

SENTENCED TO OBLIVION

FACT-FINDING MISSION ON DEATH ROW

CAMEROON

CAROLE BERRIH
NESTOR TOKO



Le Réseau des Avocats
Camerounais
Contre
La peine de mort

ECPM
ensemble contre
la peine de mort
together against
the death penalty



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Publication Director: Raphaël Chenuil-Hazan

Artistic Director: Bérangère Portalier

Coordinator: Marie-Lina Samuel

Author: Carole Berrih - Director of Synergies Coopération

Head of the research team: Nestor Toko

Copy editors: Nestor Toko, Emmanuel Maistre, Nicolas Perron, Jeanne Hirschberger

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Le Réseau des Avocats
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Contre
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ECPM

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75011 Paris

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CAROLE BERRIH
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Author

As a legal adviser specialising in public international law and a sociology graduate, **Carole Berrih** acted as Delegation Leader and Project Coordinator for international NGOs before founding and running Synergies Coopération, a research centre and training institute aiming to promote and protect human rights. In particular, she carries out research and assessments for NGOs and UN international agencies in the field of criminal justice and the prevention of torture and ill treatment in prisons. She is an auditor at the *Institut des Hautes Etudes de la Défense Nationale* [Institute of Advanced Studies in National Defence] in France.

Head of the research team

Nestor Toko Monkam is a lawyer, a member of the Cameroon Bar Association and a human rights champion. He was born on 4 November 1968 in Baboné, Cameroon. He holds a Master's degree in corporate law. He has been working as a lawyer since 2001. In 2005, he decided to focus on defending human rights and founded the organisation Droits et Paix. His work has taken him into prisons and he has represented several people facing the death penalty. In 2010, he decided to campaign for abolition of capital punishment in Cameroon. He is the author of *Mythes et réalités sur la peine de mort*. In recognition of his commitment to the abolitionist cause, he now leads the Réseau des avocats camerounais contre la peine de mort (Racopem), the aim of which is universal abolition of the death penalty.

LIST OF ABBREVIATIONS



ALNK:	Armée de Libération Nationale Kamerunaise [Cameroon National Liberation Army]
CNDHL:	Commission Nationale des Droits de l'Homme et des Libertés du Cameroun [Cameroon's National Commission on Human Rights and Freedoms]
ICCPR:	International Covenant on Civil and Political Rights
ICRC:	International Committee of the Red Cross
OPCAT:	Optional Protocol to the Convention Against Torture
RACOPEM:	Réseau des avocats camerounais contre la peine de mort [Network of Cameroonian Lawyers Against the Death Penalty]
SED:	Secrétariat d'Etat à la Défense [Secretary of State for Defence]
UNC:	Union Nationale Camerounaise [Cameroon National Union]
UPC:	Union des Populations du Cameroun [Union of the Peoples of Cameroon]
UPR:	Universal Periodic Review

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FOREWORD



Richard Sédillot

*Barrister, ECPM Spokesperson
and expert at the French National Bar Council*

The death penalty always affects the poorest the most...unless it is being used as a political weapon.

Whichever country is involved, one thing never changes: defendants who receive the death penalty always come from the poorest sections of society, from those parts which do not receive any support, who often do not interest the media in any way and who have been unable to provide themselves with any kind of defence.

There is one notable exception to this rule: in some countries, the death penalty is still used as a political weapon to eliminate niggling opponents.

Application of this clearly irreversible sentence seems even more monstrous here because Cameroon's judicial system does not offer any of the safeguards connected to a fair trial.

The National Human Rights Commission, the Bar association and NGOs regularly condemn the generalised practice of torture by investigators in the strongest terms. Confessions obtained in this way should not be the basis for any sentence at all. And yet, when defendants or their lawyers explain to the court trying the case that no credibility can be given to statements which were only made to end unbearable physical abuse, judges ask them to provide evidence of the torture carried out...as if those responsible for such violence would admit as such and produce video evidence of their shameful acts.

The refusal of judges to take these terrible practices into consideration reinforces police impunity.

All defendants sentenced on the basis of confessions obtained in this way will experience the agony of detention and disgrace but the consequences for those sentenced to death will be irreversible. Moreover, in this regard it should be recalled that Cameroon's judicial system does not recognise the application of judicial review.

As a general rule, there are many detainees whose position is completely irregular, still detained when applicable grounds for detention no longer exist. A considerable number of cases lie dormant, forgotten, in the filing cabinets of the examining magistrate. The State can suddenly decide to create an exceptional court to retry events which have already been examined if the verdict issued does not please the ruling authorities. Sentences can be handed down on the basis of fanciful legal notions created for the occasion.

Mention must also be made of the conditions of detention of convicted prisoners which can be categorised as inhuman and degrading treatment within the meaning of international criminal jurisprudence. In that respect, it is known that the conditions of detention of prisoners sentenced to death are always worse than those reserved for other prisoners and it becomes a living hell when the conditions reserved for prisoners serving time are those experienced by prisoners in Cameroon.

And what can be said about a defence team which does not have any resources to provide its services to the accused, particularly those facing the death penalty. Clearly, lawyers courageously take on the defence of these defendants without any resources. Unfortunately, everything that can be done will be done to make their task even more difficult than it is in principle. Often, lawyers will not have access to the case file; they will be appointed by the State *in extremis*, without any time to prepare the defence of their client; they will be unable to request an expert assessment, further investigation or the examination of new witnesses, even though hearings follow the adversarial system in Cameroon.

We now know that the death penalty contributes to violence in society and upholding it bolsters the crime rate. It has no dissuasive

power. It is irreversible even though, clearly, no judicial system is infallible. It maintains the paradox where death equals justice. We know all these arguments and they are indisputable. However, it is good to recall their quintessence, especially when this punishment is handed down in the most iniquitous conditions without any respect for the principles of a fair trial.

INTRODUCTION

Raphaël Chenuil-Hazan

Executive Director - ECPM

With its unprecedented evolution in the practice of the death penalty, Africa surprises and leads by example. Indeed, one might legitimately ask whether Africa will be the next abolitionist continent. Only a handful of its countries still apply capital punishment (mainly in East Africa).

Abolition of the death penalty is neither a dream nor an idle fancy. On the contrary, it is a reality which is taking a little more shape every day. New initiatives are being created every year: the latest abolitionist countries are Burkina Faso (2018), the Gambia (2018), Congo (2016) and Guinea (2017). In 2016, Kenya commuted more than 2,740 death sentences (including those of 91 women) and then abolished the automatic death penalty a year later. In 2018, Benin commuted the sentences of the last 14 prisoners sentenced to death in that country, thus completing a process of abolition which began in 2012. Burkina Faso should ratify abolition in its Constitution by referendum in 2019. Zimbabwe has officially announced a moratorium on executions. Chad has adopted a new criminal code, removing the death penalty except for terrorism.

In 2018, 27 African countries voted in favour of the moratorium resolution at the UN General Assembly in New York, compared to 5 against (the 17 abstentions, including Cameroon, and 5 absentees should also be noted). 4 African countries switched from an abstention (or absence) to a vote in favour (the Gambia, Equatorial Guinea, Mauritius and Rwanda).

90% of the 29 African members of the *Organisation de la Francophonie* and 83% of African States which are members of the Commonwealth have a moratorium or are abolitionist in law.

Cameroon is part of a process which is much slower and more divided than the vast majority of African countries. Its immediate neighbours (with the exception of Nigeria and more particularly its Northern states) have either abolished the death penalty or have reformed the criminal code with the aim of abolition. This is not the case in Cameroon which seems to maintain a disarming ambiguity. It is still difficult to access figures and a minimum of information about the position of prisoners sentenced to death, under cover of combating terrorism.

The worrying precedent of the Gambia and Chad remains a real concern for abolitionists in Cameroon and elsewhere. The prevailing position of a longstanding moratorium in Cameroon, and the inexorable regional trend, do not rule out the hypothesis of a retrograde step which would be disastrous. In 2012, after 27 years of a moratorium, Yaya Jammeh's Gambia resumed executions overnight. Chad did the same in 2015 on the grounds of combating terrorism (without respecting the procedures of impartial justice and the rule of law). In no way must Cameroon follow these examples, especially as the situation in the Gambia and Chad has changed significantly. The Gambia abolished the death penalty in law in 2018 and Chad regularly announces progress towards abolition, particularly reform of the anti-terrorism law planned for 2019.

This study is part of ECPM's "Fact-finding missions" collection which has previously examined the Great Lakes (DRC, Rwanda and Burundi), the United States, Morocco and Tunisia. ECPM's investigations aim to push all actors in the criminal chain towards effective awareness of the impact and realities of the death penalty. Due to a lack of resources and a global vision, the Executive and the Judiciary often do not grasp the situation of prisoners sentenced to death and, more generally, the country's prisons. This investigation seeks to be a tool to help with decision-making by political and judicial actors in order to bring about some improvements and changes. The situation it describes is less a condemnation than an observation with a view to improving the current situation. To this end, ECPM and its partners propose various recommendations to modernise the judicial and prison system in Cameroon.

It also seeks to be a reasoned and detailed response to supporters of capital punishment as only the notion of revenge as a response

to crime guides justice systems where the death penalty still reigns. Public opinion will inexorably follow abolition because it does not demand the death penalty so much as justice and stated based on the rule of law. As Robert Badinter says: “The rule of law will never be the rule of weakness”.

Cameroon likes to say, with justification, that it is “a miniature Africa”. For this to remain true, the country must abolish the death penalty and reform its criminal system to better represent what the African continent is becoming: a continent without the death penalty.

GENERAL CONTEXT



To date, no research has been carried out into the conditions of detention of people sentenced to death in Cameroon. The five sections of this report aim to address that shortcoming by using the accounts of the people most affected: the men and women sentenced to death and who are currently in detention.

The first part of the report sheds light on the evolution of the death penalty since independence. The second part considers the various conditions which lead to a death sentence, from the investigation phase to examination of avenues of appeal. Part 3 analyses the current conditions of detention of prisoners sentenced to death in Cameroon's prisons. Part 4 analyses the impact of a death sentence on those close to prisoners. Part 5 considers the outlook for abolition of the death penalty and more humane conditions of detention for those sentenced to death.

PRESENTATION OF CAMEROON

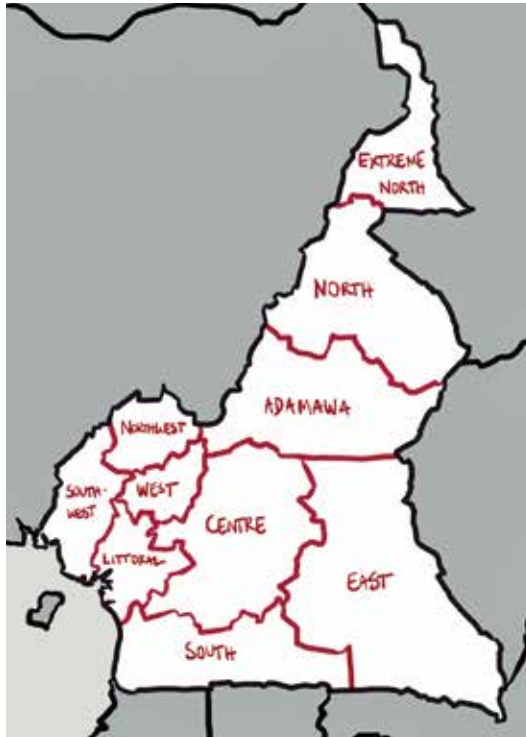


Despite its many agricultural, forest, mining¹ and oil-producing resources, Cameroon scores poorly on the Human Development Index.² According to the World Bank, its development is hindered by problems related to governance of the country.³ Ranked 153rd out of 180 countries on Transparency International's Corruption Perception Index in 2017⁴, Cameroon has been governed by President Paul Biya for more than 35 years.

President Biya was re-elected for the 6th time as the leader of Cameroon in October 2018 in a climate of significant tension, particularly in two areas of the country witnessing conflict: the Extreme North, where the terrorist group Boko Haram has been committing violent attacks

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- 1 Diamonds, cobalt, gold, bauxite, aluminium and nickel.
 - 2 The 2016 report places Cameroon 153rd out of 189: see UNDP (2016), Human Development Report 2016, p. 27.
 - 3 World Bank, 2018, Cameroon – Overview, <http://www.worldbank.org/en/country/cameroon/overview> (accessed on 26 October 2018).
 - 4 Transparency International, 2017, Corruption Perception Index.

against the population since 2014; and the North West and South West, bordering Nigeria, where violent protest movements began in 2016.



Map 1: *the regions of Cameroon*

The country is centrally located at the crossroads of Central and West Africa, bordered to the West by Nigeria, to the North East by Chad, to the East by the Central African Republic, and to the South by the Congo, Gabon and Equatorial Guinea. Its position and the porous nature of its borders make Cameroon a hub for trans-border crime and expose it to significant security risks from the two sub-regions.⁵

5 Tamekamta, A. Lutte contre Boko Haram et restrictions des droits de l'Homme au Cameroun: effets et contre-effets, Yaoundé University: <http://www.absp.be/wp-content/uploads/2016/12/TAMEKAMTA-LUTTE-CONTRE-BOKO-HARAM-ET-RESTRICTION-DES-DROITS-DE-LHOMME-AU-CAMEROUN.pdf> (accessed on 28 November 2018)

For many decades the Extreme North of the country, geographically far from the capital, has been facing significant insecurity and high levels of poverty. In 2014 the conditions came together for the Nigerian group Boko Haram, which seeks to extend its struggle for an Islamist revolution beyond the south of Nigeria, to cross the border into Cameroon and carry out extremely violent attacks. The intensity of the conflict has decreased since 2016 but, as of the end of 2018, the threat remains real and suicide attacks, kidnappings and attacks on civilians and soldiers are still a common occurrence.⁶ In 2017, Amnesty International recorded 150 attacks, including 48 suicide attacks, which led to the death of 250 civilians.⁷ In August 2018, the region contained more than 238,000 displaced people and 99,000 Nigerian refugees fleeing the conflict.⁸

With regard to the Anglophone regions of South West and North West Cameroon, protest movements have been developing for decades. Centralisation of the State in 1972 was performed to the detriment of the Anglophone minority which found itself increasingly marginalised in the face of the French-speaking community which has dominated the country since independence. At the end of 2016, peaceful protest movements by students, teachers and lawyers were gradually replaced by demonstrations calling for independence for the Anglophone regions. Suppression by security forces led to a cycle of violence: murders, villages set on fire, intimidation and kidnapping of students and teachers by the separatist movement have been reported; arbitrary arrests, acts of torture and villages set on fire by the security forces have been reported. At the end of November 2018, the conflict between the separatist movement and the security forces had led to more than 450 civilian victims and 185 military victims.⁹

6 International Crisis Group, 2018, Cameroon's Far North: A New Chapter in the Fight Against Boko Haram, <https://www.crisisgroup.org/africa/central-africa/cameroon/263-extreme-nord-du-cameroun-nouveau-chapitre-dans-la-lutte-contre-boko-haram> (accessed on 29 October 2018).

7 Amnesty International, 2018, Annual Report.

8 UN High Commissioner for Refugees, 2018, Factsheet Cameroon August 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/unhcr_cmr_factsheet_-_august_2018v1.pdf (accessed on 29 October 2018).

9 Crisis Group, 2018, Uncertainties are reinforced in Cameroon after a contested election.

OVERVIEW OF THE STATUS OF THE DEATH PENALTY IN THE COUNTRY

Although no executions have been recorded in Cameroon since 1997, its courts continue to hand down the death penalty. Cameroon has one of the largest number of people sentenced to death in French-speaking Africa. The number of sentences has increased markedly since the entry into force of the 2014 Anti-Terrorism Law which aims to combat Boko Haram in the Extreme North of the country.

Rare official data is not sufficient to monitor evolution of the death penalty in the country precisely. However, according to the reports of the Ministry of Justice, while fewer than approximately ten people were sentenced to death every year at the beginning of the decade, in 2015, 133 death sentences were handed down by Maroua Military Court, in the Extreme North of the country, alone.¹⁰ According to Amnesty International, more than 160 death sentences were handed down in 2016.¹¹ Since 2014, most death sentences have been handed down by military courts as they alone are competent to rule on acts of terrorism, including when the accused is a civilian. In 2017, Amnesty International did not record any death sentences and no information is indicated in the report from the Ministry of Justice. However, three death sentences were recorded in the files of Maroua Military Court during the first two quarters of 2017.¹²

In November 2018, the RACOPEM estimated that 300 people were facing a capital sentence in Cameroon, including more than a hundred for terrorist offences.¹³ Analysis of the verdicts of Maroua Military Court in the Extreme North of the country reveals that the death penalty continued to be passed in 2017.¹⁴

10 Annual reports of the Ministry of Justice on the status of human rights.

11 Amnesty international, 2017, Death sentences and executions in 2016, ACT 50/5740/2017, p. 12.

12 Maroua Military Court administration service, Etat des jugements rendus par le tribunal militaire de Maroua, premier et deuxième trimestre 2017. Three people were sentenced for acts of terrorism and illegal immigration.

