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International Law and Juvenile Justice: A Critical Assessment of Cameroon's Legal and Institutional Framework

JULIUS TOH TIMNGUM[1]

ABSTRACT

The protection of minors who have come into conflict with the law remains a central issue in the current international human rights debate. This article critically examines the extent to which Cameroon's legal and institutional framework in the area of juvenile justice complies with international standards set out in the Convention on the Rights of the Child (CRC) and related soft law instruments, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules). While the domestic legal system of Cameroon, in particular the Penal Code and the Criminal Procedure Code, recognises nuanced criminal responsibility and special treatment for minors, persistent structural deficiencies hinder effective realisation. These include the lack of specialised juvenile courts, the excessive use of pretrial detention, the detention of minors together with adults, inadequate rehabilitation facilities and limited access to legal counsel. Based on a dogmatic analysis of the relevant legislation, the article argues that Cameroon's incomplete adherence to international standards of juvenile justice reflects a twofold reality, namely a normative commitment to the protection of children and a systemic failure in institutional enforcement. Finally, the article draws on the case law of the European Court of Human Rights and the United Nations Committee on the Rights of the Child to propose a set of recommendations for reform.

Keywords: *Minors. Juvenile, International law, Justice system, Cameroon and Institutional Framework law*

I. INTRODUCTION

Juvenile justice plays a crucial role at the intersection of international human rights law and criminal law, reflecting the extent to which a state protects its most vulnerable citizens, whom are children. In Cameroon, as in many other states, dealing with minors in conflict with the law

[1] Author is a Visiting Lecturer at Department of Public Law, Faculty of Law and Political Science, University of Bamenda, Cameroon.

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is perceived as both a domestic legal responsibility and an international human rights obligation. Cameroon's approach must therefore be considered from two perspectives. Namely the national legal framework (1996 Constitution,[2] the Penal Code[3] and the criminal procedure code)[4] and the international legal standards set out through instruments such as the Convention on the Rights of the Child (CRC)[5] and the African Charter on the Rights and Welfare of the Child (ACRWC).[6]

From the perspective of international law, juvenile justice extends beyond merely punishing juvenile perpetrators of offences; it epitomises a system that is geared towards rehabilitation, reintegration and the protection of human dignity.[7]International legal standards, particularly Articles 37 and 40 of the CRC, require States to introduce procedures that prioritise the best interests of the child, promote diversion from the use of formal court proceedings and limit the use of detention to exceptional circumstances.[8] In the early 1990s, Cameroon ratified both the CRC and the ACRWC, thereby committing itself to bringing its domestic legislation and practices into line with these international standards.[9]

In spite of this, challenges consistently persist when it comes to the implementation of these international obligations within the national context. Although the constitutionality of public international law vis-à-vis domestic legislation is recogised,[10] it has often been only partially implemented due to legislative gaps, institutional deficiencies, and socio-economic restraints. Consequently, questions that remain unanswered are the extent to which Cameroon's juvenile justice system complies with the country's international obligations. This article therefore attempts to critically evaluate Cameroon's juvenile justice system from a public international law perspective, assessing the degree of compliance between international legal standards and national implementation, the effectiveness of existing safeguards, and the practical realities faced by children in the Cameroonian justice system.

[2] Constitution of the Republic of Cameroon (Law No 96-06 of 18 January 1996, as amended by Law No 2008/001 of 14 April 2008).
[3] Penal Code (Law No 2016/007 of 12 July 2016) (Cameroon).
[4] Criminal Procedure Code (Law No 2005/007 of 27 July 2005) (Cameroon).
[5] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC).
[6] African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (ACRWC).
[7] United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) GA Res 40/33 (29 November 1985).
[8] CRC (n 1) arts 37–40.
[9] United Nations Treaty Collection, 'Status of the Convention on the Rights of the Child' (UNTC, 2024) https://treaties.un.org
[10] Cameroon Constitution 1996 (as amended) art 45

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II. THE INTERNATIONAL LEGAL FRAMEWORK ON JUVENILE JUSTICE

Today, there is an international legal framework for juvenile justice which recognises that children are particularly vulnerable and that those who come into conflict with the law must be treated differently from adults. This is established through binding treaties and supplemented by authoritative non-binding instruments, commonly denoted as soft law.[11] The overwhelming aim is to protect the rights, dignity and development of juveniles and, at the same time, to ensure fairness, rehabilitation and reintegration into society.[12]

At the heart of this legal framework is the 1989 Convention on the Rights of the Child (CRC), the most widely ratified international human rights treaty.[13] The CRC states explicitly that the arrest, detention or imprisonment of minors should be used only as a measure of last resort and for the shortest possible period of time, and that every minor must be tried with humanity and respect for their inherent dignity.[14]The CRC is complemented through a number of soft law instruments that elaborate on juvenile justice. Among these are; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990).[15]

Although soft law instruments are not legally binding, they are generally regarded as authoritative standards for the design of national juvenile justice systems.[16]They articulate the fundamental elements enshrined in treaties, articulate best practices to guide States in the progressive development of juvenile justice systems. The Committee on the Rights of the Child frequently cites these soft law instruments when reviewing States' adherence to the Convention, reflecting their importance in the practical fulfilment of international juvenile justice standards.[17]

When considered together, these instruments form a global regulatory framework that emphasises rehabilitation, education, and social reintegration over punishment. They highlight the principle that juveniles must be tried according to their developmental needs and that

[11] UN General Assembly, "Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)," UN Doc A/RES/40/33 (1985).
[12] United Nations, Committee on the Rights of the Child, General Comment No. 10: Children's Rights in Juvenile Justice (2007).
[13] Convention on the Rights of the Child, UN Doc. A/RES/44/25 (1989).
[14] Ibid., Art. 37(b).
[15] UN General Assembly, "Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)," UN Doc A/RES/45/112 (1990).
[16] William A. Schabas, The International Law of Human Rights (3rd ed., 2013).
[17] Committee on the Rights of the Child, Concluding Observations on State Reports.

