducts regular visits to all places of detention, initiates dialogue with the authorities responsible for their administration and management, and participates in monitoring the implementation of the observations of the United Nations Subcommittee on Prevention of Torture.

viii. Civil society organisations and private social institutions

Government action is complemented by the interventions of civil society organisations and of legally approved private social institutions. Protecting children from violence, abuse, neglect and exploitation is the responsibility of everyone: families, communities, governments and non-governmental organisations all have a part to play in realising children's rights to protection, and children themselves can contribute to protecting themselves from abuse and exploitation in accordance with their evolving capacities. Community involvement in child protection matters even where adequate protection services and structures exist and function effectively, because local institutions are best placed to identify local protection problems and to develop appropriate solutions in cooperation with service providers.

Plan International Cameroon. Plan International has worked in Cameroon since 1996 with children, supporters and partners with the object of addressing the causes of the challenges and inequalities that children, and girls in particular, face.²³⁴ Its programmes operate in over 1,200 communities in the Centre, North West, East, Adamawa, North, Far North and Littoral regions, and are directed at securing for children, young people and their communities access to justice, equality, inclusive education, health services and opportunities for entrepreneurship.

AGAPE, Douala. AGAPE is a non-profit organisation established to help children in difficulty, most of whom were begging in the streets of Douala. Based at Japoma in Douala, it cares for abandoned street children, some of whom have no family, some of whom were found living or trading on the street, and some of whom were abandoned by their parents, and whose living conditions are extremely difficult. To be admitted a child must fall within the prescribed age range, since the regulations of the Ministry of Social Affairs do not permit a person over eighteen years of age to be taken into care in an institution.

The Cameroon Baptist Convention. The health services of the Cameroon Baptist Convention work to secure a safe environment for children at every level of the implementation of their programmes, both for themselves as lead implementing partner and for other implementing partner organisations. Their activities include creating awareness of the prevention of harm to children through the media, posters, brochures and leaflets; providing psychosocial counselling to abused children and their families, and especially to the families of children with disabilities; receiving, responding to, referring and following up reported cases of child abuse; supporting institutions in developing and implementing child protection policies and action plans; carrying out risk assessments for organisations in order to minimise the risk of harm to children;

²³⁴ PLAN INTERNATIONAL, *Cameroon* (country page).

providing capacity building in child safeguarding and protection; and offering legal support to abused children with disabilities.

The African Network for the Prevention and Protection against Child Abuse and Neglect.

The Cameroon chapter of the African Network for the Prevention and Protection against Child Abuse and Neglect was established in 2008 and authorised by the Government of Cameroon in April 2009.²³⁵ It works with the government, international and national non-governmental organisations, faith-based and community-based organisations, the media, professional schools and universities and the private sector to protect children and combat violence in all its forms. It seeks to prevent and protect children from abuse and neglect through research, awareness creation and advocacy, the provision of legal aid, resource mobilisation and networking, in order to promote children's rights and welfare in Cameroon.

Its priorities are the strengthening of social welfare and child protection systems, including building the capacity of community child protection mechanisms and securing the inclusive participation of stakeholders within the community; changing policy and raising awareness through advocacy and social mobilisation, on the footing that increased public awareness, education and responsive policy are key to combating the normalisation of gender inequality; and prevention and early intervention through programmes such as child-friendly and safe spaces for children and women, technical support to communities in preventing violence against children and assisting victims, referral pathways for victims of violence in collaboration with other actors, and health, education, economic empowerment and vocational training for boys and girls.

VII. CONCLUSION

The legal framework for the proper administration of juvenile justice in Cameroon is composed of international, regional and national law. These laws have as their principal aim the protection of children's rights while at the same time holding juveniles accountable for their own actions, and they are framed so as to recognise that minors are not adults. Alongside them stands a range of international, regional and national institutions dedicated to the administration of juvenile justice: the treaty bodies, the court sitting in cases of juvenile delinquency, borstal institutions, government departments, non-governmental organisations and multilateral and bilateral committees, whose focus is on diversion and rehabilitation rather than on the standards of punishment applied to adults. The framework is on the whole adequate on paper. What remains

²³⁵ Registration No. NW019/E.29/1111/VOL.8/APPB. See AFRICAN NETWORK FOR THE PREVENTION AND PROTECTION AGAINST CHILD ABUSE AND NEGLECT, CAMEROON, *About Us*.

wanting is implementation: the structures that the law provides for have not been established everywhere, the specialised court contemplated by international standards does not exist as a distinct institution, and the capacity of the rehabilitation centres falls short of the demand placed upon them.