13 Press release by RACOPEM on the 16th World Day Against the Death Penalty, 10 October 2018.

14 Four sentences were recorded during the first two quarters of 2017. Data for the last two quarters has not been provided.

Table 1:*Evolution of death sentences handed down in Cameroon, 2010-2017¹⁵*

	2010	2011	2012	2013	2014	2015	2016	2017
According to the Ministry of Justice	9	N/A	7+	N/A	N/A	133 ^a	26 ^b	N/A
According to Amnesty International	1+	1+	N/A	N/A	N/A	91+	160+	0

a This data only includes death sentences handed down by Maroua Military Court.

b Ibid.

Cameroon has applied a *de facto* moratorium on the death penalty since 1997 but it has never been made official. The country has systematically abstained from voting on the UN General Assembly resolutions to implement this moratorium¹⁶, despite numerous calls from the international community, including the African Commission on Human and Peoples' Rights. At the time of the final report of the latest UPR in September 2018, Cameroon restated that it did not want to abolish the death penalty in law. It rejected all the recommendations made by the international community relating to abolition of the death penalty with the justification that the death penalty had dissuasive properties and that the public wanted it to be retained.¹⁷

LEGAL FRAMEWORK OF THE DEATH PENALTY

Cameroon is party to the ICCPR and its 1st Optional Protocol, but it has not acceded to the 2nd Optional Protocol for abolition of the

15 Source for Ministry of Justice data: Annual reports of the Ministry of Justice on the status of human rights. 2010 data: Annual Report, p. 290. 2012 data: Annual Report, p. 34. 2015 data: Annual Report, p. 314. 2016 data: Annual Report, p. 226. Source for Amnesty International: Annual reports on death sentences and executions. See also <https://www.amnesty.org/fr/latest/news/2018/04/Death-penalty-sentences-and-executions-2017/> (accessed on 25 October 2018)

16 Analysis of Cameroon's votes at the UN General Assembly on resolutions concerning the moratorium on the death penalty reveal that the country abstained from the first vote in 2007 and subsequently in 2008, 2010, 2012, 2014 and 2016.

17 Human Rights Council, 2018, Report of the Universal Periodic Review Working Group, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/39/15/Add.1, Recommendations 121.1-121.9, 121.92 and 121.96-121.98.

death penalty.¹⁸ The Constitution of Cameroon sets out that “every person has the right to life and physical and moral integrity”¹⁹, but it says nothing about the death penalty. Cameroon’s legislation provides for capital punishment for more than twenty offences for which imposition of the death penalty is not compulsory.²⁰

Over the last few years, the scope of the death penalty has significantly evolved. Although the new 2016 Criminal Code did not introduce any major changes with regard to the offences punishable by the death penalty named in the previous version of that law,²¹ the 2014 law on suppressing acts of terrorism (hereafter referred to as the Anti-Terrorism Law) and the 2016 law on chemical weapons added new offences to be punished by a capital sentence.²² Moreover, the 2017 law on civil aviation safety extended the scope of the offence punishable by death.²³ However, the new 2017 Code of Military Justice removed three offences punishable by death from its scope.²⁴

According to national legislation, some categories of individuals are excluded from capital punishment: juveniles²⁵, pregnant women – the

18 See the list of international and regional instruments ratified by Cameroon in Appendix 1.

19 Preamble to the Constitution of Cameroon. Article 65 of the Constitution sets out that the preamble is an integral part of the Constitution.

20 According to Articles 90 and 91 of the Criminal Code, the death penalty can be commuted to a 10-year prison sentence if the court grants attenuating circumstances, unless these conditions are formally excluded by the law. On the compulsory imposition of the death penalty: see *infra*, the section on the orders to combat organised crime.

21 See in particular Tchappi, E. 1991, *La peine de mort en droit pénal camerounais depuis la loi n° 90/061 du 19 décembre 1990 portant modification de certaines dispositions du code pénal*. See too the 2004 Criminal Code, cited in Cornell Center on the Death Penalty Worldwide, <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cameroon> (accessed on 26 October 2018).

22 In particular, this law replaces the 1989 law on toxic and dangerous waste.

23 Former Law No. 2001/019 of 19 December 2001 on the suppression of offences and acts against civil aviation security required the act to have led to the death of people on the ground or in the plane. This condition is no longer mentioned in the new 2017 Law.

24 The previous version of the 2017 Code of Military Justice dated from the Order of 1959 which made the French Code of Military Justice of 9 March 1928 applicable. The former Code was thus based on legislation which was nearly 90 years old. Some offences providing for the death penalty have therefore been withdrawn, such as abandonment of post in the presence of the enemy, voluntary mutilation in the presence of the enemy and attempted destruction of property used by the army. The other offences providing for the death penalty have been retained.

25 According to Articles 80 and 87 of the Criminal Code, the juvenile status of children aged 14 to 18 is an attenuating justification which reduces the death penalty to a punishment depriving them of their liberty. Children aged under 10 are not criminally responsible. Those aged 10 to 14 may only be subject to special measures set out in law.

latter may only be executed after giving birth to their child²⁶ -, and individuals suffering from a mental disability or insanity.²⁷ Further, as a signatory of the African Charter on the Rights and Welfare of the Child, Cameroon must ensure that it is prohibited to hand down a death penalty to mothers of newborn babies and young children.²⁸ There are no specific provisions in Cameroon's legislation concerning foreigners. Legislation does not distinguish the nationality of the person accused; the death penalty is equally applicable.

The Criminal Code sets out two methods of execution: hanging and execution by firing squad.

Table 2:

Offences punishable by death in Cameroon

Source	List of offences
Criminal Code	
Criminal Code (2016)	Crimes against individuals: assassination ^a , certain murders ^b , aggravated theft leading to death or serious injury ^c , kidnapping of a juvenile followed by their death ^d Crimes against public interest: treason ^e , espionage ^{ef} , attacks on the integrity of the territory in times of war ^g , civil war ^h , violence against a civil servant with the intention of causing death ⁱ , gang looting in times of war ^j
Special legislation	
Law regulating the police within the port area (1983)	Theft in the port area with the assistance of transportation or theft in the port area by a group of at least two people ^k

26 Article 22(3) of the Criminal Code.

27 Articles 44 and 78 of the Criminal Code, analysed with Article 371 of the Code of Criminal Procedure. In these cases, the court must order a medical examination. If the medical expert considers that the person accused is not of sound mind, the court must order them to be confined at a mental health facility and declare the public prosecution to be suspended.

28 Article 30(5), African Charter on the Rights and Welfare of the Child, ratified by Cameroon in 1997. As Cameroon is a monist country, international treaties, including the African Charter on the Rights and Welfare of the Child, may be directly invoked before the Cameroon courts without the contents of that legislation being transcribed into a law or regulation. The monist nature of the State, with primacy of international law, was confirmed in Article 45 of the Constitution of 18 January 1996.

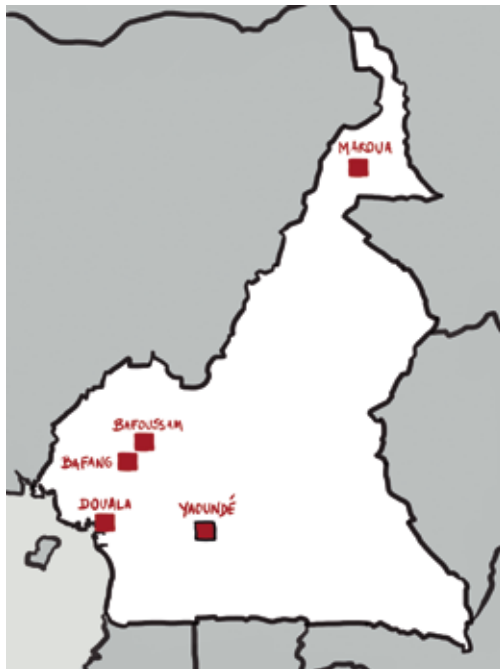
Law on Radiological Protection (1995)	Destruction of all or part of a radioactive source or a nuclear plant for the purposes of sabotage ^l .
Law on the suppression of acts of terrorism (2014)	Acts of terrorism, financing terrorism, laundering the products of acts of terrorism, recruitment and training ^m .
Law on the system of weapons and ammunition (2016)	The development, manufacture and use of chemical weapons in a gang ⁿ , holding, using, transferring, selling or circulating nuclear weapons leading to death, and threats of using nuclear matter to kill, injure others or cause damage to property leading to death ^o .
Code of Military Justice (2017)	Desertion in times of war or with conspiracy, damage to the property of an operational military area with violence, treason, intelligence with the enemy, espionage, recruitment if the guilty party is a soldier ^p .
Law on the suppression of offences relating to Civil Aviation security (2017)	Use of an aircraft in service with the intention to cause death ^q .

- a Article 276, Law No. 2016/007 of 12 July 2017 on the Criminal Code (hereafter referred to as the Criminal Code).
- b Murder of a juvenile aged under 15 and murder of a near relative (Article 275 analysed with Articles 350 and 351 of the Criminal Code).
- c Article 320(2), Criminal Code. The evolution of this offence is analysed in the section on the history of the death penalty.
- d Article 352 and 353, Criminal Code, analysed with Article 354.
- e Article 102, Criminal Code.
- f Article 103, Criminal Code.
- g Article 111, Criminal Code.
- h Article 112, Criminal Code.
- i Article 156(5), Criminal Code.
- j Article 236(3), Criminal Code.
- k Article 12, Law No. 83/016 of 21 July 1983 regulating the police within the port area.
- l Article 9, Law No. 95/008 of 30 January 1995 on radiological protection.
- m Articles 2 to 5, Law No. 2014/028 of 23 December 2014 on the suppression of acts of terrorism.
- n Article 58, Law No. 2016/015 of 14 December 2016 on the system of weapons and ammunition.
- o Article 71(a) and 71(d), *Ibid.*
- p Article 34(4), Article 51(2), Articles 61 to 64, Law No. 2017/012 of 12 July 2017 on the Code of Military Justice.
- q Article 10, Law No. 2017/013 of 12 July 2017 on the suppression of offences relating to Civil Aviation security

METHODOLOGY

SAMPLING

Cameroon stopped providing official data about the number of death sentences handed down and the number of people sentenced to death in prison several years ago, despite the Resolution of the UN Economic and Social Council of May 1989 requesting that States keep a precise record of this data.²⁹



Map 2: Prisons visited by the researchers

²⁹ UN Economic and Social Council, 1989, Resolution 1989/64 on implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty.

In the absence of official statistics, it is not possible today to provide an exhaustive list of prisons which house people sentenced to death. The data collected for this study is based on estimates of the number of people sentenced to death incarcerated in prisons provided by lawyers and organisations operating in the prison environment. A team of lawyers from RACOPEM visited five prisons where the presence of prisoners sentenced to death was verified. Among the places of detention visited by the lawyers were Maroua Prison in the Extreme North of the country which houses more than one hundred people sentenced to death and accused of terrorism. Other prisons also house prisoners sentenced to death but they could not be visited for security and organisational reasons. The presence of seven prisoners sentenced to death was therefore reported at Buéa prison, in the Anglophone zone, but the team of lawyers was unable to go there because of the security situation: since 2016, a violent conflict between the separatist Anglophone movement and the regular army has been rife.³⁰ Prisoners sentenced to death are allegedly also being detained at Ngaoundéré and Mantoum prisons but the data collection team was not deployed to those prisons during the data collection assignment. The sample of people sentenced to death and interviewed is set out in the following table:

Table 3:
Sample of death row prisoners interviewed

Prison	# Total number of people sentenced to death in the prison		# Sample of death row prisoners interviewed	
	Men	Women	Men	Women
Bafang	2	0	2	0
Bafoussam	17	2	8	0
Douala	7	0	6	0
Maroua	145	12	8	8
Yaoundé	22	0	5	0
TOTAL	193	14	29	8
	207		37	

30 See infra.

Special attention was given to the representation of women sentenced to death during sampling. All those interviewed at Bafang, Bafoussam, Douala and Yaoundé prisons were Cameroon nationals. No foreign death penalty prisoners were detained at these prisons. In Maroua, seven prisoners sentenced to death were Cameroon nationals and nine were Nigerian nationals. The average time spent in detention by the people interviewed was ten years, terms of imprisonment varying from two to 34 years.

DATA COLLECTION METHOD

The data was collected using a standardised questionnaire given to people sentenced to death, lawyers, magistrates, prison staff, families of prisoners and organisations operating in the prison environment. The data was collected between May and October 2018 by a team of lawyers which arranged individual or group interviews with the people targeted in the study.

The team of lawyers interviewed 37 people sentenced to death in five prisons. In Yaoundé and Douala prisons, the lawyers were able to talk freely with the prisoners sentenced to death in their cells, without the presence of prison staff. Prison administration staff made their presence a requirement during interviews between the lawyers and those sentenced to death at Bafoussam, Bafang and Maroua. This practice, although contrary to the national regulations and international standards³¹, is systemically implemented for security reasons for interviews with prisoners sentenced to death, be it visits from their lawyers or their relatives.³² In view of the circumstances, these interviews did not focus on relations between detainees and prison staff. However, they do provide essential information about

31 Article 41 of the Decree of 27 March 1992 on the prison system in Cameroon sets out that: "Detainees may communicate with their legal advisors when they wish during visits. Such communication is performed without the presence of supervisory staff." Further, according to Rule 61.1 of the Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules, "Detainees must be able to receive visits from a legal advisor of their choice or someone providing legal aid, to talk to them and consult with them on any point of law, without delay, without any interceptions or censure and in complete confidentiality, and have the necessary time and means to this effect, in conformity with the national law applicable. Such consultations may take place in the sight of but not in the hearing of prison staff".

32 More information *infra*.

how police custody and trials unfold. All the interviews were performed on an individual basis, with the exception of one which was carried out with a group of five. The interviews with foreign prisoners sentenced to death in Maroua were performed with the assistance of an interpreter.

All the death penalty prisoners interviewed wanted to talk to the team of lawyers and agreed to answer the questions asked without any difficulty, with the exception of the female detainees held at Maroua who were more reserved. In particular, several of them preferred not to answer questions about the way in which they had been treated during the investigation phase. The women sentenced to death held at Maroua are extremely isolated and have very little contact with the outside world. Some of them, condemning the injustice of the sentence, broke down in tears during the interview with the lawyers. Discussions with the team of lawyers represented a glimmer of hope for these detainees who no longer have anyone to whom they can turn.

Eight magistrates, 14 lawyers, two supervisory prison staff, two members of the prison medical staff, two former death penalty prisoners, 10 family members of people sentenced to death and held in prison, and five representatives of organisations operating in prisons in Cameroon were also interviewed. Other interviews were carried out with key contacts.

A document review was also carried out to supplement the study performed in Cameroon. The following documents in particular were analysed: works on the history of the country, evolution of the criminal justice system and detention in Cameroon, national legislation, reports by the committees of regional and international institutions (African Commission on Human and Peoples' Rights, UN committees), reports by the Cameroon Ministry of Justice, reports by the CNDHL and a number of investigative and analysis reports by national and international organisations.³³

33 See the complete list of documents consulted in the appendices.

PROTECTION AND CONFIDENTIALITY



For security reasons, no interviews were recorded. Detailed notes were taken during all interviews.

In order to ensure that those sentenced to death are not subject to reprisals following their participation in this study, the names of the detainees interviewed have been changed. Only the names of a few prisoners sentenced to death are provided in view of the special attention which should be given to their situation.

HISTORY OF CAMEROON THROUGH THE PRISM OF THE DEATH PENALTY: THE DEATH PENALTY IN THE NAME OF NATIONAL UNITY



THE DEATH PENALTY IN CAMEROON BEFORE INDEPENDENCE

Cameroon's history is unique in Africa: it is the only country on the continent to have a dual heritage: French and British. Colonised by the Germans in the 19th century, in 1916 during the First World War "Kamerun" was shared between Great Britain, to which 85,000 km² near the border with Nigeria were "attributed", and France which "received" the rest of the country, i.e. 425,000 km². In 1919, Germany renounced all its rights to Cameroon by signing the Treaty of Versailles.