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measures ought to promote their reintegration into society as constructive members.[18]

A. The United Nations Convention on the Rights of the Child (UNCRC)-CRC

The protection of children in conflict with the law has become an important concern for the international community. The CRC which was adopted in 1989 and came into effect in 1990, remains and if not all, the most comprehensive and most ratified treaty throughout the world dealing with the right of the child.[19] It recognises the child also as an independent legal entity and obliges states to promote, protect and realise these rights. Its most remarkable contributions include the trend towards an international legal framework for juvenile justice that moves away from punitive measures towards a focus on rehabilitation, reintegration and respect for human dignity.[20] The legal framework of the Convention is consistent with other encompassing human rights instruments such as the Universal Declaration of Human Rights (UDHR)[21] and the International Covenant on Civil and Political Rights (ICCPR).[22]

The legal provisions of the Convention relating to juvenile justice are set out in Articles 37, 39 and 40. According to Article 37, torture or cruel, inhuman or degrading treatment is prohibited, and unlawful or arbitrary deprivation of liberty is prohibited. This article provides explicitly that the detention of a minor should be used only as a last resort and for the shortest appropriate period of time.[23] The right of every child accused or convicted of a criminal offence to be treated with dignity and to have access to legal and other appropriate assistance is laid down in Article 40. In addition, it requires the promotion of the minor's reintegration and the assumption of a constructive role in society. Article 39 further expands these obligations by requiring States to facilitate the physical and psychological recovery and social reintegration of minor victims of neglect, exploitation or abuse.

In combination, these protections form a framework of safeguards that reflects the principles of non-discrimination, the best interests of the child, survival and inclusion, together with participation. In its General Comment No. 10 (2007), the Committee on the Rights of the Child offered authoritative guidance on these provisions, while stressing the need for juvenile justice frameworks to promote diversion, proportionality and alternatives to formal court

[18] UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), Art. 5.
[19] United Nations Convention on the Rights of the Child, adopted 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
[20] Ibid note 18.
[21] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)).
[22] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.
[23] Ibid, Art 37(b).

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proceedings.[24]

Although the enforcement of CRC related provisions in the area of juvenile justice differs to a considerable degree between different jurisdictions, for instance, in more developed countries, well-established juvenile courts, diversion mechanisms and rehabilitation programmes are commonplace. In developing countries, however, weak institutions, resource constraint and socio-political instability often hamper compliance. Many states continue to detain minors together with adults, impose excessive punishments, or maintain a low age of criminal responsibility, which is contrary to Article 40(3), which stipulates that the age of criminal responsibility must not be set below an internationally acceptable minimum age.

In addition, despite the Convention establishing minimum obligations, the Convention is not equipped with direct enforcement machinery. While the Committee on the Rights of the Child may issue concluding observations, such observations are not legally binding. As a result, despite the CRC's strength as a normative instrument, its effectiveness depends on political will, national resources and domestic compliance with its standards.[25] However, despite its shortcomings, the CRC constitutes the cornerstone of the international legal framework for juvenile justice. Its legally binding obligations, complemented by convincing soft law instruments, form a robust and evolving body of international legal norms that balance accountability, rehabilitation and child protection while sustainable progress depends on the willingness of states to incorporate these standards into their national legislation and invest in child-friendly justice systems that truly reflect the very spirit of the Convention.[26]

III. UNITED NATIONS SOFT LAW INSTRUMENTS RELATING TO JUVENILE JUSTICE

While the protection of children in conflict with the law occupies a central place in current international human rights discourse, the 1989 United Nations Convention on the Rights of the Child (UNCRC), which is the fundamental legally binding instrument regulating juvenile justice, its enforcement and interpretation have been substantially shaped by three crucial soft law instruments such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection

[24] Committee on the Rights of the Child, General Comment No. 10: Children's Rights in Juvenile Justice (CRC/C/GC/10, 2007).
[25] Hodgkin, R. and Newell, P., Implementation Handbook for the Convention on the Rights of the Child (UNICEF, 2007).
[26] Sloth-Nielsen, J., 'The Contribution of the UNCRC to the International Law on Juvenile Justice' (2000) 8 International Journal of Children's Rights 321.

of Juveniles Deprived of their Liberty (the Havana Rules).[27] When taken in combination, these soft law instruments constitute a set of normative standards that have helped to articulate and operationalise the CRC's overall vision of a "child-centred" justice system that takes into consideration rehabilitation, proportionality and reintegration. While acknowledging that these instruments are not legally binding, their persuasiveness has profoundly impacted national legislation, policy-making, and legal practice in different jurisdictions.

Soft law refers in the broadest sense to international legal standards that are not legally binding, such as guidelines, principles, declarations and resolutions, which, while lacking formal legal force, nevertheless carries considerable moral, political and interpretative weight to a certain extent. *Boyle* puts it as follows:

> "Instruments that are not legally binding in themselves but which may nevertheless have legal relevance, serving as interpretative guides to binding obligations, or as evidence of the progressive development of customary international law"[28]

Under the legal framework for juvenile justice, soft law instruments complement the CRC by elaborating treatment standards, procedural safeguards, and preventive measures that are not comprehensively encapsulated in the Convention.[29] These soft law instruments are interpretative tools that assist States Parties in meeting their treaty obligations in accordance with Articles 37, 39 and 40 of the CRC. Under these articles, deprivation of liberty of children should be used only as a measure of last resort, the dignity of children should be preserved and their reintegration should be promoted.[30] The Committee on the Rights of the Child (CRC Committee) regularly refers with these soft law standards when reviewing state reports, thereby highlighting their semi-binding influence in day-to-day practice.[31]

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[27] United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules') UNGA Res 40/33 (29 November 1985); United Nations Guidelines for the Prevention of Juvenile Delinquency ('Riyadh Guidelines') UNGA Res 45/112 (14 December 1990); and United Nations Rules for the Protection of Juveniles Deprived of their Liberty ('Havana Rules') UNGA Res 45/113 (14 December 1990) (collectively 'UN Juvenile Justice Instruments').

[28] Alan Boyle, 'Some Reflections on the Relationship of Treaties and Soft Law' (1999) 48 International and Comparative Law Quarterly 901.

[29] Alan Boyle, 'Some Reflections on the Relationship of Treaties and Soft Law' (1999) 48 ICLQ 901.

[30] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, arts 37–40.

[31] Committee on the Rights of the Child, General Comment No. 10: Children's Rights in Juvenile Justice (CRC/C/GC/10, 2007)

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A. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

The Beijing Rules were adopted in 1985 through General Assembly Resolution 40/33 and represent the earliest comprehensive soft law instrument in the area of juvenile justice.[32]The Rules set out a series of minimum standards aimed at ensuring that the treatment of juvenile perpetrators of offences is in line with international human rights norms and which take into account the special needs and vulnerabilities of juveniles. The Rules consider a number of guiding principles, notably the fundamental element of proportionality (Rule 5.1), the promotion of wellbeing (Rule 1.1) and the avoidance of institutionalisation (Rule 13). These Rules champion a justice system that prioritises diversion, rehabilitation and social reintegration over criminal -based sanctions. Crucial to this is Rule 11 which encourages States to have specialised juvenile courts with trained personnel even though Rule 14 emphasises the importance of legal representation and procedural safeguards. Collectively, these regulations aim to ensure the implementation of the rehabilitative approach enshrined in Article 40 of the CRC.

Notwithstanding their regulatory sophistication, these Beijing Rules have been criticised for its flexibility, which allows states to meet minimal standards without substantial reform.[33]With the rules being non-binding, their implementation has depended largely on political will, leading to inconsistent enforcement in different jurisdiction including Cameroon. Nevertheless, these rules have exerted a considerable persuasive power and have inspired reforms in numerous countries through which national juvenile justice laws explicitly refer to their standards.[34]

B. The United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

Adopted under the General Assembly Resolution 45/112 in 1990, The Riyadh Guidelines also supplement the Beijing Rules by addressing the preventive dimension of juvenile justice. The Guidelines promote a comprehensive, child-centred approach that aims to tackle the root causes of delinquent behaviour through social, educational and family measures.[35] By emphasising the importance of fostering environments that promote positive youth development and minimise risk factors such as poverty, family disintegration and lack of education,[36] the Guidelines place

[32] Beijing Rules (n 1) Rule 1.
[33] Ursula Kilkelly, Youth Justice and Children's Rights in Europe (Council of Europe, 2008) 45.
[34] Ibid; See also Juvenile Justice (Care and Protection of Children) Act 2015 (India); Child Justice Act 2008 (South Africa).
[35] Riyadh Guidelines note 14.
[36] Ibid, paras 5–16

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on states, communities, families, schools, and the media the responsibility to create conditions conducive to the socialisation of young people.[37] Conceptualising delinquency prevention as a collective societal obligation, it moves beyond traditional legal responses and situates juvenile justice within the wider context of both social policy and human development.

Although the Riyadh Guidelines have contributed significantly to the promotion of non-repressive prevention strategies, as *Goldson and Muncie* puts it, its effectiveness is limited due to its non-enforceable nature. The Rules lacks clear indicators for measuring compliance and rely on voluntary state cooperation.[38] Furthermore, critics have also argued that their broad language permits selective implementation, which is often reduced to mere rhetoric without any substantive policy change.[39] However, their influence is observable in the preventive orientation of the UN Convention on the Rights of the Child and on national youth policy frameworks which emphasise education, community engagement and social welfare as the primary and most important means of crime prevention.[40]

C. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules)

The Havana Rules, which were adopted in 1990 by General Assembly Resolution 45/113, specifically addresses the treatment of juveniles in detention as one of the most vulnerable categories for children in conflict with the law.[41] Broadly speaking, the Rules define deprivation of liberty as 'any form of detention or imprisonment or placement of a person in a public or private custodial setting from which that person is not permitted to leave at will.' Furthermore, they set out safeguards regarding conditions of detention, access to education, medical care and contact with family (Rules 12–49).[42] In accordance with Article 37 of the CRC, the rules forbid torture, inhuman or degrading treatment and state inter alia that solitary confinement, corporal punishment and disciplinary measures that compromise dignity are prohibited.[43]

While the Havana Rules bridge significant gaps in international criminal justice system by establishing minimum standards for detention conditions applicable to both state and non-state facilities, just like the previous Rules, its implementation depends on domestic enforcement as with other soft law instruments. Also, according to Amnesty international, evidence

[37] Ibid, para 10
[38] Barry Goldson and John Muncie, Youth Crime and Justice (2nd edn, Sage 2015) 82.
[39] Ibid 85
[40] Committee on the Rights of the Child (n 4) para 23.
[41] Havana Rules, note n 14.
[42] bid, Rule 11(b).
[43] Ibid, Rules 66–68.