A DUAL SYSTEM OF COLONIAL ADMINISTRATION

Under the mandate of the League of Nations from 1922, French Cameroon and British Cameroon became United Nations trust territories in December 1946. As Cameroon's land was divided between two colonial powers, two legal systems cohabited during colonisation. The British section was administered like the Nigerian colony. Indirect rule applied: this system of colonial government involved governing the native population with the help of their local chiefs in accordance with their customs, while controlling those same chiefs.³⁴ Under British colonial administration, the criminal code to which British Cameroon was subject provided for four crimes punishable by death: murder, treason, treachery and participation in a trial by ordeal leading to death.³⁵

In the French section, two legal systems were established and each system had its own judicial structure: one system was implemented for French nationals and "assimilated" Cameroonians which applied the French laws in force on the mainland; another system was implemented for the native population based on customs which did not

34 Rivron, S. 2014, La notion d'Indirect Rule, Doctoral Thesis, University of Poitiers, p. 10.

35 Trial by ordeal is a type of trial aiming to subject the accused to painful or deadly tests to confirm their guilt or lack of. See the list of crimes punishable by death in the Criminal Code applicable to the southern area of the country in: Imafidon, J.O. 2014, Retention of death penalty under the Nigerian legal system, Faculty of Law, Ambrose Alli University Ekpoma, pp. 44-45. Other crimes were punishable by death in Nigeria but only applied to the northern part of the country.

run contrary to the principles of French law. This situation changed in 1946, the date on which French legislation was made applicable to not only French nationals and “assimilated” Cameroonians but also the native population.³⁶ Under French colonisation, the death penalty was only used for attacks on internal State security with certain specific offences: the Decree of 19 November 1947 sentenced anyone found guilty of murder committed for the purposes of cannibalism to the death penalty.³⁷

A TRADITIONAL PRACTICE OF DEATH SENTENCES AND EXECUTION

Several documents have revealed the existence of a traditional practice of death sentences and execution during colonisation, beyond the control and responsibility of the colonial administrators – and often without their knowledge. This practice has been reported in several chiefdoms and villages in Cameroon, suggesting that death sentences existed before colonisation. A death sentence was frequently used for acts seemingly out of proportion with the sentence. Theft was considered an extremely serious offence: there were even specialised units in chiefdoms to identify the guilty parties.³⁸ Anyone stealing a chicken, goat or hoe, particularly at night, was either hanged or thrown alive into a large pit at the chiefdom created for that very purpose.³⁹ A death sentence was also handed down for anyone arrested while cutting bamboo at night⁴⁰, but the method was different: the prisoner was tied to a tree by his feet, head down, until death ensued.

According to Kengne, the death penalty was only used in certain chiefdoms if valuable property reserved for chiefs or their associates

36 Keubou, P. 2012, *Le droit pénal camerounais et la criminalité internationale*, Doctoral Thesis, University of Poitiers, pp. 18–19.

37 Kwayeb, E. K. 1960, *Les institutions de droit public du pays Bamiléké*, Doctoral Thesis, Librairie générale de droit et de jurisprudence, p. 166.

38 Kwayeb 1960, p. 83 cited in Malaquais, D. 2002, *Architecture, pouvoir et dissidence au Cameroun*, Karthala, p. 157. See too Albert, A. 1937, *Au Cameroun français au pays Bamileké*: Bandjoun, Paris, Editions Dillen, p. 41.

39 Albert 1937, p. 41.

40 Albert explains that bamboo was considered a heaven-sent tree because it was essential to life in the communities: its bark could be used for tying and as material for basketwork, its leaves were used for roofs, its stems formed the frame and the walls of the huts, and its sap was used as a drink. Albert 1937, p. 41.

had been stolen.⁴¹ Further, those who committed their first offence were generally spared unless the theft had been followed by destruction of the property stolen: in that case, the death penalty was handed down for a first offence.⁴² These sentences did not involve family members of the chief who was considered the only owner of property across the territory of his chiefdom. Adultery was also severely punished: the guilty man was burnt alive or stoned, and the woman was sold as a slave or thrown alive into the pit used for thieves.⁴³

The practice of death sentences and execution continued long after the end of colonisation.

41 Kengne, M. 1988

42 Tuedom, P. cited in Malaquais 2002, p. 158.

43 Albert, A. 1937, p. 42. Tardits, 1980, pp451-452, cited in Warnier, J-P. 1993, *L'esprit d'entreprise au Cameroun*, Karthala, p. 122.

INDEPENDENCE AND BUILDING NATIONAL UNITY: 1959-1971



In 1948, the UPC was founded in Douala by Cameroon nationalists who were demanding independence for their country. In the face of repression by the colonial power, the UPC became more resolute in its struggle and was banned by the colonial administration in 1955: the leaders of the UPC then went into exile. In March 1959, the UN General Assembly voted to end its trusteeship over Cameroon. The leaders of the UPC living in exile created an armed branch of the UPC, the ALNK, and resumed attacks on missionaries, settlers, cinemas and service stations, leading to increasingly violent repression.

On 30 October 1959, with the support of France which sought to thwart the UPC in particular, full powers were granted to Mr Ahmadou Ahidjo, leader of the Muslims in the North and a former adviser at the Assembly of the French Union from 1953 to 1958.⁴⁴ On 1 January 1960, French Cameroon declared its independence. The UPC sought to prove that independence had been taken from the “real patriots”: the party unleashed a series of bloody riots in the country, killing more than 40 people in Douala and Yaoundé.⁴⁵ A few months later, in November 1960, Félix Moumié, leader of the UPC, died from Thallium poisoning in Switzerland. He was replaced by Ernest Ouandié who continued the armed struggle against the regime of Ahmadou Ahidjo.

In February 1961, a referendum on self-determination organised by the British colony under the control of the UN divided the territory into two parts: the majority Muslim North chose to become part of Nigeria; the majority Christian South chose to join the Republic of Cameroon. The Federal Republic of Cameroon was created on 1 October 1961 and consisted of two territories: the “Territory of the Republic of Cameroon, henceforth called East Cameroon” and the

44 Gonidec, P-F., Cameroun: Un régime dominé par la stature du président Ahidjo, Le monde diplomatique, <https://www.monde-diplomatique.fr/1976/08/GONIDEC/33870> (accessed on 3 November 2018)

45 Michel, M. 1999, Une décolonisation confisquée? Perspectives sur la décolonisation du Cameroun sous tutelle de la France 1955-1960, *Revue française d'histoire d'outre-mer*, Volume 86, No. 324-325, pp. 256-257.

“Territory of South Cameroon formerly under British trusteeship, henceforth called West Cameroon.”⁴⁶

Cameroon’s first Constitution declared that: *“The Federal Republic of Cameroon is democratic, secular and socially aware. All citizens are equal before the law. The Republic affirms the importance of the fundamental freedoms set down in the Universal Declaration of Human Rights and the Charter of the United Nations.”*⁴⁷

Article 50 of the Constitution authorised the President of the Republic to use *“any legislation required for the public authorities and the life of the Federal State to function”*⁴⁸ on an exceptional basis and in the form of legally binding orders for a six-month period from 1 October 1961. By basing itself on this legislation, and in the name of building national unity, the regime very quickly came to criminalise any political protest with the so-called Anti-Subversion Order of 12 March 1962.⁴⁹ As Sindjoun notes, *“the multi-party system had to be sacrificed at the altar of national unity”*: the multi-party system was presented as weakening national unity and creating disorder.⁵⁰ Thus, although the main unified party, the UNC, only established a one-party State in 1966, opponents had already been demonised through this Order which made any democratic political life impossible.⁵¹

The definition of subversion was imprecise to a great extent: subversion was *“[damaging] by any means the respect due to the public authorities or [inciting] hatred against the Government of the Federal Republic or the Federal States, or [participating in] an act of subversion against the authorities and laws of the aforementioned Republic or the Federal States, or encouraging such subversion”*.⁵² This Order also sanctioned *“anyone who has either issued or spread false news or rumours, or accompanied correct news with biased comments, when such news, rumours or comments could harm the public authorities”*. The punishment was a prison sentence coupled with a fine.

46 Article 1(1), Constitution of Cameroon of 1 September 1961.

47 Article 1(2), *Ibid*.

48 Article 50, *Ibid*.

49 Order No. 62/OF/18 of 12 March 1962 on repression of subversion.

50 Sindjoun, 2003, “L’opposition au Cameroun, un nouveau jeu politique parlementaire”, in *Comment peut-on être opposant au Cameroun? Politique Parlementaire Et Politique Autoritaire*, p. 2.

51 Minkoa She, A.1999, *Droits de l’Homme et droit pénal au Cameroun*, Edition Economica.

52 Article 2, Order No. 62/OF/18 of 12 March 1962 on repression of subversion.

Numerous political figures, opposition politicians (including the head of the parliamentary group of the “legal” UPC) and also normal citizens were sentenced to prison on the basis of this Order.⁵³ In the same period, other legislation was adopted, giving highly significant power to military courts which were competent to rule on offences affecting internal security and regulations on weapons, and all offences targeted in the Anti-Subversion Order.⁵⁴ The Law of 25 October 1963 reinforced the repression of political crimes: it stated that verdicts issued by the military courts could not be appealed, something which was the subject of strong protests, nationally and internationally.⁵⁵ An adviser to the Supreme Court opposed it in a letter to President Ahidjo. He wrote: “*The young State of Cameroon, which for the first time is following the path set out by [this] law, is risking its status as a civilised, modern, democratic country; it is heading for dictatorship and therefore towards a decadent civilisation. [...] This law exaggerates and completely flouts the principles of legality and the primacy of law [...]*”.⁵⁶ The regime therefore very quickly took an authoritarian turn and exploited criminal law and exceptional jurisdictions to protect the political interests of the party in power – this technique would be used on several occasions subsequently.

But the regime was not content with just imprisoning political opponents. It threw itself into “*the physical elimination of those it considered internal enemies*”.⁵⁷ This was the case of members of the UPC or those assimilated with it. Pierre Ninyim Kamdem, a traditional Baham chief, former Health Minister and close to the UPC, was arrested in 1963 for involvement in the assassination of an MP. He was sentenced to death and shot in January 1964.⁵⁸ Noé Tankeu, a Commander of the ALNK accused of plotting to overthrow the authorities, was arrested in 1963. Sentenced to death by a military court, he was shot in January 1964. According to Belomo Essono, thousands of people died in those conditions.⁵⁹

53 Minkoa She, A.1999, pp. 218-220.

54 Ibid, p. 223.

55 Article 12(4), Law No. 63/30 of 25 October 1963 supplementing Order No. 61/OF/4 of 4 October 1961 setting out the military judicial structure.

56 Letter from Marcel Nguini, adviser to the Supreme Court, to the President of the Republic, 30 October 1963, in Minkoa She, A.1999, p. 228.

57 Belomo Essono, P. C. 2007, *L'ordre et la sécurité publics dans la construction de l'Etat au Cameroun*, Institut d'études politiques de Bordeaux; Montesquieu-Bordeaux IV University, p. 257.

58 Belomo Essono, P. C. 2007, p. 257.

59 Belomo Essono, P. C. 2007, p. 360.

Ernest Ouandié, President of the UPC, considered the last of the resistance leaders from the Cameroon revolution, was arrested in 1970. His trial, as well as that of several others also accused, opened in December of the same year: it was the “Rebellion Trial”. Ouandié was accused of *“attempting through violence to change constitutional laws or overthrow the political authorities established by the aforementioned laws or making it impossible for them to exercise their powers; Under the same circumstances of time and place, organising and commanding armed groups with the aim of provoking civil war and committing revolution; Under the same circumstances of time and place and in the execution of the acts analysed above, committing or having committed assassinations, fires, arrests, illegal confinement of individuals and gang looting; Under the same circumstances of time and place being complicit in the aforementioned crimes”*. His French and British lawyers were unable to obtain a visa to represent him at his trial. The same week, the trial of His Grace Albert Ndongmo, former bishop of Nkongsamba and supposedly close to Ernest Ouandié, began and that of 75 others accused of a plot to assassinate the Head of State: this was the “Plot Trial”.

Although several of the accused in both trials indicated that they had confessed to their crimes under torture during the investigation,⁶⁰ Yaoundé military court handed down six death sentences and numerous prison sentences: on 5 January 1971, Ernest Ouandié and two members of the resistance were sentenced to death for rebellion; on 6 January 1971, His Grace Albert Ndongmo and two others were sentenced to death for plotting against the life of the President of Republic. Ernest Ouandié and two other prisoners were shot ten days later. The sentence of His Grace Albert Ndongmo and the two other prisoners was commuted to life imprisonment. Ernest Ouandié was acquitted in 1991 and declared a national hero by Cameroon’s National Assembly 20 years later for having *“worked for the creation of national feeling, independence or the construction of the country, and the influence of its history and culture”*.⁶¹

Over and beyond the issue of independence, the question of reunification posed technical difficulties at judicial level: two countries

60 Kamga Kamga, L. 2016, Ernest Ouandié, Le “Che Guevara” africain dernier chef historique de l’UPC, Editions Ecrire l’Afrique, l’Harmattan.

61 Article 1, Law No. 91/022 of 16 December 1991 on the reinstatement of certain figures in the history of Cameroon.

which had been separated for forty years with distinct administrations, languages and customs, and different political traditions had to come together.⁶² The differences between the two Cameroons – the former French territory applying essentially Romano-Germanic law and the former British territory applying Anglo-Saxon common law – quickly raised the question of harmonising the legislation of the new State, particularly in criminal matters. The laws of 1965 and 1967 established the first Criminal Code applicable throughout the federal territory.⁶³ The death penalty was established for a dozen crimes, including crimes against external and internal State security⁶⁴, attacks on public authority⁶⁵ and attacks on public peace⁶⁶, attacks on corporal integrity⁶⁷ and attacks against children and the family⁶⁸.

In terms of criminal procedure, the situation was more complicated. Although several committees were established to attempt to codify and unify the legislation, two systems continued to cohabit in Cameroon. For a long time, courts in the two States operated as they had before: they continued to function as they had before unification, in accordance with French principles and procedures in the French section with application of the French Code of Criminal Instructions, and according to British principles and procedures in line with the Criminal Procedure Ordinance in the Anglophone area.⁶⁹ Efforts to unify criminal procedure would only bear fruit in 2006 with the publication of a bilingual Code of Criminal Procedure.⁷⁰

62 Le Vine, V. T. 1984, *Le Cameroun du mandat à l'indépendance*, Editions Présence africaine, p. 272.

63 Criminal Code stemming from Law No 65-LF-24 of 12 November 1965 and Law No. 67-LF-1 of June 1967.

64 Treason (Article 102), espionage (Article 103), secession in times of war (Article 111) and crimes against State security (Article 124).

65 Violence towards a civil servant with the intention to cause death (Article 156(5)).

66 Gang looting in times of war, Article 236(3).

67 Assassination (Article 276)

68 Violence towards children (Article 350) and close relatives (Article 351), and kidnapping of a child leading to their death (Articles 352 and 353, analysed with Article 354)

69 Le Vine, V. T. 1984, p. 281.

70 Yenkong, P. 2011, *Prisoners in-justice, Prisoners' encounter with the criminal justice system in Cameroun*, p. 29.

THE 1972 ORDERS TO COMBAT ORGANISED CRIME

With the end of the resistance came a period of wide scale criminality and organised crime. Combating this emerging scourge became a new political activity for the State.⁷¹ In 1972, several orders were signed by President Ahidjo. These orders, passed outside the parliamentary framework⁷², were characterised by a high level of severity: offenders had to be suppressed as quickly and as severely as possible.

The Order of 28 September 1972 modified some provisions of the Criminal Code.⁷³ Henceforth, aggravated theft, i.e. theft committed with violence, breaking and entering, entering from outside or using the assistance of a vehicle, was punished by death.⁷⁴ For aggravated theft, the new legislation prevented judges from applying attenuating circumstances: the judge had become “*a capital punishment machine*”.⁷⁵ They could not consider the punishment on a case-by-case basis and take into consideration the circumstances surrounding the crime committed. The provisions of these orders were criticised even more highly because they were retroactively applicable, calling in question the principle of the non-retroactivity of criminal law.⁷⁶ Further, the new law provided for an *in flagrante delicto* procedure for these offences which enabled courts to ignore the investigation phase and limit the rights of the accused. Faced with this situation, some magistrates applied the new regulations without much interpretation but others reduced the severity of the

71 Belomo Essono, P. C. 2007, p. 442-443.

72 Signature of these orders within the sphere of the criminal justice system violated the Cameroon Constitution which attributes the determination of crimes and offences to the Legislative.

73 Order No. 72/16 of 28 September 1972.

74 Article 320 of the Criminal Code, as modified, set out that the death penalty is incurred for any theft committed during the day or at night with violence, weapons, breaking and entering, entering from the outside or the assistance of a forged key, or with the help of an automobile vehicle. See Addendum to the report on Cameroon before the Human Rights Committee, 1993, CCPR/C/63/Add.1., p. 10.

75 Tchappi, E. 1991, p. 50 and p. 56.

76 The principle of non-retroactivity of more severe criminal law is one of the principles of criminal law. It means that a new law cannot be applied to events committed before the entry into force of that new law. This principle is explicit, particularly in Article 15 of the ICCPR which sets out that: “[...] nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed”.

sentences by using the judicial *correctionalisation* procedure or disqualifying the facts⁷⁷ Despite our research, we do not have reliable information about the number of people sentenced to death due to the aggravated theft legislation between 1972 and 1990, the date on which the law was amended.⁷⁸

Permanent military courts were officially created in Cameroon in the same year. They would come to play an increasingly important part in the criminal justice system.⁷⁹

77 Correctionalisation is a process whereby the Public Prosecutor can classify events constituting a crime as an offence. Disqualification is the process whereby the judge changes the Public Prosecutor's classification of the offence. Tchappi, E. 1991, pp. 58-59.

78 According to the Cameroonian authorities, no death sentences for aggravated theft were executed between 1983 and 1993. Indeed, apart from executions connected to coups d'Etat, Cameroon has only indicated two people who were executed in 1983 and 1993, and these cases involved an assassination. Tchappi notes, further, that 290 people were sentenced to death by the country's Appeal Court between 1980 and 1986 but the reasons for those sentences are not specified, nor is the number of people sentenced by a court of first instance who did not appeal; see Tchappi, E. 1991, p. 43.

79 Order 72/05 of 26 August 1972 on the military judicial structure. In military matters, the French Code of Military Justice of 9 March 1928 had been made applicable to Cameroon through Order No. 59/91 of 31 December 1959, only one month after the creation of the Cameroon army. This 1959 law had given the Government the power to set up special criminal courts in the event of "repeated problems damaging public order" through decree where it judged it necessary, but these courts were not permanent.

THE DEATH PENALTY IN RESPONSE TO ATTEMPTED COUPS D'ÉTAT



President Ahidjo ceded power to his Prime Minister, Paul Biya, in 1982 due to poor health: *“I have decided to resign from my role as President of the United Republic of Cameroon. I invite all Cameroonians to unreservedly give their trust and provide their support to my constitutional successor, Mr Paul Biya. He deserves the trust of all within and beyond.”* Nonetheless, President Ahidjo remained President of the only party, the UNC, before going into exile in August 1983 in Senegal and then France.

Paul Biya’s rise to power was not without conflict. A first plot was revealed in 1983, followed in 1984 by an attempted *coup d’Etat*. These two events aimed to restore the former President to power. Those presumed responsible were judged before military courts.

In August 1983, the existence of a plot to assassinate the Head of State was announced on the radio. Ahmadou Ahidjo, his quarter-master and his aide-de-camp were accused of being involved. The trial of the former president was opened in Yaoundé on 23 February 1984, in his absence as he lived in France at that point. His two collaborators pleaded guilty. Yaoundé military court sentenced Ahmadou Ahidjo and his two fellow defendants to death.⁸⁰ These sentences were commuted to life imprisonment by Paul Biya a few days later.⁸¹ According to Belomo Essono, the impact of his predecessor’s death sentence and subsequent commutation was significant for the new President: the purpose of the commutation of his sentence was to *“exploit the presidential pardon to position himself as a man of peace and social cohesion”*.⁸² President Biya would make discretionary use of clemency a common practice.

An attempted *coup d’Etat* was carried out on 6 April 1984 by Colonel Ibrahim Saleh, a deputy commander in the Republican Guard who had

80 The sentencing of Ahmadou Ahidjo was in abstentia as the accused was absent during the trial.

81 Encyclopaedia Universalis, 23-28 February 1984 – Cameroun. Condamnation à mort par contumace de l’ancien président Ahmadou Ahidjo.

82 Belomo Essono, P. C. 2007, p. 264.

remained loyal to the former president. The attempted *coup d'Etat* followed the announcement by President Biya that a certain number of officers, all from the North of the country, would be transferred to other military units. The day after the attack, President Biya announced that the rebels had been beaten. The person presumed to be responsible for the *coup d'Etat* had been arrested with other high ranking officials from the Republican Guard involved. Less than a month later, between 27 and 30 April 1984, 50 people accused of participating in the *coup d'Etat* were brought before a military court, judged and sentenced to death.⁸³ 50 people were executed between May and August 1984, not including 25 other prisoners who died in detention between 1984 and 1988. On 17 January 1991, an amnesty was passed, including people sentenced for the 1984 *coup d'Etat* who were still in detention.

It is interesting to note that, in response to these attacks, President Biya used the same rhetoric as his predecessor: the former president, Ahidjo, described former UPC members as “members of the resistance”; those responsible for the putsch of 1984 were “sworn enemies of the Republic”.⁸⁴ Just as under Ahidjo, the death penalty and military courts were exploited to consolidate power. In this respect, a law in 1987 would come to increase the influence of the Executive over the military justice system: this law enabled the President of the Republic to halt “any criminal proceedings before the military court at any time before a verdict is handed down.”⁸⁵ This provision, which gave the Executive an important role in the proceedings of trials within the military jurisdiction, is found in current legislation.

The single party changed its name to the *Rassemblement Démocratique du Peuple Camerounais* [Democratic Assembly of the People of Cameroon or RDPC] in 1985 to demonstrate a difference with his predecessor.

The death penalty was little used from this period onwards. In 1993, Cameroon indicated to the Human Rights Committee that: “over the last ten years, and with the exception of the executions of

83 Belomo Essono, P. C. 2007, p. 266.

84 Speech by Paul Biya the day after the putsch, cited in Belomo Essono, P. C. 2007, p. 440.

85 Law of 15 July 1987, adding Article 11 to Order No. 72/5 of 26 August 1972 on the military judicial structure.

*the plotters of 6 April 1984, the only case of application of capital punishment involved violent crime with aggravating circumstances".*⁸⁶ This execution had taken place in 1988. Capital punishment was implemented for the last time in 1997.

86 Human Rights Committee, 1993, Second periodic reports to be communicated by State Parties in 1990, CCPR/C/63/Add.1. Cameroon indicates only one case of execution to the UN Human Rights Committee.

CONSOLIDATION OF THE UNITED STATE AND THE FRUSTRATIONS OF THE ANGLOPHONE POPULATION



Since independence, President Ahidjo had pursued the ideal of building a united state in Cameroon. For some people, this meant pursuing the colonial desire to assimilate the Anglophone part into an area dominated by French speakers.⁸⁷ This would be achieved in several stages. Starting at the Fouban conference in July 1961, before reunification, John Ngo Foncha, the Anglophone architect of the federal State, witnessed the imposition of a centralised federation of power led from Yaoundé: the President of East Cameroon would be the federal president while the prime minister of West Cameroon would be the vice federal president.⁸⁸ Five years later, with the end of the multi-party system in 1966, the party of John Ngo Foncha, then Vice President of Cameroon, became a part of the UNC. In May 1972, a referendum called on Cameroonians to vote “yes” or “no” to the following question: *“With the aim of consolidating national unity and accelerating the nation’s economic, social and cultural development, do you approve the draft constitution submitted to the people of Cameroon by the President of the Federal Republic of Cameroon establishing a single indivisible republic under the name United Republic of Cameroon?”*⁸⁹ This proposal was adopted with a crushing majority – 99% of votes. Federalism was abolished, the united Republic was created and a new Constitution was announced, removing the role of the Vice President which had been occupied by an Anglophone, provoking significant frustration in the Anglophone regions.

These frustrations would be aggravated under Paul Biya who continued the policy of assimilation. The constitutional modification of February 1984 confirmed the return of the “Republic of Cameroon”,

87 Belomo Essono, P. C. 2007, p. 336

88 Belomo Essono, P. C. 2007, p. 262. Eboto, V. R. 2014, La médiatisation de la “question anglophone” dans les journaux camerounais pendant le cinquantenaire de la réunification du Cameroun.

89 Constitutional Corpus, 1974, Universal Collection of Constitutions in Force, Leiden University, Volume II, p. 87.

the name of the former French Cameroon. For President Biya, unification was an imperative objective. He would repeat it in several speeches: “*Cameroon shall be united or it shall not be*”.

Anglophone elites protested against the subjection of the Anglophone area and demanded the reestablishment of federalism, without success. In June 1990, John Ngo Foncha resigned from the single party, the RDPC. In his resignation letter, he condemned the discrimination faced by Cameroon’s Anglophones and castigated the refusal of dialogue by the central authorities: “*The Anglophone Cameroonians who I brought into Union have been ridiculed and referred to as “les Biafrais”, les “ennemis dans la maison”, “les traîtres”, etc., and the constitutional provisions which protected this anglophone minority have been suppressed, their voice drowned while the rule of the gun replaced the dialogue which the Anglophones cherish very much.*”

The rhetoric of “enemies from within” highlighted a clear continuum between the regimes of the two presidents: the ideology of national unity was an artifice, imposed and not assimilated. Any questioning of the issue was considered opposition to the regime in place.⁹⁰

Such obstruction and a subsequent sense of frustration were conducive to the emergence of radical ideas of secession by the two Anglophone regions. The creation of a separatist State, the Republic of Ambazonia, was encouraged by the Anglophone leader, Mr Fongum Gordji Dinka from the 1980s. These ideas would gain ground and be taken up by Anglophone students and civil servants from the democratic transition until current events.⁹¹

90 Belomo Essono, P. C. 2007, p. 345.

91 Belomo Essono, P. C. 2007, p. 262.

THE DEMOCRATIC TRANSITION: THE SESSION OF FREEDOMS



From 1990 onwards, the prohibition of a multi-party system was increasingly resented by Cameroon's civil society.

In February 1990, the former President of the Cameroon Bar Association, Yondo Black Mandengue, and eleven of his friends were taken in for questioning. They were accused of creating a political party and therefore violating the 1962 Anti-Subversion Order. Their questioning provoked a wave of indignation across the country. A few weeks later, a march organised in Bamenda in the Anglophone part of the country to launch John Fru Ndi's new Social Democratic Front party was violently suppressed by the police and six young people were shot dead. Multiple protect groups, including the Catholic Church, lawyers, students and numerous new political parties, came together to condemn the brutality of the regime and the absence of a multi-party system. In the same period, John Ngo Foncha resigned from the RDPC.⁹² In August 1990, Mr Yondo Black Mandengue and the other defendants were released.⁹³

While the country was in the midst of this socio-political crisis characterised by a loss of State authority, the public authorities were publicly affirming their desire to strengthen the rule of Law in Cameroon and called a session of the National Assembly christened the Session of Freedoms. The purpose was to discuss several draft laws aiming to enshrine individual and collective public freedoms.⁹⁴ 1990 witnessed a number of reforms. Several oppressive laws were tackled, including the highly contested 1962 Anti-Subversion Law. Other laws were enacted: these laws established a multi-party system⁹⁵, enshrined the freedom of movement⁹⁶, relaxed the provisions

92 See supra.

93 Pommerolle, M.E. 2005, *A quoi servent les droits de l'Homme? Action collective et changement politique au Cameroun et au Kenya*, Political Science, Doctoral Thesis, pp. 54-56

94 Mbome, F-X. 2000, "Les transitions démocratiques en Afrique", *Juridis périodique*, Cameroon, No. 41, p. 2.

95 Law No. 90/56 of 19 December 1990 on political parties.

96 Law No. 90/43 of 19 December 1990 on the conditions for entering, staying in and leaving Cameroon territory.

of the state of emergency⁹⁷, strengthened the freedom of assembly, demonstration and association⁹⁸, and the freedom of expression⁹⁹, or modified certain provisions of the Criminal Code. Within this framework, the controversial provision of 1972 which punished aggravated theft with the death penalty was amended: new Law 90/061 of 19 December 1990 set out that the death penalty should only be incurred if violence led to death or serious injury. Application of attenuating circumstances was no longer prohibited.

Following this openness, the first legislative elections and the first pluralist presidential elections were organised in 1992. The 1992 presidential elections were contested. The Anglophone John Fru Ndi declared himself President of the Republic. The Supreme Court confirmed the victory of Paul Biya with 39.9% of votes compared to 35.9% for John Fru Ndi, provoking demonstrations across the country. President Biya would go on to win all the following presidential elections: in 1997 with 93% votes, in 2004 with 71% of votes, in 2011 with 78% of votes, and in 2018 with 71% of votes. From 1992, the country faced waves of cyclical violence in several regions of the country, violently suppressed by the security forces.

97 Law No. 90/047 of 19 December 1990 on the state of emergency.

98 Law No. 90/53 of 19 December 1990 on freedom of association.

99 Law No. 90/52 of 19 December 1990 on the freedom of social communication. However, this law maintains preliminary censorship for the private press.

LAW NO. 2014/028 ON SUPPRESSION OF ACTS OF TERRORISM



As from 2013, the armed Nigerian group Boko Haram extended its fight for an Islamist revolution beyond Nigeria and penetrated the Extreme North of Cameroon. The Boko Haram group committed serious human rights violations: suicide attacks in civilian areas, summary executions, kidnappings, recruitment of child soldiers, looting and destruction of property which led to large numbers of displaced people. According to the UN High Commissioner for Refugees, by August 2018 238,000 people had been displaced by the conflict in the Extreme North.¹⁰⁰

In order to respond to the violent attacks by Boko Haram, Cameroon adopted regulations against terrorism for the first time in its history and on 23 December 2014 enacted a law on suppressing acts of terrorism.¹⁰¹ Although there is no doubt that States should take steps to combat terrorism, the UN General Assembly had restated in 2006 that *“the promotion and protection of human rights for all and the rule of law is essential to all components of the [Global Counter-Terrorism] Strategy”* and *“effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing [...]”*.¹⁰² Nevertheless, Cameroon’s anti-terrorist legislation would introduce new grounds for the death penalty and establish the jurisdiction of military courts for all terrorism offences, including acts committed by civilians.

Article 2 of the Anti-Terrorism Law sets out that:

“(1) The death penalty shall be applied to anyone who personally or collectively commits any act or threatened act which could cause death, endanger physical integrity, cause corporal or material damage, or harm natural resources, the environment or cultural heritage with the intention of:

100 UN High Commissioner for Refugees, 2018, Cameroon Factsheet August 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/unhcr_cmr_factsheet_-_august_2018v1.pdf (accessed on 29 October 2018).

101 Law No. 2014/028 of 23 December 2014 on suppression of acts of terrorism.

102 UN General Assembly, 2006, Resolution A/RES/60/288, pp. 9-10.

(a) intimidating the population, provoking a situation of terror or forcing the victim, the government and/or a national or international organisation to fulfil or abstain from any act, adopt or refuse a particular position or act in accordance with certain principles;

(b) disrupting the normal operation of public services, the provision of essential services to the people or creating a crisis situation within the population;

(c) creating a general insurrection in the country.

(2) The death penalty shall be applied to anyone who, to achieve the same goals as those specified in the paragraph above,;

(a) provides and/or uses weapons and materials of war;

(b) provides and/or uses micro-organisms or any other biological agents, particularly viruses, bacteria, fungi or toxins;

(c) provides and/or uses chemical, psychotropic, radioactive or hypnotising agents;

(d) takes hostages. [...]"

The death penalty was also provided for the financing of acts of terrorism, laundering of the proceeds of acts of terrorism and for recruiting and training people with a view to their participation in acts of terrorism.¹⁰³

This law was very strongly criticised. Firstly, its definition of terrorism is very broad. The lack of precision about the offence is similar to the 1962 Anti-Subversion Law. The law could therefore be used for peaceful activities. It includes acts which do not require any violence such as damage to property. Secondly, the Anti-Terrorism Law provides for detention suspects to be detained for a period of up to 15 days and this period can be extended indefinitely.¹⁰⁴ The public prosecution and sentences are also inalienable.¹⁰⁵ Finally, as the military courts have jurisdiction, the Ministry of Defence has the power to appoint and allocate the magistrates, something which raises the question of their independence with regard to the Executive.