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demonstrates that violations of detention standards persist, particularly in low-income countries, where overcrowding, ill-treatment, and lack of education remain prevalent.[44] Nevertheless, the rules have been incorporated into numerous regional legal frameworks, among them, the African Charter on the Rights and Welfare of the Child (1990) and the European Rules for Juvenile Offenders Subject to Sanctions or Measures (2008), which illustrates their continued regulatory influence

At the same time, despite not being binding, the collective impact of the Beijing, Riyadh, and Havana instruments are transformational. They form a comprehensive normative body that enhances the CRC with interpretative details and operational lucidity. The Committee on the Rights of the Child relies consistently on these instruments in its concluding observations on compliance assessments, which, effectively elevates their status to quasi-binding instruments.[45] However, the absence of sanctions or reporting obligations undermines uniform compliance, while the reliance on moral persuasion reflects the wider weakness of international juvenile justice system

IV. THE PROTECTION OF JUVENILE JUSTICE THROUGH REGIONAL LEGAL FRAMEWORKS

Although international legal protection of juvenile justice is largely grounded in the Convention on the Rights of the Child (CRC), it is substantially reinforced in practice by regional legal frameworks. These regional regimes act as intermediaries between international norms and domestic enforcement by adapting universal standards to local contexts and providing mechanisms for their implementation. The regionalisation of juvenile justice thus enhances judicial accountability, eases compliance, and fosters culturally responsive interpretation of international commitments. Some of these regional legal regimes consist of African Charter on the Rights and Welfare of the Child (ACRWC), the European Convention on Human Rights (ECHR) and the European Court of Human rights.

A. The African Regional Regimes

In the African context, the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990 is the most comprehensive regional instrument regulating juvenile justice.[46] Similar to the CRC, it stipulates that the detention and punishment of children should only be used as a last resort and for the briefest possible period and in a manner consistent with the dignity of the

[44] Amnesty International, Children Behind Bars: Human Rights Violations in Juvenile Detention (2018) 17–25.
[45] Committee on the Rights of the Child, Concluding Observations: Cameroon (CRC/C/CMR/CO/3–5, 2017).
[46] African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (1990).

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child.[47] In some respects, however, the Charter goes beyond the CRC. In particular, Article 5(3) expressly prohibits the imposition of the death penalty on children, while Article 17 ensures that every child accused or convicted of a criminal offence has the right to special treatment aimed at their rehabilitation and reintegration.[48]

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) which is the monitoring body under the Charter, plays a key role in ensuring compliance. Through state reports, general comments and individual communications, the Committee has gradually clarified the obligations of states in the area of juvenile justice. However, challenges persist in enforcement. For instance, in its ruling on the case of *Talibés Children v. Senegal.*[49] the Committee condemned the inhumane treatment of street children and urged states to reform their child protection systems, illustrating the regional body's ability to enforce compliance through interpretative guidelines.

Despite this, challenges still persist in terms of enforcement. Indeed, many African states continue to lack specialised juvenile courts, qualified personnel, or resources to implement the Charter's directives.[50] In addition, overlapping obligations under the CRC and the ACRWC frequently result in normative redundancy without clear national priorities.[51]Despite these difficulties, the ACRWC remains an important regulatory framework that reflects the socio-cultural realities of Africa and which reinforces global standards through regionally based approaches to rehabilitation and victim-centred justice.

B. European Legal Regimes

The protection of juvenile offenders within the justice system in Europe is in particular derived from the European Convention on Human Rights (ECHR) and through its robust interpretation by the European Court of Human Rights (ECtHR). Although the ECHR does not explicitly explore juvenile criminal law, the Court has gradually extended the safeguards of the Convention to minors who are in conflict with the law. Pursuant to Article 3, which prohibits torture and inhuman or degrading treatment, the ECtHR through its jurisprudential has found that the conditions of detention for minors must be appropriate to their age, their vulnerability and their need for education and rehabilitation.[52]

[47]bid art 17(1)(b).
[48] ibid arts 5(3) and 17(3).
[49] Talibés Children v Senegal (Decision No 003/Com/001/2012, African Committee of Experts on the Rights and Welfare of the Child, 2014).
[50] African Child Policy Forum, Juvenile Justice in Africa: A Status Report (2018).
[51] Frans Viljoen, International Human Rights Law in Africa (2nd edn, OUP 2012) 342.
[52] Blokhin v Russia App no 47152/06 (ECtHR, 23 March 2016).

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This can be seen the leading classical cases *of T v. United Kingdom* and *V v. United Kingdom* [53]. These cases concerned two ten-year-old boys, Robert Thompson (T) and Jon Venables (V), who kidnapped and murdered a two-year-old James Bulger in Liverpool, England, in 1993.[54]It was one of the most high-profile trials in British history, held before a judge and jury in a public Crown Court and covered extensively by the media.[55] In spite of their young age, both boys were required to sit on high chairs in the witness box, surrounded by uniformed police officers, so that they may see the court and be seen by the court.