This legislation has been applied on a large scale: in 2015, 133 death sentences were handed down by Maroua military court alone

103 Respectively Articles 3, 4 and 5, *Ibid.*

104 Article 11, *Ibid.*

105 Article 15, *Ibid.*

in the Extreme North of the country¹⁰⁶; and more than 160 death sentences were handed down in 2016¹⁰⁷. According to the data collected within the framework of this study, in November 2018 Maroua prison contained nearly 150 people sentenced to death accused of being members of Boko Haram. Many of them reported that they had confessed under torture, as shall be seen in subsequent sections of this report.

Journalists feared that the law would be used to suppress freedom of expression: these fears have proved to be well-founded. For example, the Public Prosecutor requested the death penalty for a journalist from Radio France International, Ahmed Abba, for not condemning terrorism and laundering the products of acts of terrorism after he produced reports into Boko Haram. Ahmed Abba was eventually sentenced to 10 years in prison by a court of first instance and his sentence was reduced to 24 months on appeal, the Court only retaining the crime of not condemning terrorism. Legal proceedings have been pursued against several other journalists or ordinary citizens, accused of sending humorous text messages, by virtue of this law.¹⁰⁸

In December 2016, a new law on the system of weapons and ammunition in Cameroon extended the notion of weapons¹⁰⁹, something which again extended the scope of Law 2014/O28. At the same time, this law created new grounds for the death penalty, connected to the use of nuclear and chemical weapons.¹¹⁰

The regime also continued to consolidate exceptional courts. The new Code of Military Justice, enacted in July 2017, reinforced the military system: a military court now sat in the administrative centre of each of Cameroon's ten regions. The exclusive competence of the military courts was extended to numerous offences which

106 Annual reports of the Ministry of Justice on the status of human rights.

107 Amnesty international, 2017, Death sentences and executions in 2016, ACT 50/5740/2017, p. 12.

108 See for example Amnesty International, Right Cause, Wrong Means: human rights violated and justice denied in Cameroon's fight against Boko Haram, p. 43. Three students arrested in 2014 for a joke about Boko Haram sent by text message were still in prison in November 2018: Amnesty International, 2018, "President Biya must free the three students arrested over a Boko Haram joke".

109 Law 2016/015 of 14 December 2016 on the system of weapons and ammunition in Cameroon.

110 Article 58, 71(a) and 71(d), *Ibid.*

are not specifically military such as theft with use of a gun, acts of terrorism and attacks on State security. These provisions are a flagrant contradiction of the Directives and principles covering the right to a fair trial and legal assistance in Africa which specify, in particular, that the sole purpose of military courts is to rule on offences of a purely military nature committed by military personnel, and that they cannot judge civilians under any circumstances.¹¹¹ Further, the Executive plays a key role in putting into motion and exercising public prosecutions. The President can therefore request that a prosecution before a military court be halted at any time.¹¹²

111 Directives and principles of the right to a fair trial and legal assistance in Africa, 2003, Section L.

112 Article 13, Law No. 2017/12 of 12 July 2017 on the Code of Military Justice.

APPLICATION OF THE ANTI-TERRORISM LAW WITHIN THE FRAMEWORK OF THE ANGLOPHONE CONFLICT



A violent conflict broke out in the Anglophone regions of the country at the end of 2016. The crisis in this part of the country had been growing for decades. The deployment of Francophone teachers and magistrates in Anglophone areas in 2016 had been particularly badly perceived by Anglophones. In October and November 2016, demonstrations and strikes were organised by teachers, students and lawyers who were protesting against their growing marginalisation. From the very beginning, these demonstrations were violently suppressed by the country's security forces. Hundreds of individuals, journalists, activists and human rights champions were arrested. Acts of civil disobedience developed, including a boycott of schools and attempts to shut down the city. At the end of 2016, although negotiations with teachers and lawyers had been initiated, conflicting voices had emerged, calling for the independence of the Anglophone regions to create the "Republic of Ambazonia". The number of demonstrations increased and the separatist movement started to impose a boycott on schools, closed businesses and set fire to schools.

With the declaration of the "Republic of Ambazonia" in October 2017, the security forces intensified their suppression. At the end of 2017, the demonstrations were suppressed with live ammunition: 20 demonstrators were killed, dozens were injured and hundreds arrested. The armed separatists intensified their attacks against the security forces but also against those not participating in the boycott. The security forces set fire to villages and arbitrarily arrested and tortured people with full impunity.¹¹³ In January 2018, 47 activists were arrested in Nigeria and then transferred to the Cameroonian authorities, including Sisiku Julius Ayuk Tabe, Interim President of the "Republic of Ambazonia", and members of his Cabinet.

113 Amnesty international, 2018, A Turn for the Worse: violence and human rights violations in Anglophone Cameroon.

According to data from the UN Office for the Coordination of Humanitarian Affairs in May 2018, 160,000 inhabitants from the Anglophone regions had been displaced within the country due to the conflict and 26,000 had become refugees in Nigeria. In November 2018, Human Rights Watch estimated that more than 450 citizens had been killed by the security forces and the armed separatists, and that at least 185 members of the security forces and hundreds of separatists had died in the combat.¹¹⁴

According to President Biya, “*Cameroon is the victim of repeated attacks by a group of terrorists claiming to belong to a separatist movement*”¹¹⁵, thus legitimising the use of the Anti-Terrorism Law for acts which no longer had any connection with Boko Haram. Indeed, it was by virtue of this legislation that legal action would be taken against Mr Felix Nkongho Agbor Balla, President of the Cameroon Anglophone Civil Society Consortium, and his secretary, arrested for signing a declaration calling for non-violent demonstrations. They were detained in secret and then charged by virtue of the Anti-Terrorism Law before being transferred to Yaoundé prison. They were released in August 2017, President Biya having requested that proceedings be halted.¹¹⁶ This law would also be applied against Nasako Besingi, a human rights champion who had criticised the violations carried out in the Anglophone regions. Nasako Besingi was arrested in September 2017 and charged with insurrection and terrorism. All the accusations against him were dropped by the military court in November 2017. Use of the Anti-Terrorism Law was also the reason for the arrest of the online journalist Michel Biem Tong in October 2018. This journalist, who regularly discussed the Anglophone situation on his website, Hurinews.net, was charged with “apology for terrorism, deceitful statements and insulting the Head of State”, risking up to 20 years in prison. He was detained at Kondengui prison in Yaoundé before being released in December 2018 following a presidential decision to halt proceedings against more than 200 people within the framework of the Anglophone crisis. However, it was for “attacking State security” that an English-speaking journalist,

114 Human Rights Watch, 2018, Uncertainties Deepen in Cameroon after Divisive Election.

115 Jeune Afrique, 2017, Crise anglophone au Cameroun: Paul Biya dénonce une “bande de terroristes”, <https://www.jeuneafrique.com/498486/politique/crise-anglophone-au-cameroun-paul-biya-denonce-une-bande-de-terroristes/> (accessed on 28 November 2018)

116 As indicated above, this procedure is authorised by Article 13 of the Code of Military Justice.

Mimi Mefo Takambou, accused of spreading false information, was arrested in November 2018 and charged by Doula military court. The charges against her were also dropped. The Defence Minister's spokesperson indicated that the decision to drop the charges had been made "personally" by President Biya.¹¹⁷

In December 2018, when this study was being drafted, 47 people were brought before Yaoundé military court, including the "Interim President" of the "Republic of Ambazonia" arrested in January 2018, for acts of terrorism, secession, rebellion and spreading false news, with the death penalty hanging over their heads.

117 See in particular <https://www.afrik.com/cameroun-paul-biya-a-decide-la-liberation-de-mimi-mefo>.

CONCLUSION ON THE EVOLUTION OF THE DEATH PENALTY IN CAMEROON



Since independence, the death penalty has been exploited in favour of the regime in power, with the guiding principle being the construction and consolidation of national unity. In the name of such unity and combating enemies (internal and external), the list of crimes punishable by a capital sentence has continued to be extended with a growing use of military courts to provide Justice.

Since he came to power, President Biya has used his right of pardon and his power to halt criminal proceedings in an arbitrary fashion to release particular people accused of offences punishable by death or sentenced to death.¹¹⁸ By exploiting pardons, he has retained his stranglehold over any challenge to his power. The range of legislation applicable to anyone exercising their freedom of expression has only continued to grow. As one of the lawyers interviewed within the framework of this study explained, *“for these people, there is a multitude of offences: secession, terrorism, hostility against the homeland, etc”*. Thanks to the pivotal role played by the military courts, the central regime can now choose which legislation to use for proceedings, whether or not to initiate a public prosecution and whether or not to halt proceedings.

The death penalty is a sword of Damocles which today hangs over the heads of an increasingly large number of people: members of Boko Haram, Anglophone separatists, journalists, members of civil society and members of the opposition. With its stated goal of seeking national unity, the courts have sentenced to death nearly 300 people in three years. As one of the prisoners sentenced to death interviewed explained in Yaoundé: *“the death penalty is used selectively for the persona non grata of the political system”*.

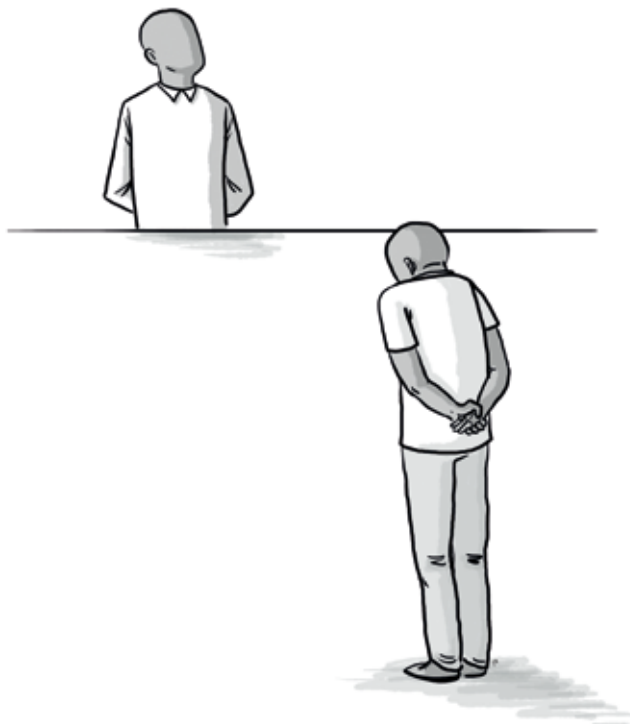
This research, carried out with people sentenced to death and their families, lawyers and organisations operating in the prison environment, has also revealed that most prisoners sentenced to death

118 On pardons and avenues of appeal, see *infra*.

have been tortured to obtain a confession and sentenced to death during trials which did not respect the basic principles of the right to a fair trial. Numerous aberrations have been reported in the name of national unity.

SERIOUS SHORTCOMINGS IN THE CRIMINAL JUSTICE SYSTEM

"I went through hell, torture, day and night, until I confessed and acknowledged everything the investigators wanted"
Pierre, prisoner sentenced to death detained in Douala



The interviews with people sentenced to death, lawyers and organisations from civil society have made it possible to document serious problems in all stages of the criminal justice process, including the issuing of capital sentences. Most of the men and women sentenced to death revealed that they had been mistreated during the investigation phase to obtain false confessions, that they had not had access to a legal adviser during the investigation, that they had been forced to sign documents without being able to read them, and that they had not received efficient representation during hearings, in violation of national regulations and international standards in this respect. Cameroon's criminal justice system is far from infallible and the marked prevalence of death sentences when the rules of a fair trial have not been respected clearly asks questions about the risk of serious judicial error.

CONFESS TO STAY ALIVE



Despite the prohibition of torture in the Constitution of Cameroon and its inclusion as an offence in the Criminal Code,¹¹⁹ use of torture is very widespread in places of detention as the CNDHL indicates every year in its reports.¹²⁰ Within the framework of combating terrorism, the UN Anti-Torture Committee has been particularly concerned about the use of torture.¹²¹ Amnesty International documented the use of torture in more than 100 cases between 2013 and 2017 in secret locations to obtain confessions or information about Boko Haram combatants. 24 methods of torture have been recorded, aiming to brutalise, break and humiliate detainees.¹²² Numerous extra-judicial executions have also been reported within the framework of combating terrorism. The number of people who have died in detention is unknown but several dozen victims of torture have allegedly died during this period in the premises of the Rapid Intervention Battalion, the army's elite unit, and the Director General of External Intelligence which takes part in military operations against Boko Haram.¹²³ These practices have been widely confirmed by lawyers who have assisted people sentenced to death for terrorism and held at Maroua prison. According to one of the lawyers, *"torture is systematic and generalised within the framework of suppression of terrorism"*.

Use of several methods of torture was confirmed by the death-penalty prisoners interviewed. According to the accounts of those interviewed, it is clear that these methods are not only applied within

119 According to the preamble of the Constitution, "in no case may [a person] be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The punishments for torture are set out in Article 277-3 of the Criminal Code: they vary from two years imprisonment to life imprisonment, depending on the consequences of the torture.

120 CNDHL, 2018, Rapport sur l'état des droits de l'Homme au Cameroun en 2017, p. 113; CNDHL, 2017, Rapport sur l'état des droits de l'Homme au Cameroun en 2016, p. 108; CNDHL, 2016, Rapport sur l'état des droits de l'Homme au Cameroun en 2015, p. 80; CNDHL, 2015, Rapport sur l'état des droits de l'Homme au Cameroun en 2014, pp. 21-22.

121 Committee Against Torture, 2017, Concluding observations on the fifth periodic report of Cameroon, CAT/C/CMR/CO/5, p. 3

122 Amnesty International, 2017, Cameroon's Secret Torture Chambers: human rights violations and war crimes in the fight against Boko Haram. Amnesty international, Cameroon Annual Report 2017/2018.

123 Amnesty International, 2017, *ibid*.

the framework of the struggle against Boko Haram. They are also very frequently applied to the preliminary investigation phase for assassinations and aggravated theft, two offences punishable by death. Only three of the 37 prisoners interviewed indicated that they had not been subjected to coercion. 78% of prisoners interviewed clearly indicated that they had been victims of torture or had been threatened during the investigation in all the prisons visited by the data collection team. 14% of prisoners interviewed (all the women held at Maroua prison) preferred not to answer this question. Acts of torture were reported to have been committed by different branches of the security forces: police, gendarmes and soldiers.

According to the prisoners interviewed, confessing to their participation in crimes was the only way to stay alive. Pierre, sentenced to death and detained in Douala, revealed: *“My confession was obtained under torture. I went through hell, torture, day and night, until I confessed and acknowledged everything the investigators wanted. They beat me up; I still have marks on my back today. I was injured and couldn’t walk. They took me to the middle of the river and, with a gun to my head, the investigator told me he would kill me if I didn’t confess and didn’t sign everything he had written. I was forced to implicate [another person] to stay alive. [...] My confession was not sincere, it was just to stay alive.”* André, a prisoner detained at Bafang, similarly said: *“I was subjected to all kinds of torture: the swing¹²⁴, fire, nails on my feet, shards of a bottle, until I confessed to the crime to stay alive.”* Use of torture was also reported by people detained in Yaoundé. Grégoire, a prisoner in Yaoundé, reported: *“I was shot in the leg. I was tied up like a goat, hung up and then chained to the basement of the building of the Secretary of State for Defence for two weeks. I was interrogated from 11 p.m. to 8 a.m. [...] I was tortured from my arrest until I was on remand.”* There are many similar accounts.

In numerous cases those sentenced to death reported that the security forces encouraged them to confess to other crimes as well as the crimes for which they had been arrested. Some prisoners also reported that senior personnel in the security forces were present when the acts of torture were committed. Several people interviewed

124 The victim is hung from a bar placed between two posts, arms and legs tied behind his back, and beaten.

in Maroua revealed that their co-defendants had died shortly after torture was inflicted. This has been confirmed through analysis of the report of the verdicts handed down by Maroua military court to which we had access: during the first two quarters of 2017, Maroua military court declared that public prosecutions against 39 people had been cancelled. These defendants had died between their indictment and their hearing in court.¹²⁵ Most of them were accused of offences connected to the Anti-Terrorism Law. Staff at Maroua prison also confirmed that several detainees had been transferred to the prison with lesions and other injuries to the body.