During the trial, the boys were subjected to the same formalities as adult defendants, which includes using complex legal language and cross-examination.[56] Following their conviction, they were sentenced to imprisonment 'at Her Majesty's pleasure', implying an indefinite prison term with the possibility of review.[57] The Home Secretary subsequently set out a minimum prison term of fifteen years due to public outrage and political pressure.[58]

At the ECHR, the applicants argued that their trial violated Article 6(1) of the ECHR, the right to a fair trial and that, the determination of their length of detention by a minister violated Article 5(4) relating to the right to have the lawfulness of detention reviewed through a court.[59]

However, in its judgment which was delivered on 16 December 1999, the ECtHR found that the United Kingdom had violated both provisions.[60] The Court held that the proceedings against the applicants were not appropriate to their age, maturity or their emotional development and were therefore so intimidating and forced which prevented them from participating effectively in their defence.[61] The Court held that these conditions did not meet the requirements of a fair trial pursuant to Article 6(1).[62]

Furthermore, the Court found that the role of the Home Secretary in setting out the minimum period of detention was incompatible with Article 5(4) given the fact that this decision shall be taken by an independent and impartial judicial authority and not by a political authority.[63]

As a result, the ECHR concluded that the applicants' rights pursuant to Articles 5 and 6 of the

[53] T v United Kingdom (1999) 30 EHRR 121; V v United Kingdom (1999) 30 EHRR 121
[54] Ibid note 45.
[55] ibid para 20
[56] ibid para 27.
[57] ibid para 27
[58] ibid para 30
[59] ibid para 31
[60] ibid para 60
[61] ibid para 62
[62] ibid para 84
[63] ibid para 85.

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ECHR had been violated.[64] In the wake of this decision, the United Kingdom proceeded to reform its juvenile justice system by introducing youth courts, transferring sentencing powers to judges, aiming to ensure that criminal proceedings involving minors were child-friendly and focused on rehabilitation rather than punitive measures.[65]

In addition, the Council of Europe has developed special soft law instruments, such as the European Rules for Juvenile Perpetrators of Offences Subject to Sanctions or Measures (2008), which focus on educational, rehabilitative, and restorative approaches, as opposed to punitive measures.[66] An additional layer of protection is provided by the European Social Charter, which obliges states to fulfil socio-economic obligations to ensure children's right to social protection and education, which are essential components of juvenile justice reform.[67] Although Europe has made strides in its development of comprehensive standards, challenges nonetheless remain, particularly in the excessive use of administrative detention for migrant minors and uneven implementation across Member States.[68]

C. The Inter-American Regional Regime

Another crucial safeguard for juvenile justice is afforded by the Inter-American human rights system. The ACHR, in conjunction with the Convention on the Rights of the Child, lays down strict procedural and substantive safeguards for children deprived of their liberty. The Inter-American Court of Human Rights (IACtHR) has a more substantial body of jurisprudence, which confirms that the detention of minors must be exceptional, short-term and aimed at social reintegration.[69] Moreover, through the landmark case of *Instituto de Reeducación del Menor v. Paraguay* [70], the Court decried the wretched conditions in juvenile detention centres and declared the State liable for violations of Articles 5 and 19 of the ACHR. The judgement underlined the obligation of States to ensure humane conditions and rehabilitation programmes for detained minors. In a similar vein, the Inter-American Commission on Human Rights (IACHR) has stressed the need for single reforms of the juvenile justice system in thematic reports and country visits, stressing systemic problems such as arbitrary detention, violence in detention centres, and the criminalisation of poverty among minors.[71]

That said, while its strong jurisprudence, the effectiveness of the Inter-American system is often

[64] ibid para 86.
[65] ibid para 88
[66] Council of Europe, European Rules for Juvenile Offenders Subject to Sanctions or Measures (CM Rec(2008)11)
[67] European Social Charter (adopted 18 October 1961, entered into force 26 February 1965)
[68] UNICEF, Children Deprived of Liberty in the European Union (2020).
[69] Villagrán-Morales et al v Guatemala (1999) IACHR Series C No 63.
[70] nstituto de Reeducación del Menor v Paraguay (2004) IACHR Series C No 112
[71] Inter-American Commission on Human Rights, Juvenile Justice and Human Rights in the Americas (2009).

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hampered by states' constricted compliance with the Court's rulings and the structural challenges of implementing reforms. Still, the system has played a decisive role in shaping national juvenile justice laws and policies in Latin America by integrating the principles of victim-centred justice and the best interests of the child into domestic legal frameworks.[72]

In summary, these regional mechanisms demonstrate the progressive internalisation of international legal standards of juvenile justice within regional and national systems. They also serve as mechanisms for translating universal principles of the CRC and United Nations soft laws into local legal cultures, and provide oversight and accountability mechanisms. Still, these rules face ongoing structural and resource-related challenges that hinder effective implementation.

Most crucially, the regionalisation of juvenile justice has led to varying standards of protection that reflect disparities in resources, political commitment and judicial capacity. Although Europe has advanced compliance and enforcement through judicial activism, Africa and the Americas continue to struggle with implementation gaps and competing national priorities. Still, regional frameworks continue to constitute an indispensable bridge between global aspirations and local implementation and have the responsibility that the protection of young people in conflict with the law remains a vibrant and evolving aspect of international human rights law

V. CAMEROON AND THE NATIONAL IMPLEMENTATION OF INTERNATIONAL JUVENILE JUSTICE STANDARDS

To ensure that children who come into conflict with the law are protected and treated appropriately remains an important indicator of a state's compliance with international human rights standards. Being a dualist state operating within the civil law and common law tradition, Cameroon has ratified internationally and regionally crucial instruments on juvenile justice, particularly the CRC and ACRWC. Although Cameroon has formally accepted the above-mentioned international and regional standards through the ratification, the crucial question is how these obligations have been fulfilled into national legislation and practice. As a dualist legal system, Cameroon requires that international treaties be fulfilled into national legislation before they become legally binding internally.