The use of torture as a method for collecting evidence has been widely facilitated by the absence of contact with the outside world during the preliminary investigation phase. Firstly, visits from family have been totally forbidden to people under arrest. Secondly, no one interviewed had access to a lawyer during that period. In most cases, the accused were financially destitute and did not have the means to pay for a legal adviser. They were only assisted during court hearings, as provided for in law for people facing the death penalty.¹²⁶ In some cases, the accused were so convinced that they would be found innocent during the investigation phase that they explained they had never thought they needed a legal adviser, something Henri, a detainee in Doula, explained: *“I didn’t think I needed a lawyer. I was convinced that the investigation would find me innocent since I wasn’t in the town when the burglary had taken place”*. For others, access to the lawyer expedited by the families to meet the accused while in custody was quite simply prohibited. It should be noted that the tardy representation of the accused by lawyers at the hearing stage does not comply with international recommendations, including for legal aid cases.¹²⁷

125 Report of verdicts handed down by Maroua military court, first and second quarter of 2017.

126 Article 417 of the Criminal Code. See too *infra*.

127 The Human Rights Committee, in General Comment No. 35, indicates that: “States parties should permit and facilitate access to counsel for detainees in criminal cases from the outset of their detention”. Human Rights Committee, 2014, General Comment No. 35 relating to the ICCPR, CCPR/C/GC/35. The UN’s Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems set out that “anyone who is detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment [is entitled to legal aid at all stages of the criminal justice process.” UN General Assembly, 2013, UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, A/RES/67/187: Principle 3 (Legal aid for people suspected of or charged with a criminal offence).

According to those interviewed, the prohibition of visits prevents any possibility of contesting the veracity of the confession. In the absence of a lawyer and ties with anyone on the outside, those interviewed who had been tortured were not informed of their right to be examined by a doctor. In particular, this meant that a forensic certificate for the tortured person could not be issued when, in practice, such a document would be essential for the courts to reject confessions obtained under duress. The current system therefore makes it impossible for the accused to prove that their confession was obtained under duress.

DEATH SENTENCES BASED ON QUESTIONABLE EVIDENCE



With regard to evidence, there is considerable disparity between the guarantees for criminal trials set down in national legislation and the practice of the courts. The Constitution of Cameroon sets out that “*all detainees are presumed innocent until their guilt has been established during a trial which strictly complies with the rights of defence*”.¹²⁸ The Code of Criminal Procedure also expressly recognises the inadmissibility of evidence obtained under “*duress, violence or threat or in return for a promise of any kind of advantage or by any other means which could harm the free will of the person responsible*”.¹²⁹ The conclusive evidence of a confession is submitted for assessment by the judge who may consider that the confession is sincere and admit it as a means of evidence or may reject it. In both cases, the judge is obliged to provide grounds for their decision.¹³⁰ The judge may request that an expert assessment be carried out if it is considered necessary to reveal the truth.¹³¹

In practice, in the cases of all those interviewed within the framework of this study the judges had systematically rejected the allegations of torture, without requesting that an investigation be opened and despite the requests of the accused and their lawyers. This practice seems to be widespread: in 2017, the UN Committee Against Torture indicated that it was not aware of any cases where Cameroon’s courts had declared evidence obtained under torture or duress to be null and void.¹³²

All the prisoners sentenced to death interviewed who had been tortured indicated that they had reported the acts of torture at the court hearings but that the magistrates had not taken their

128 Preamble to the Cameroon Constitution.

129 Article 315 (2), Code of Criminal Procedure: “Confessions are not admitted as a means of evidence if they have been obtained under duress, violence or threat or in return for a promise of any kind of advantage or through any other means which harms the free will of the person responsible.”

130 Article 315(4), Code of Criminal Procedure.

131 Article 319, Code of Criminal Procedure.

132 Committee Against Torture, 2017, Concluding observations on the 5th periodic report on Cameroon, CAT/C/CMR/CO/5.

requests into consideration because of a lack of evidence. According to one of the lawyers interviewed in Douala, *“the magistrates always require that evidence of torture be established. It is extremely difficult to provide such evidence because the investigators do not allow suspects to be examined by a doctor during the preliminary investigation phase”*. Several magistrates interviewed stated that detainees complained very often, even systematically, but none of them had rejected an investigation report due to poor treatment.

The arguments were therefore rejected in the cases of all those interviewed, including when the accused was brought before the judge in a worrying physical state. One of those interviewed detained in Douala explained that he had found it very difficult to walk to attend his hearing because he had been struck with a hammer on his ankles and feet on the premises of the judicial police. The confession extracted by the police was admitted as evidence and he was sentenced to death, despite protests by his lawyer.

According to the interviews carried out, judges mainly rely on the preliminary investigation report drawn up by the security forces when making their decisions. However, as well as acts of torture, most of the prisoners sentenced to death also reported numerous irregularities during the investigation phase such as the destruction of evidence demonstrating that the accused was not present in the location where the crime had been committed, reports which did not accurately reproduce their statements or defendants being forced to sign reports without understanding them – particularly when an individual did not speak French, something which is often the case for people accused of being members of Boko Haram – or without rereading them. Laurent, sentenced for aggravated theft and detained in Douala, explained: *“the investigator didn’t let us to re-read our statements because he kept treating us as enemies of the nation”*.

In Maroua in the Extreme North, home of the military court competent to judge people accused of being members of Boko Haram, many people have been sentenced to death even though no victims or witnesses attended the hearings, something the magistrates interviewed also confirmed. In these cases, defence lawyers are unable to challenge testimonies. The lawyers interviewed who had defended prisoners sentenced to death share the same observation:

people can be sentenced to death simply on the basis of rumours or denunciations made by unidentified individuals. One of the lawyers interviewed in Maroua told us: *“At terrorism trials magistrates make do with the preliminary investigation report to decide whether to sentence or acquit a defendant. No witnesses appear. Rumour is not a means of evidence recognised in Cameroon law.”*

The admission of confessions obtained under torture and the existence of numerous procedural irregularities are particularly concerning for those sentenced but it is also worrying for the legal system as a whole. By refusing to exercise their margin of appreciation over the quality of evidence and rejecting all allegations of torture, including in situations where the violence is actually obvious, judges are contributing to damaging the credibility of the criminal justice system.

INEFFECTIVE REPRESENTATION OF DEFENDANTS



Most of those sentenced to death interviewed for this study have few financial resources. Cameroon law sets out that the court must appoint a legal adviser to anyone prosecuted for a crime punishable by a capital sentence who does not have legal assistance.¹³³

Our conversations with those sentenced to death revealed that a legal adviser had indeed been appointed to them by a court of first instance whenever they were not represented. However, the interviews revealed that the quality of representation was not always optimal for several reasons. Firstly, some lawyers explained that they had been appointed and made by a magistrate to enter a plea during a hearing without meeting their client beforehand or even reading the prosecution file. One of the lawyers interviewed in Maroua thus revealed: *“I didn’t have the necessary time to prepare my client’s defence. I was appointed by the President of the military court as a State-appointed lawyer. He made me plead the case immediately. [...] I requested an adjournment to meet my client and this was refused on the pretext that the hierarchy were demanding results and the case needed to be judged quickly. I didn’t have time to examine the investigation report carefully and talk to my client.”* This situation has also been occurred in Douala where one of the lawyers told us: *“Once I was the State-appointed lawyer for a hearing. After hearing the arguments, the case was adjourned for deliberation and then the verdict given”.* Some trials are therefore very quick. In these conditions, it seems unlikely that lawyers could act in the best interests of their clients.

Secondly, many prisoners explained that their State-appointed lawyer was not systematically present at the hearings and that few lawyers came to the prison to meet them in order to prepare the case. Several prisoners indicated that the lawyers did not even speak to them. Jean, detained in Bafoussam, thus explained that his lawyers never came to meet him outside the hearings: *“There was no preparation. I was already in prison, I couldn’t put together*

133 Article 417, Code of Civil Procedure.

any evidence.” Felix, a prisoner interviewed in Yaoundé, told us: “The only time he spoke to me was to wish me ‘good luck’ at my sentencing”. René, a detainee in Douala, told the same story: “He was a State-appointed lawyer. He didn’t attend all the hearings because, he said, he had more important things to do elsewhere”. One of the lawyers interviewed in Douala clearly explained that the quality of representation he gave his clients depended on financial motivation: “As a State-appointed lawyer, my motivation was quite low. If I’d received the right fees, my defence would certainly have been more effective.”

State-appointed lawyers are paid a negligible sum to represent their clients, approximately 5,000 CFA Francs per hearing, i.e. 7,62 euros.¹³⁴ In numerous cases, as confirmed by the magistrates and prisoners interviewed, it is inexperienced trainee lawyers who are right at the beginning of their careers who defend people facing the death penalty. Experience is not a requirement for State-appointed lawyers to represent people who could be sentenced to death. Two prisoners, one detained in Bafang and the other in Yaoundé, explained that they had been represented by State-appointed legal agents who were not qualified in criminal law. It is not even necessary for the legal adviser to have received legal training.¹³⁵

The average duration of trials is approximately two years. Although, as has been seen earlier, some trials can be very quick and prevent lawyers from effectively representing their clients, others can be very slow: as lawyers are paid per hearing, some State-appointed lawyers allegedly systematically request adjournments for their cases so as to earn a little more money. Some cases can therefore be adjourned for more than a year.

The socio-economic situation of defendants also plays a key role in their defence because financial resources are required to expedite procedural acts. Although poor individuals are indeed represented at their hearings by a legal adviser, if the latter has no means to

134 Or 8,68 US dollars (on 22 November 2018). On the basis of the 2017 pay scale, a French lawyer assisting a defendant before the Court of Assize would be paid 1,600 euros under legal aid. See the website of the French National Bar Council: https://www.cnb.avocat.fr/sites/default/files/documents/evolution_montant_uv.pdf (accessed on 24 December 2018).

135 Cornell Center on the Death Penalty Worldwide, Death Penalty Database: Cameroon.

investigate in parallel with the official investigation, request a second opinion or carry out other enquiries, they simply cannot. Indeed, the fees of State-appointed lawyers do not include travel, communication or investigation costs. This clearly means that treatment and access to justice differ depending on the financial resources of the accused. For example, Grégoire, detained in Yaoundé, indicated that his permit, which proved that he was outside the country at the time of the events, was destroyed during the investigation: *“I didn’t have the money to send someone [...] to get the stub of my permit which had been destroyed”*. As Pierre, a prisoner detained in Douala, also explained: *“I could have contested the documents produced to prove that I wasn’t involved. People with money were released at the police station, during the investigation or in court”*.

DIFFICULT ACCESS TO AVENUES OF APPEAL

THE OBSTACLES TO APPEALING VERDICTS FROM COURTS OF FIRST INSTANCE

Cameroon's legislation provides that anyone has the right to appeal their sentence to a higher jurisdiction, including when the verdict is issued by a military court.¹³⁶ However, effective implementation of this right is limited. Firstly, the deadlines are very short: according to the legislation, a convicted individual has ten days from the day after the date of the verdict to lodge an appeal and must provide the court clerk with a statement containing their grounds as well as any other supporting documents a maximum of 15 days after lodging the request for appeal. According to the lawyers interviewed, in practice these two deadlines begin on the same day. No legal assistance is anticipated for prisoners sentenced to death who lodge an appeal. Indeed, State-appointed lawyers cease their assistance once the sentence has been handed down. Although there is a law providing for automatic legal assistance for prisoners sentenced to death, the provisions of this law only apply to those appealing to the Supreme Court and not courts of second instance.¹³⁷ Those sentenced to death are therefore responsible for drafting, alone or with the help of relatives, their appeal statements when they are mostly destitute, have a relatively low level of education and many of them, especially in Maroua, do not speak French and have no connection with their families to help them. Some prisoners therefore revealed that they did not lodge a statement within the deadline and that their appeal was judged inadmissible. This was very problematic for prisoners sentenced to death for terrorism, most of whom did not lodge an appeal within the deadline. Following consultation with the President of the Military Court, the Government Commissioner and the Governor of the Region, it was decided exceptionally that

¹³⁶ Article 436, Code of Criminal Procedure.

¹³⁷ Article 6(1)(c), Law No. 2009/004 of 14 April 2009 on the organisation of legal assistance.

prisoners sentenced for terrorism could exercise avenues of appeal beyond the deadline. Several organisations helped people sentenced to death for terrorism offences draft appeal statements. According to the investigation carried out in Maroua, everyone sentenced to death and interviewed was able to lodge their statement. This practice of entering appeals outside the deadline is still applied today.

A second factor has considerably limited use of avenues of appeal: the legal costs which must be paid for the appeal to be admissible, including by people sentenced to death. According to the information collected, the amount varies from 20,000 to 45,000 CFA Francs, i.e. the equivalent of 30.48 to 68,57 euros.¹³⁸ As the law does not specify the amount of the costs, this is generally fixed at the discretion of the President of the court which has issued the death sentence, particularly in view of the volume of the case. One of the lawyers interviewed in Maroua nonetheless indicated that on occasion the clerk of the military court sets the amount of the costs. Further, as indicated above, many people sentenced to death, particularly in Maroua, do not have any financial resources and do not receive any visits from relatives.¹³⁹ Currently, several prisoners sentenced to death detained in prison, men and women, have lodged an appeal without being able to pay the legal costs because of a lack of money. One of the lawyers interviewed explained: *“I myself called the families, I called them one by one, I explained it to them. But they didn’t understand. They are illiterate. I waited until the last minute but they didn’t send the fees.”*

In the face of these problems, the Appeal Court has decided to adjourn most of its cases in order to enable detainees to organise the necessary funds. Some cases are therefore adjourned for 12 months, something which creates a problem of excessive delay in the system, especially given the conditions of detention of prisoners sentenced to death.¹⁴⁰ Lydia, a woman sentenced to death and detained in Maroua, told us: *“For me, all hope is lost because there is no one to pay the legal costs so that my case can come before the court.”* Further, it was also reported to the team collecting the data that a clerk at the military court went to Maroua prison to

138 The equivalent of 34,42 to 77,44 dollars (on 28 November 2018).

139 On family visits, see *infra*.

140 On conditions of detention, see *infra*.

collect legal costs directly from detainees. Approximately fifty of them allegedly paid these costs without receiving a receipt. The clerk allegedly then used the money for other purposes. The clerk has been transferred and the legal costs of those prisoners remain unpaid.

OPAQUE PRESIDENTIAL PARDONS

According to the legislation, all death sentences must be submitted to the President of the Republic so that he can decide whether to pardon the convicted individual. No sentences can be executed without the President exercising his right of pardon.¹⁴¹ A pardon means that a prisoner may be exempt from all or part of their sentence. In Cameroon, a pardon generally involves a commutation of the sentence. Only those who have been definitively judged can receive it.

Further, although Cameroon has explained on several occasions that it has a policy for commuting death sentences by presidential decree, these commutations are not regular and their scope is unpredictable. Over the last 10 years, President Biya has granted commutations on four occasions: in 2008, 2010, 2011 and 2014.¹⁴² These commutations transformed the death penalty into life imprisonment. However, according to Amnesty International, the sentences of several people sentenced to death were not commuted when they should, in theory, have received a pardon. This was reported in 2010.¹⁴³ Moreover, these four presidential decrees excluded people sentenced to death for assassinations or aggravated theft. According to the interviews carried out, until the 2014 Anti-Terrorism Law was enacted, these two offences were the main grounds for death sentences. The number of people sentenced to death and actually involved in these decrees is unknown. The prisoners sentenced to death interviewed are well aware of these restrictions. According to Andrew, a prisoner sentenced to death detained in Bafang, “*there are conditions which automatically exclude us, particularly if you’ve committed violent crime*”. Further, most of the detainees definitively sentenced to death

141 Article 22(1) and Article 22(2), Criminal Code.

142 Decree 2008/175 of 28 May 2008 on commutation and early release, Decree 2010/158 of 20 May 2010 on commutation and early release, Decree 2011/361 of 3 November 2011 on commutation and early release and Decree 2014/058 of 18 February 2014 on commutation and early release.

143 Amnesty International, 2012, 2011 Annual Report, p. 158.

and interviewed have made an individual request for pardon from the President at the advice of organisations or even the clerk of some prisons, but their appeals have largely remained unanswered. The number of people sentenced to death who have received an individual pardon is also unknown but of the 37 prisoners sentenced to death interviewed only one knew about a request for pardon following a death sentence which supposedly ended favourably.

Several prisoners sentenced to death told us that the way in which the President granted pardons was therefore very opaque. The case of Marinette Dikoum, sentenced to death for killing her husband, a bank manager, in 1983, led to numerous articles being written in the country. She was released for the first time in January 2007 following the presidential decree of 29 December 2006 which did not actually provide for release for prisoners sentenced to death. She was imprisoned again two months later, this time for irregular early release trafficking. As Joseph, a prisoner detained in Bafan, explained: *“We don’t understand any of that in here”*. Felix, detained in Yaoundé, told us that the response for requests for pardon depended on the status of the prisoner sentenced to death: *“I’ve seen people who served the system who have been sentenced to death and left prison without any kind of trial and returned home. [...] The case people talk about most is a captain who was sentenced to death and then given the rank of Commander.”*

Analysis of the death penalty performed by Tchappi in 1991 remains relevant today: *“Everything suggests that the execution of death sentences in Cameroon depends on the good will of the President who can even refuse to rule on a request for pardon, thus freezing the process”*.¹⁴⁴

THE ABSENCE OF JUDICIAL REVIEW

Cameroon law authorises a review of trials for anyone convicted of a crime or an offence.¹⁴⁵ This review is particularly possible *“when, after sentencing, it is established that the convicted individual was innocent, even if they are responsible for the judicial error committed”*

144 Tchappi, E. 1991, pp. 52-53.

145 Article 535, Criminal Code of Procedure.

or “when, after sentencing, new evidence or new facts are discovered which could establish the innocence of the convicted individual”.¹⁴⁶ This avenue of appeal is therefore theoretically open to prisoners sentenced to death. However, it has not been used by any of the prisoners sentenced to death interviewed or by any of the lawyers interviewed. As with an appeal, this option also requires payment of legal costs, lawyer fees and/or the collection of new evidence, something which requires a significant amount of money. Given the resources of prisoners sentenced to death and their families, it is highly unlikely that they can access this option effectively.¹⁴⁷

146 Ibid.

147 On the resources of prisoners' families, see *infra*.

FOCUS ON A FEW SPECIAL CASES

A MAN FORGOTTEN: THE CASE OF PIERRE SAAH

Pierre Saah, alias François Ntang, has been detained since 1982. Born in 1940, he is now 78 and is currently detained at Bafang prison after spending time at Mbouda, Mantoum and Bafoussam prisons. To our knowledge, he is the oldest prisoner sentenced to death still detained in Cameroon.¹⁴⁸

Pierre Saah was sentenced to death for assassination by the District Court of Mbouda on 3 February 1984. The Court of Appeal confirmed his sentence on 27 August 1984. Pierre Saah lodged an appeal the following day which was registered at Bafoussam prison but which remained unanswered despite numerous reminders.

In view of his situation and his good conduct, the Governor of Bafoussam prison, where he was incarcerated in 2014, filed an appeal with the General Prosecutor at the West Appeal Court, requesting that his case be given special attention. This letter also remained unanswered. At the interview with the team of lawyers, Pierre Saah said that he was still waiting for news about his case: *“My case is supposed to be in progress still. I have no idea how my appeal request is progressing. That’s what worries me”*.

In view of this information, it seems certain that his file has been mislaid and Pierre Saah has been forgotten by the judicial authorities.

148 Another individual, Bienvenu Onguéné, aged 64, is currently detained at Yaoundé prison. He has been in detention for 34 years. He was the subject of a report which received an award from the French Embassy in Cameroon: Thouani, C. 2016 “Condamné à mort à la prison centrale de de Yaoundé: Bienvenu Onguéné – je vis mes arrêts de match “

THE LACK OF CONSIDERATION OF MENTAL ILLNESS: THE CASE OF HÉLÈNE TEUBA

Hélène Teuba was sentenced to death by Nde District Court in Bangante on 10 May 2004 for killing two of her children by throwing them in a river. She has said on several occasions that she acted under the influence of an evil force.

Cameroon legislation is clear on cases of insanity: an individual affected “*by a mental illness in such a way that their will has been suppressed or they are no longer aware of the reprehensible nature of their actions*” is criminally not responsible. If insanity is not total, it still constitutes an attenuating explanation.¹⁴⁹ Nevertheless, in these cases it is the responsibility of the court to order a medical assessment, something which did not happen for Hélène Teuba.¹⁵⁰

According to the interviews carried out with the prison guards and other people detained and interviewed at Bafoussam where she is imprisoned, Hélène Teuba’s mental state has apparently worsened in detention. She has not received any medical assistance specifically for her mental illness and has allegedly become very aggressive.¹⁵¹

THE LACK OF CONSIDERATION FOR MOTHERS AND YOUNG CHILDREN

At least three women sentenced to death for terrorism are detained at Maroua prison with young children aged under 4. According to one of the lawyers interviewed, these women were sentenced to death when their children were under 2. The African Charter on the Rights and Welfare of the Child, which has been ratified by

149 Article 78 of the Criminal Code.

150 This is even more surprising because the judge who issued the sentencing decision was asked to provide an advisory opinion on the possibility of exempting Hélène Teuba from the death penalty. In his opinion, it was still not a question of a lack of criminal responsibility but that the defendant was emotionally disturbed and a psychopath. Advisory opinion of Judge Djouendjeu Ngameni, Judge at Ndé Court, 30 January 2006, No. 99/CAB/PTPI/BGPE.

151 Due to her violence, the prison guards advised the lawyers not to talk to Hélène Teuba. Her state was also confirmed by several people detained with whom the lawyers were able to talk. Other cases of people sentenced to death demonstrating mental illness have been reported: on this issue, and the issue of responsibility for mental health, see *infra*.

Cameroon, specifically sets out that the State Parties undertake to “ensure that a death sentence shall not be imposed on such mothers”.¹⁵²

These children have been with their mothers since their detention.¹⁵³

152 African Charter on the Rights and Welfare of the Child, Article 30(5).

153 On this point, see *infra*.

CONCLUSION ON DEATH SENTENCES IN THE CRIMINAL JUSTICE SYSTEM



The people interviewed in the prisons revealed that they had been sentenced to death following unfair trials, mostly based on confessions obtained under torture or duress, and without being able to receive effective legal representation. The investigation phase is cordoned off: no lawyers and no relatives may contact the accused during that period, making it impossible, for example, to issue forensic certificates. Further, even when detainees attend hearings with obvious injuries, judges at courts of first instance systematically reject allegations of ill treatment.

Moreover, the treatment of defendants differs depending on their financial resources: the quality of their representation and access to avenues of judicial appeal rest mainly on their financial means. As for pardons, that rests exclusively with the President of the Republic and does not apply to most prisoners sentenced to death. The practices of the criminal justice system are therefore very different to current national legislation and international standards in terms of the right to a fair trial, something which puts the legal system at a significant risk of judicial error.

This is even more concerning because, although a *de facto* moratorium on the death penalty exists, prisoners sentenced to death live in very precarious conditions and numerous cases of deaths have been reported in cameroonian prisons.

THE CONDITIONS OF DETENTION OF PRISONERS SENTENCED TO DEATH IN CAMEROON

"Here in prison I am already dead"
Adjia, sentenced to death and detained in Maroua



There are three types of prison in Cameroon: central, principal and secondary prisons.¹⁵⁴ The 10 central prisons are located in the capitals of each region; the 50 principal prisons are located in district chief-towns and the 18 secondary prisons are located in rural areas. The regulations do not specify the categories of detainees who should be housed in each type of prison.¹⁵⁵ There is no prison specifically or mainly housing prisoners sentenced to death. Thus, there are prisoners sentenced to death in several prisons in the country but their number is not provided by the State.

Although prisoners sentenced to death live in very precarious conditions, almost identical to those of the other detainees, there are certain specificities connected to their status which make them particularly vulnerable.

154 Article 9, Decree of 27 March 1992 on the prison system in Cameroon.

155 Ngono Bounoungou, B. 2012, *La réforme du système pénitentiaire camerounais: entre héritage colonial et traditions culturelles*, Doctoral Thesis, Grenoble University, p. 211.

OVERVIEW OF CONDITIONS OF DETENTION IN CAMEROON



Most prisons in Cameroon were built during colonisation. The first prison regulations were developed under French and British colonisation. In the Anglophone area prison administration was regulated by the 1958 laws of Nigeria.¹⁵⁶ In the French area the first regulations were published on 8 July 1933 and a second set was published on 15 September 1951, both characterised by discriminatory standards between colonialists and the native population.¹⁵⁷ These regulations remained in force until 1972, the date of the country's official unification. New prisons were built in that period.

In 1973, initial reforms harmonised the legal framework, developed regulations for prisons and prison staff, and created a national training centre for prison administration. In 1992, a further reform reorganised prison administration in the country and incorporated into Cameroon's regulations certain international standards relating to the treatment of prisoners, particularly the UN's Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules.¹⁵⁸ At international level, there are no specific regulations about the treatment and living conditions of prisoners sentenced to death in places of detention.

The Decree of 27 March 1992 thus incorporated provisions seeking to humanise places of detention. The Decree covered the right to balanced and sufficient rations, the right to bedding (at least a mat and covers), medical visits as from the very beginning of imprisonment, the right to receive visits, the right to perform physical exercises, and the right to social care¹⁵⁹. The Decree also provided

156 Chapter 159 of the 1958 laws of Nigeria.

157 Namondo Linonge, H. 2010, "The dynamics of prison administration and prison reform in Cameroon", *Cameroon Journal on Democracy and Human Rights*, Vol. 4, n° 1, p. 43. Yenkong, P. 2011, *Prisoners in-justice, Prisoners' encounter with the criminal justice system in Cameroun*, p. 29.

158 Standard Minimum Rules for the Treatment of Prisoners, adopted by the first UN Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955 and approved by the Economic and Social Council in Resolutions 663 C (XXII) of 31 July 1957, and 2076 (LXII) of 13 May 1977.

159 Respectively, Articles 29(1), 30(2), 32(1), 37(1), 61 and 64, Decree 92/052 of 27 March 1992 on the prison system.

for defendants to be separated from convicted prisoners and for prisoners sentenced to death to be located in special premises.¹⁶⁰ The Decree did not set out any specific provisions applicable to foreign nationals imprisoned. However, although Rule 47 of the Nelson Mandela Rules sets out that *“the use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited”*, the Decree of 1992 set out, among the disciplinary sanctions, *“the use of chains in the disciplinary cell or any other place for a 2-week period”*.¹⁶¹

Initially under the responsibility of the Ministry of Territorial Administration and Decentralisation, since 2004 prison administration in Cameroon has been under the responsibility of the Ministry of Justice.¹⁶² The Decree of 1992, and particularly the use of chains, still applies today, even though Cameroon’s Constitution sets out that *“all individuals [...] must be treated with humanity under all circumstances”*.¹⁶³ No national mechanism for visiting places of detention is currently planned by the law, even though it has been under consideration for several years.¹⁶⁴

The realities experienced by detainees are a long way from international standards. The conditions of detention in Cameroon’s prisons are unanimously decried¹⁶⁵ and can constitute inhuman, cruel and degrading treatment within the meaning of the Convention Against Torture. Prisons are dilapidated and overcrowding is endemic, while prisoner numbers have continued to grow for the last five years, increasing from 25,300 in 2013 to 30,701 in December 2017.¹⁶⁶ According to official data, prison occupancy levels vary depending on the region from 90% to 294% but the rates indicated are by region and not by prison institution, each region containing several

160 Article 20, *Ibid.*

161 Article 45(c), *Ibid.*

162 Decree 2004/320 of 8 December 2004 on the structure of the government.

163 Preamble to the Constitution.

164 On this point, see *infra*.

165 See in particular US Department of State, Country Reports on Human Rights Practices for 2017: Cameroon. See to the annual reports of the CNDHL.

166 CNDHL, 2018, Rapport sur l'état des droits de l'Homme au Cameroun en 2017, p. 92. Appendices 12 and 14 of the national report on Cameroon for the 3rd cycle of the Universal Periodic View, “Evolution of the annual provision allocated to prison health from 2013 to 2017”

prisons.¹⁶⁷ There is also extreme overcrowding in certain prisons: Maroua prison in the Extreme North, built in 1935 with a capacity of 350 detainees¹⁶⁸, held more than 2,000 in October 2018, i.e. an occupancy level of more than 571%. The central prison of Kondengui in Yaoundé, with capacity for 1,500 detainees, housed more than 4,250 at the end of 2016.¹⁶⁹ Similarly, the central prison of Douala, with capacity for 800 people, had more than 3,000 at the end of 2016.¹⁷⁰ Garoua prison, with capacity for 500, housed 2,000 in June 2017.¹⁷¹

Such overcrowding has very serious repercussions on detainees. Funds provided to feed detainees are very low. In 2017 it came to 273 CFA Francs per day per detainee, i.e. 0,42 euros.¹⁷² As the Ministry of Justice indicated in its 2015 report, the provision for detainee food is even lower because the price of foodstuffs has sharply increased as terrorist activity has caused a considerable drop in the production of foodstuffs, requiring products to be imported from Nigeria.¹⁷³ Due to the very low provisions of food, malnutrition is one of the main causes of illness and death.¹⁷⁴

Moreover, while the number of detainees in Cameroon's prisons has continued to increase over the years, the annual provision allocated to prison health has dropped. Consequently, the annual amount devoted to health per detainee has dropped sharply in all prisons across the country: from 6,572 CFA Francs in 2013 to 5,207 CFA Francs in 2017 – i.e. 14 CFA Francs or 0,02 euros per day per

167 Appendix 12 of the national report of Cameroon for the 3rd cycle of the Universal Periodic Review, "Summary table of the prison population in December 2017 and March 2017"

168 On housing capacity, see in particular CNDHL, 2018, Rapport sur l'état des droits de l'Homme 2017, p. 106.

169 On the state of the prison of Yaoundé and overcrowding, see the video made by a detainee and broadcast in January 2017 on France 24: <https://observers.france24.com/fr/20170131-vie-abominable-detenu-prison-centrale-yaounde> (accessed on 26 November 2018).

170 Ministry of Justice, 2017, Rapport sur l'Etat des droits de l'Homme au Cameroun en 2016, p. 257.

171 US Department of State, Country Reports on Human Rights Practices for 2017: Cameroon.

172 Or 0,47 US dollars. CNDHL, 2018, Rapport sur l'état des droits de l'Homme 2017, p. 96.

173 Ministry of Justice, 2016, Rapport sur l'Etat des droits de l'Homme au Cameroun en 2015, pp. 362-363

174 CNDHL 2017, Rapport sur l'état des droits de l'Homme au Cameroun en 2016, p. 108.

detainee – which represents a drop of more than 20%.¹⁷⁵ Given the number of people detained, medical human resources, sanitation facilities (toilets, showers, infirmary) and medical supplies are largely insufficient to meet needs. There is a high prevalence of illnesses connected to overcrowding such as tuberculosis, HIV/Aids, cholera, scabies, diarrheal illnesses and an alarming number of deaths. According to the Ministry of Justice, 76 detainees died in 2014, some of them due to an epidemic of cholera and gastroenteritis in Maroua and Kribi.¹⁷⁶ In 2015, the number of deaths more than doubled: 184 deaths were reported by the Ministry of Justice. In 2016, 206 deaths were recorded in the country's prisons.¹⁷⁷ The number of deaths therefore nearly tripled in three years.

Violent conflicts between detainees are frequently reported. For example, ACAT-Cameroon revealed the death of an individual in Douala in November 2018, killed by another detainee during a fight involving a sleeping area. Attempted escapes and riots are frequent. In March 2015, a mutiny broke out at Garoua prison, initiated by prisoners following the death of one of their co-detainees who died from suffocation after being shut in a disciplinary cell measuring 4 m² with 22 other people.¹⁷⁸ In 2016, another mutiny in the same prison began in order to condemn the absence of drinking water. It would cause the death of four detainees.¹⁷⁹ The following year, four people died from another riot.¹⁸⁰ In 2017 in Bafoussam, a mutiny condemning poor conditions of detention caused the death of a detainee. The same year, Kumbo prison was partially destroyed during a fire by prisoners attempting to escape.

175 157,740,000 Francs CFA were allocated to 25,300 detainees in 2013, something which represented an annual amount per detainee of 6,572 CFA Francs. In 2017, the provision was 150,640,000 CFA Francs for 28,927 detainees, i.e. an annual amount per detainee of 5,207 CFA Francs. Data from Appendix 14 of the national report on Cameroon for the 3rd cycle of the Universal Periodic Review, "Evolution of the annual provision allocated to prison health from 2013 to 2017", and the CNDHL, 2017, Rapport sur l'état des droits de l'Homme au Cameroun, p. 106.