Theoretically, the provision of the Constitution enables the implementation of the fundamental principles of juvenile justice enshrined in the CRC, the ACRWC and related soft law

[72] María José Bernuz Beneitez, 'The Inter-American System and Juvenile Justice Reform in Latin America' (2015) 23 International Journal of Children's Rights 410

instruments.[73] In practice, the implementation process has been fragmentary and inconsistent, which reveals a lacuna between the normative objectives of international law and the practical realities of the administration of justice at the national level. The following section therefore explores how Cameroon's domestic legal framework as enshrined in the 1996 Constitution, the 2005 Criminal Procedure code and subsequent legislation, has attempted to meet these international obligations and the extent to which these attempts are consistent with global standards of juvenile justice. Meanwhile, despite significant legislative developments, including the 2005 Criminal Procedure Code, practical compliance with these soft law instruments remains subject to structural, procedural and resource-related challenges.

A. The Domestic Legal Framework

1. The Cameron Constitution and Legislative Incorporation

Cameroon ratified both the CRC and the ACRWC[74] in the 1990s, thereby accepting international obligations to protect and promote juvenile justice. The Constitution of the Republic of Cameroon, promulgated in 1996, also serves as the supreme law of the land and defines the legal framework within which these obligations may be fulfilled at the national level.[75] The Constitution affirms in its Preamble that the State 'shall guarantee the rights of the child,' embracing international principles. Although the Constitution does not enshrine a separate section on 'minors' or 'juvenile criminal law,' its provisions as a whole constitute a basis for the protection of minors through human rights guarantees, the primacy of ratified treaties, and the creation of a legal system based on the rule of law. In addition, the Preamble emphasises the protection of the family and their children, affirming that 'the State shall ensure the protection of children and the elderly.'[76] However, this provision is generic even though it provides a constitutional mandate for child protection which may be broadly construed to include juvenile justice issues such as the humane treatment of minors in custody and the right to education and rehabilitation.

However, the lack of explicit provisions on juvenile perpetrators of offences, child-friendly court proceedings or the age of criminal responsibility limits the immediate enforceability of these protective measures. This is in contrast to other African constitutions, such as those of South Africa[77] and Kenya, which explicitly enshrine children's rights and the principles of juvenile justice, a reflection of a stronger constitutional law commitment to international

[73] Constitution of the Republic of Cameroon 1996, art 45.
[74] Cameroon ratified the CRC on 11 January 1993 and the ACRWC on 5 September 1997.
[75] Constitution of the Republic of Cameroon (Law No. 96-06 of 18 January 1996) art 1(2).
[76] Ibid note 49.
[77] Constitution of the Republic of South Africa 1996, s 28.

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standards.[78]

With respect to the incorporation of international conventions into national law, the Constitution stipulates in Article 45 that:

> "Duly approved or ratified treaties and international agreements shall, following their publication, have priority over national laws, provided the other party fulfills the said treaty or agreement."[79]

This provision lays down the fundamental principle of the primacy of international treaties in the legal system of Cameroon. In principle, this means that ratified Conventions such as the CRC and the ACRWC constitute part of the domestic legal hierarchy above ordinary legislation. As a result, provisions relating to juvenile justice contained in these Conventions may be invoked directly before domestic courts, provided that the Conventions are published and the condition of reciprocity is met. Nevertheless, the Cameroon's system remains dualist in practice.[80] International treaties require incorporation through legislation before they can be applied by national courts. This dualistic tendency, coupled with restricted judicial activism and the absence of implementing legislation specifically referencing the CRC or ACRWC, has limited the domestic enforceability of international juvenile justice standards.

Despite this limitation, however, there are several constitutional safeguards that are relevant to juvenile justice, even if these rules are not specifically aimed at children. The right to human dignity, protection from torture and degrading treatment, and the right to a fair trial apply to all people, including minors.[81] The preamble explicitly states that 'every human being has the right to life and to physical and mental integrity' and that 'no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.' These safeguards are consistent with Article 37(a) of the CRC, which prohibits torture and ill-treatment of children.[82] In addition, the Constitution guarantees the right to defence and the presumption of innocence,[83] which constitute essential procedural safeguards for juveniles. These rights, construed in the light of international legal standards, suggest that minors should be granted legal assistance, privacy in proceedings and age-appropriate jurisprudence. Yet, with the understanding that minors are not explicitly recognised also as a vulnerable group in the Constitution, the extent to which these

[78] Constitution of Kenya 2010, art 53.
[79] Constitution of Cameroon 1996, art 45.
[80] Charles Manga Fombad, Cameroon's Constitutional Law: An Introduction (Langaa RPCIG 2019) 117.
[81] Constitution of Cameroon, Preamble.
[82] ibid.
[83] Ibid.

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rights are to will be applied to juvenile offenders in principle depends heavily on the discretion of judicial authorities.

2. Critical assessment of the Constitutional provision and protection

The greatest strength of the 1996 Constitution resides in its explicit recognition of international conventions and generic human rights principles. Indeed, the constitutional law primacy of international treaties combined with references to the protection of the minor in the Preamble affords a possibility for the incorporation of international standards in this context into national law. In effect, courts could construe the Constitution in line with the CRC and the ACRWC to protect juveniles.

However, a number of inherent lacunae have affected the protective effect of the Constitution, in terms of its failure to explicitly define the rights of children and its failure to take into consideration juvenile perpetrators of offences, creating gaps in protection. In addition, the reciprocity clause in Article 45 and the publication requirement have limited the automatic domestic effect of any international treaty. Together with the limited independence of the judiciary and the lack of access to proceedings before the Constitutional Court, the absence of specialised constitutional institutions for children limits the possibilities for monitoring. These gaps indicate that, while Cameroon's constitutional framework is formally compatible with international legal standards, its content remains insufficient to ensure juvenile justice.

3. Other National legislative legal framework

- **The penal code and criminal procedure code**

As mentioned above, the 1996 Constitution constitutes the supreme normative basis for the protection of children's rights, but it does not enshrine detailed provisions on how juveniles should be treated in criminal proceedings. The practical implementation of these constitutional law obligations is therefore left to generic legislation, particularly the Penal Code (Act No. 2016/007 of 12 July 2016)[84] and the criminal procedure code (Act No. 2005/007 of 27 July 2005).[85] The Penal Code defines criminal responsibility and penalties while the Criminal Procedure Code (CPC) sets out the procedures for investigating, trying and sentencing offenders. These soft law instruments, which were adopted pursuant to the Constitution of 1996 are crucial to the fulfillment of international obligations at the national level. This body of law converts the human rights principles of the Constitution into enforceable substantive and procedural norms. The Penal Code sets out the scope of criminal responsibility, guilt and

[84] Penal Code (Law No 2016/007 of 12 July 2016).
[85] Criminal Procedure Code (Law No 2005/007 of 27 July 2005) s 646.

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penalties applicable to juvenile offenders, while the Criminal Procedure Code governs the mechanisms for fair trial, detention and rehabilitation. Together, they put into practice the constitutional vision of a humane juvenile justice system focused on rehabilitation. The following sections examine each of these codes individually to determine the extent to which they comply with constitutional and international standards.

- **The Penal Code as a substantive Protective regime for Juveniles**

The Penal Code constitutes the substantive basis for criminal responsibility and punishment. Although it is primarily oriented toward adult offenders, the Code enshrines special provisions for juveniles, which stipulates differential treatment based on age and mental maturity. Pursuant to Section 80(1) of the PC, no person under the age of ten may be punished.[86] Whilst Section 80(1) is a reflection of the fundamental principle of diminished criminal responsibility for very young children, Section 80(2) introduces a qualified test of 'capacity to understand' for minors aged between ten and fourteen years.[87] This means that courts have a duty to ascertain whether a child was capable of understanding the nature and consequences of their actions before liability can be imposed.

The requirement of "capacity to understand". adopted from French colonial law has been criticised for its vagueness and incompatibility with the CRC's demand for a clear and uniform minimum age of criminal responsibility, which these rules fail to meet.[88] The Committee on the Rights of the Child recommends a minimum age of at least 12 years with no exceptions. The dual threshold in Cameroon of 10 years absolute and 10–14 years conditional therefore does not meet this standard. The Penal Code recognises a reduced degree of criminal responsibility for juvenile offenders between the ages of 14 and 18. Section 81(1) stipulates that a juvenile perpetrator of offences who has reached the age of 14 but not yet reached the age of 18 may obtain a sentence that is reduced by half of the maximum sentence applicable to adults. [89] In addition, courts may replace custodial sentences through 'educational or reformatory measures' such as supervision, vocational training or placement in a reformatory.[90]

While these rules reflect the rehabilitative spirit of the CRC and the ACRWC, the code doesn't clearly define 'educational measures' and doesn't prescribe any alternatives to detention.[91] In principle, the limited availability of juvenile detention centres has led to juvenile offenders

[86] ibid note 58 80(1)
[87] Ibid.
[88] Charles Manga Fombad, Cameroon's Constitutional Law: An Introduction (2nd edn, Langaa RPCIG 2019) 221.
[89] Penal Code 2016, s 81(1).
[90] ibid s 82.
[91] UNICEF, Juvenile Justice Assessment: Cameroon Country Report (UNICEF 2021) 23

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being detained in adult prisons, which is contrary to Article 37(c) of the CRC, which requires separation from adults.[92] In terms of the death penalty, the Penal Code expressly prohibits the imposition of the death penalty on offenders who were under the age of 18 at the time of the offence,[93] in accordance with Article 37(a) of the CRC. However, it allows for life imprisonment, which, whilst permissible under international law, is incompatible with the principles of rehabilitation if these rules are applied without the possibility of reconsideration.[94]

- **The Criminal Procedure Code as a Procedural Protective regime**

Under the Criminal Procedure Code (CPC), a juvenile is defined as 'any person under the age of 18'.[95]The law stipulates the establishment of special juvenile courts with jurisdiction over cases involving juvenile offenders.[96]These courts are required to apply procedures that take into consideration the age, mental state and welfare of the juvenile offender.[97] Whereas, Juvenile Courts have only been established in a few urban centres, leaving rural areas under the jurisdiction of ordinary criminal courts, leaving a structural deficit to a considerable degree.[98]

Under the CPC, the arrest and detention of juveniles is restricted. Section 648(1) stipulates that detention may only be used as a last resort, which is in line with Article 37(b) of the CRC.[99]The Code also stipulates that minors must be held separately from adults and in appropriate facilities.[100] Despite these safeguards, overcrowding and the lacuna of separate youth facilities result in frequent violations of these rules in practice.[101]The National Commission for Human Rights and Freedoms (NCHRF) has repeatedly criticised the detention of juvenile offenders alongside adults in police and gendarmerie detention facilities detention.

In order to ensure due process, Section 650(2) of the criminal procedure code stipulates that a juvenile may not be brought before a court without the presence of a parent, guardian or legal representative and that the juvenile must be accompanied by legal counsel.[102] All these safeguards are in accordance with Article 40(2)(b)(ii) of the CRC, which stresses the need for legal counsel. However, legal aid in Cameroon is still largely inadequate, and many juveniles

[92] CRC art 37(c).
[93] Penal Code 2016, s 82(2).
[94] Human Rights Committee, General Comment No 21 (1992) para 13.
[95] Criminal Procedure Code 2005, s 645
[96] ibid s 646
[97] ibid s 647.
[98] UNICEF (n 65) 25
[99] CPC 2005, s 648(1).
[100] ibid s 648(2).
[101] [27] National Commission on Human Rights and Freedoms, Annual Human Rights Report 2020 (Cameroon) 37
[102] CPC 2005, s 650(2).

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are still tried without effective representation because they cannot afford for the cost.[103]

VI. CONCLUSION AND RECOMMENDATIONS

From a more doctrinal perspective, it can be concluded that both the Penal Code and the Criminal Procedure Code constitute significant progress in the implementation of international principles of juvenile justice. They recognise the special status of juveniles, set out procedural guarantees, and provide for rehabilitative measures. Nevertheless, a closer examination reveals persistent lacunae in the Penal Code, particularly its continued reliance on vague and obsolete concepts such as "discernment" and the absence of a clearly defined minimum age of criminal responsibility in conformity with international standards. The Criminal Procedure Code similarly incorporates progressive guarantees—such as non-detention measures, the right to legal counsel, and confidentiality—yet these remain largely ineffective owing to weak institutional capacity, insufficient funding, and limited judicial training. The persistent discrepancy between law and practice therefore remains the defining weakness of the juvenile justice system in Cameroon.

Therefore, in order to redress these discrepancy and lacunae, Cameroon must not only reform its legal framework, but also adapt its institutional practice to reflect evolving international standards. In this regard, the case law of the European Court of Human Rights (ECHR) in the judgments of *T v. United Kingdom and V v. United Kingdom*[104] offers authoritative guidance on how children in conflict with the law should be treated in a manner consistent with the principles of dignity, inclusion and proportionality. AS previous stated above, these path-breaking cases arose from the trial of two 10-year-old boys who were convicted of murder and tried in an adult court, which, in the opinion of the ECtHR, violated Article 6 of the European Convention on Human Rights (ECHR) because effective participation and a fair trial were not safeguarded.[105]

There are important lessons for Cameroon and other developing countries in the Court's reasoning in these cases. The judgement clearly confirmed that juvenile justice must give priority to rehabilitation over retribution, that proceedings involving children must be adapted to their age and maturity, and that confrontation with intimidating or highly public criminal proceedings is inherently incompatible with the concept of a fair trial.[106] Furthermore, the ECtHR emphasised the importance of specialised facilities and procedures that can ensure the

[103] CPC 2005, s 650(2).
[104] Ibid note 65
[105] ibid. paras 83–89.
[106] ibid. para 86.

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psychological well-being and development of minors throughout the court proceeding

Inspired by these principles, the reform of juvenile criminal law in Cameroon should therefore aim at both legislative coherence and institutional efficiency. Therefore, the following recommendations have been proposed:

A. Defining a minimum age of criminal responsibility

Cameroon needs to align its domestic legal framework with international standards by establishing a minimum age of criminal responsibility of at least 12 years as suggested by the Committee on the Rights of the Child as set out in General Comment No. 10. In fact, the current ambiguous reference to 'discernment' allows for inconsistent legal interpretation and runs the risk of prosecuting minors who are incapable of perceiving legal responsibility.

Although provided for in the Code of Criminal Procedure, specialised juvenile courts remain underdeveloped or underfunded in many regions. Based on the cases of *T v. United Kingdom and V v. United Kingdom,* Cameroon should ensure that children are tried in child-friendly environments using procedures adapted to their stage of development, including simplified language, protection of privacy and minimal public attention.

B. Operationalise specialised juvenile courts

In spite of being enshrined in the Code of Criminal Procedure, in many regions, specialised juvenile courts remain either poorly developed or insufficiently funded. Taking into account the cases of *T v. United Kingdom and V v. United Kingdom,* Cameroon should seek to ensure that juveniles are tried in settings that are child-friendly, with procedures adapted to their level of development, including the use of simplified language, protection of privacy and minimal exposure to public attention.

C. Capacity building and legal training

In order to effectively implement progressive juvenile justice systems, judges, prosecutors and law enforcement officials require adequate training in child psychology, victim-centred interventions and international legal standards for children. [6] This approach helps to ensure that officials exercise their discretion in line with the Convention on the Rights of the Child (CRC) and soft law frameworks such as the Beijing Rules and the Riyadh Guidelines.

D. Improving prison conditions and rehabilitation measures

According to the Havana Rules, Cameroon should make sure that juveniles are held in facilities separate from adults and have access to education, vocational training, and psychological support. The objective of these facilities should be rehabilitation rather than punitive measures.

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E. Enhancing legal aid and child involvement

The ECtHR's findings in the *T and V* judgments indicate that Cameroon should guarantee the right of children to be heard and to effectively participate in legal proceedings at every stage through competent legal representation, Enhancing free legal aid schemes for minors would ensure compliance with Articles 12 and 40 of the CRC

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