176 Ministry of Justice, 2015, Rapport sur l'Etat des droits de l'Homme au Cameroun en 2014, p. 281.

177 Ministry of Justice, 2017, Rapport sur l'Etat des droits de l'Homme au Cameroun en 2016, p. 264.

178 US Department of State, Country Reports on Human Rights Practices for 2015: Cameroon.

179 Ministry of Justice, 2017, Rapport sur l'Etat des droits de l'Homme au Cameroun en 2016.

180 US Department of State, Country Reports on Human Rights Practices for 2017: Cameroon.

Nonetheless, conditions of detention depend on the financial resources and social status of those detained. In Yaoundé for example, some detainees are housed in the VIP area of the prison intended for senior civil servants who are therefore protected from prison overcrowding, while others live in Areas 8 and 9, commonly known as “Kosovo”, feared areas where violence between detainees is frequent.¹⁸¹ As Marie Morelle says in her geo- social study into Yaoundé prison in 2013: *“The incessant flow of people, some wearing rags, the continual hubbub, the cries, the calls, the teasing or threats, the density of people in the aisles, on the floors, along the railings, the impossibility of escaping attention, pushing and punch-ups (just for a plate of food) characterise the atmosphere of these two areas, reputed to be violent and dangerous.”*¹⁸²

To respond to overcrowding, the Cameroon Government is seeking to increase the number of detainees which can be housed and to build new prisons.¹⁸³ Since the beginning of the decade, several prison construction projects have seen the light of day. The Government also relies on the intervention of numerous humanitarian organisations to improve prison conditions.¹⁸⁴

181 The existence of this area was particularly reported by the CNDHL in its 2014 report, p. 31.

182 Morelle, M. 2013, “La prison centrale de Yaoundé: l’espace au cœur d’un dispositif de pouvoir”, *Annales de géographie*, vol. 691, No. 3, pp. 332-356.

183 Ministry of Justice, 2015, *Plan d’action national de promotion et de protection des droits de l’homme au Cameroun 2015-2019*, p. 128.

184 On this point, see *infra*.

PRISONERS “ALMOST” LIKE THE OTHERS

Although male and female prisoners are separated, there is no separation between those convicted and those on remand due to overcrowding at all the prisons visited by the data collection team. All these categories of detainees are mixed together during the day, including those sentenced to death.

PRISONERS SENTENCED TO DEATH AT BAFANG, BAFOUSSAM, DOUALA AND YAOUNDÉ

At Douala, Bafousam and Yaoundé prisons, prisoners sentenced to death are generally housed in a specific cell reserved for them during the night. At Douala and Yaoundé, these cells measure 6m2 and house one or two people. At Bafousam prison, eight people are housed in cells measuring 4m2. Their situation at night is not as difficult as that of other prisoners who sleep in extremely overcrowded cells, sometimes on the floor because there are no boards.¹⁸⁵ At Yaoundé, unlike the other detainees, the doors are closed at 7 p.m.

In Douala and Bafoussam, prisoners sentenced to death are not obliged to be housed in this reserved area. Some prefer to stay outside the area for prisoners sentenced to death. They then live in the same conditions as the other detainees. One of the prisoners sentenced to death interviewed at Douala explained that he preferred to be mixed with the others because he did not accept the court’s decision. However, in Yaoundé all prisoners sentenced to death interviewed live in the areas reserved for them. As Felix, detained since 2010, told us: *“I was living in very bad conditions of detention in the Kosovo area where I had to fight every day for survival”*. The area for prisoners sentenced to death at Yaoundé is reputed to be quiet and more hygienic.¹⁸⁶ In Bafang, prisoners sentenced to death live with the other detainees.

185 Morelle, M. 2013, Ibid.

186 Morelle, M. 2013, Ibid.

Whether they sleep in a separate area or not, prisoners sentenced to death experience difficult conditions. All the toilet blocks are located outside the cells: at night, detainees must use buckets which they empty in the morning. The beds are made of boards; some use boxes as mattresses. Emmanuel, detained in Douala, explained: “*You do what you have to do. [...] We come out with stiff muscles*”. Only those who have money can arrange for mattresses to be brought in from outside. Detainees must organise themselves to obtain a toothbrush, toothpaste, soap or a light bulb to have light in the cell. During the rainy season, the prisons are flooded; during the dry season the heat is nearly unbearable.

Food rations are greatly reduced and composed mainly of rice, corn or peanut, with the exception of Yaoundé where prisoners sentenced to death have a slightly larger ration than other detainees with peanuts due to their status as death-penalty prisoners. However, prisoners sentenced to death do not have any access to meat, fish, vegetables or fresh fruit, apart from holidays when donors provide food from the outside. Like the other detainees, prisoners sentenced to death must use the meal baskets provided by their families during visits to supplement their rations. The lack of visits for many prisoners sentenced to death, particularly at Maroua prison, therefore has very serious consequences for the detainees.

However, during the day, prisoners sentenced to death, like the other detainees, can choose from a range of activities: go to the courtyard, talk to other detainees, play football or pray at the church or mosque inside the prison. Some perform small jobs enabling them to earn a little money, such as weaving, bag making or shoemaking. Douala prison has a library and access is free for all detainees, including those sentenced to death. Some prisons, like Bafang and Bafoussam, also allow prisoners sentenced to death to attend workshops. Although some prisons allow detainees, including those sentenced to death, to work in the fields (something which also enables them to provide for a certain number of nutritional needs), that was not the case at the prisons visited by the data collection team.¹⁸⁷ The general opinion is

187 Several years ago, Mantoum prison, the former “centre of civil rehabilitation”, introduced a programme enabling prisoners, including those sentenced to death, to perform agricultural work. However, the team of lawyers could not visit during the data collection assignment. See Dudzele, G. 2012, “Les prisonniers de Mantoum travaillent au champ”, in Geôles d’Afrique: les droits humains en milieu carcéral au Cameroun, p. 141.

that prisoners sentenced to death are treated like other detainees overall.

Nonetheless, most people sentenced to death interviewed explained that they were generally blamed in the event of mutinies, escapes or complaints, particularly about the humanisation of conditions of detention. Prisoners sentenced to death indicated that they were frequently unfairly punished and shut in the disciplinary cells for a period of 10 to 15 days, sometimes chained and sometimes without any food. According to Grégoire, one of the detainees interviewed in Yaoundé, the time spent in the cell would depend on financial resources: *“with corruption [the time you are shut in] varies from one prisoner to another”*. This specific indexing of prisoners sentenced to death was reported at all the prisons visited by the data collection team. Some explained that they are punished because the guards fear them more than the other detainees. According to Benoît, sentenced to death and detained in Bafoussam: *“Sometimes they’re scared of us because they know that we don’t have any expectations about life anymore.”*

PRISONERS SENTENCED TO DEATH AND DETAINED FOR TERRORISM AT MAROUA PRISON

At Maroua prison, death-penalty prisoners also live mixed together with the other detainees. According to the organisations operating at Maroua, due to overcrowding 50 to 60 detainees sleep crammed into cells measuring 20 m². One of the cells, known as the great boat, which measures 50 m², holds 120 people. Overcrowding at this prison is extreme. The food provided to the detainees is mediocre but several organisations operate within the prison such as the ICRC, the Community of Sant’Egidio and Intersos, making it possible to improve the conditions of detainees thanks to medical attention and donations.¹⁸⁸

The men and women sentenced to death in Maroua explained that they were not subject to specific poor treatment by the guards. The recent arrival of a new governor has apparently improved their conditions of detention. However, the women indicated that they

188 See infra.

were subject to regular humiliating body searches due to their sentencing for terrorism. It is not their status as death penalty prisoners which is problematic but their status as terrorist prisoners. Further, although the men sentenced to death did not indicate any particular problem with the prison's other detainees, the women sentenced to death indicated that they were stigmatised by their co-detainees. They therefore had hardly any contact with the other detainees, beyond times where the ICRC brought them together or when other organisations provided donations.

Further, several women from Maroua prison are accompanied by young children. The African Charter on the Rights and Welfare of the Child, ratified by Cameroon in 1997, sets out specifically that State parties to the Charter should undertake to "*ensure that a mother shall not be imprisoned with her child*". The reality is very different.

RESTRICTED ACCESS TO TREATMENT



The access of those sentenced to death to infirmaries is identical to that of other detainees. Given the overcrowding, medicines are not always available. One of the women detained at Maroua said there was only Paracetamol and Betadine. According to one of the prison nurses interviewed, “[detainees] have access to medicines inasmuch as it is possible at the pharmacy. If it’s complicated and detainees have money, they can pay for their healthcare.” This was confirmed by one of the prison managers interviewed who explained that it is up to the families of prisoners sentenced to death to pay for medicines which are not available at the infirmary. If the families cannot pay, prisoners sentenced to death simply do not receive treatment.

At Bafoussam prison, prisoners sentenced to death can be transferred to hospital if their case is very serious. If a prisoner sentenced to death is hospitalised, they shall nonetheless be handcuffed to the bed throughout their stay in hospital in case they attempt to escape. At other prisons, and unlike other detainees, prisoners sentenced to death do not receive treatment outside the prison environment. Although prohibiting treatment outside prison was not recognised by the prison staff interviewed, it was reported by all the prisoners sentenced to death interviewed at Bafang, Douala, Yaoundé and Maroua prisons. Illness is therefore particularly feared by prisoners sentenced to death. According to Joseph, one of the prisoners sentenced to death at Bafang: “You mustn’t [get ill] because you’d certainly die”. Grégoire, a prisoner sentenced to death detained in Yaoundé, declared: “They don’t look after us much and have systematically refused to let us out to go to hospital. So we have to pray we don’t get sick.”

Several cases of prisoners sentenced to death who have died because of a lack of treatment were reported to the data collection team. Henri, a detainee at Douala, raised the case of another prisoner sentenced to death who had recently died: “Very recently, there was a prisoner sentenced to death who was sick. It was really worrying. We told the administration. But because he was a prisoner sentenced to death, he was just left there, without treatment, when

his case was urgent and required serious medical attention. Finally, when the administration accepted that he needed to be taken out of prison, it was late and it died". At Maroua, the names of four people accused of terrorism who died over the last three years because of a lack of treatment and malnutrition, were provided to the data collection teams. Although one infirmary was recently built in that prison, prison staff revealed that requirements in terms of equipment and medical supplies, particularly medicines, were still very high. However, at this prison prisoners sentenced to death, men and women, indicated that they received additional health assistance from the ICRC, something which enabled them to access treatment. Further, the ICRC provides specific treatment for young children accompanying some female detainees.

A TOTAL LACK OF MENTAL HEALTH TREATMENT



The cases of three prisoners sentenced to death suffering from mental illness were reported by guards and those detained and interviewed: Hélène Teuba, detained at Bafoussam¹⁸⁹, and Roger Ndongo Ebondje and Philippe Ayong, detained at Yaoundé. These three people have never received specific treatment and are detained in conditions identical to the other prisoners.

Over and beyond mental illness, mental health also has a much wider dimension: psychological distress. All those interviewed talked about great discouragement and suicidal thoughts. This was confirmed by one of the nursing staff interviewed: *“prisoners sentenced to death present the same illnesses as the others but the rate of neurotic patients is higher due to their great anxiety”*.

The accounts of prisoners sentenced to death are eloquent. Felix, a prisoner detained since 2000, told us: *“Most prisoners sentenced to death [...] are destroyed inside. They’re not aggressive anymore. They’ve given up their human dignity and sometimes go mad.”* Men and women sentenced to death continue to proclaim their innocence: *“We’re in prison for nothing”, “I’m innocent, please help”*. They don’t understand life anymore.

Several men and women sentenced to death are convinced that they will die in prison or even that they will be executed despite the moratorium. One of the prisoners sentenced to death, detained at Bafoussam, said that prisoners sentenced to death were like the living dead. Others said that every minute they lived with the fear of being executed. This omnipresent anxiety about execution is frequent among prisoners sentenced to death across the world and is known as “death row syndrome”. Several women detained at Maroua explained that they felt totally without hope: *“We are waiting for death. We don’t have any hope left”* or *“Here in prison I’m already dead.”* The prisoners look to God to survive in this state of immense stress. Only religion provides them with a semblance of peace: *“God will deliver Justice.”*

189 On the case of Hélène Teuba, see also supra.

LIMITED RELATIONS WITH THE OUTSIDE WORLD

AUTHORISED ACCESS TO HUMANITARIAN AND DENOMINATIONAL ORGANISATIONS

Although a few of the organisations interviewed explained that they had encountered problems obtaining the authorisation to access prisons, this situation has improved over the last few years and a growing number of humanitarian and denominational organisations can now access detainees, including those sentenced to death. However, organisations must have official authorisation to operate in prisons.

The ICRC thus operates in several establishments, including Maroua, where conditions of detention are particularly precarious and where most prisoners sentenced to death are to be found. Other organisations generally have unhindered access at the prisons and provide food, medical, legal and spiritual assistance to detainees. Some organisations also provide socio-educational activities. The CNDHL also visits places of detention but does not provide direct support to detainees.¹⁹⁰

COMMUNICATION WITH LAWYERS IS NOT ALWAYS CONFIDENTIAL

All the lawyers interviewed indicated that they had been able to access their clients without restriction, including at Maroua when visits were suspended.¹⁹¹ Meetings with lawyers generally took place in private, with the exception of Maroua prison even though international standards require that communications between lawyers

¹⁹⁰ For more information about the work of the CNDHL in prisons, see *infra*.

¹⁹¹ See *infra*.

and their clients be confidential.¹⁹² As one of the lawyers defending 30 people facing the death penalty told us: *“the meetings were public, especially for terrorist cases, and the prison guards listen to conversations.”*

HINDERED ACCESS FOR RELATIVES OF DETAINEES

At Bafang, Bafoussam, Douala and Yaoundé prisons, prisoners sentenced to death can receive visits and communicate with their relatives in the same conditions as other detainees. However, these conditions are a long way from respecting international standards: the families of prisoners sentenced to death interviewed said that they had to buy a “ticket” from the prison guards, the amount of which varies from 500 to 1,000 CFA Francs, i.e. the equivalent of 0.76 to 1.52 euros¹⁹³ to visit detainees. The right to visit is, in theory, for a maximum of 3 days a week. However, anyone wanting to come every day to see detainees can do so as long as they purchase “visit books” which cost 700 to 2,000 CFA Francs, i.e. 1.06 to 3.22 euros¹⁹⁴ depending on the prison. When visitors present these books, they are authorised to enter the prison. Marthe, the sister of a death-penalty prisoner detained at Bafoussam, explained: *“to begin with, the prison guards always had to be corrupted. Now I pay for my visit book so I can go in without a problem.”* These visits take place either in the visiting room or in the offices of the prison clerks, mostly in the presence of the prison guards. Relatives reported that they were sometimes insulted when they brought food to death-penalty prisoners.

At Maroua, payment for the right to visit operates in the same conditions: payment of a ticket or visit book. However, restrictions to the right to visit take on a very different dimension: the detainees and families interviewed said that on several occasions people who had come to visit their relatives were questioned at the prison

192 Human Rights Committee, 1984, General Comment No. 13 relating to Article 14 of the ICCPR, para. 9: paragraph b) of paragraph 3 “requires counsel to communicate with the accused in conditions giving full respect for the confidentiality of their communications.”

193 500 CFA Francs is equivalent to 0.87 US dollars; 1,000 CFA Francs is equivalent to 1.74 US dollars (on 22 November 2018).

194 700 CFA Francs is equivalent to 1.22 US dollars; 2,000 CFA Francs is equivalent to 3.48 US dollars (on 22 November 2018)

while they were waiting their turn, then judged and sentenced for terrorism. As Issa, the brother of a prisoner sentenced to death told us: *“Those who went were considered accomplices to terrorism”*. Consequently, several people interviewed said that they went less and less frequently to visit their relatives. Ali, the son of a prisoner sentenced to death, explained that he no longer went regularly to prison *“through fear of being arrested and going through the same fate as my father. I only go once a month. [...] We are treated like terrorists, enemies of the nation.”* Anna, one of the women detained, told us: *“Our parents have visited us once. When my parents learnt that other visitors had been questioned, judged and sentenced as accomplices of terrorists, they never came back again.”*

Further, even though the prison has numerous detainees from far away areas, and often other countries, the Governor of the region suspended visits to detainees for several months in 2014 for security reasons. As one of the lawyers interviewed explains: *“There was hysteria”*. This situation aggravated the position of several detainees who no longer had any possibility of obtaining food from the outside or paying the legal costs required for their appeal to be admissible. Visits have resumed but have become rare because of the threats which influence the families of prisoners. Moreover, the relatives of prisoners sentenced to death interviewed indicated that the harassment continued when they came to visit detainees. The father of a detainee reported dehumanising searches.

In the light of this situation, most prisoners sentenced to death at Maroua revealed that they no longer had any ties with their families. Adjia, one of the women interviewed, explained: *“I don’t receive any visits. We are quite a long way from our village. [...] My children, I don’t know what their future is, what’s becoming of them.”* These prisoners sentenced to death have no means of contacting their families to inform them of their state of health, the state of their legal case or to have news about their relatives. This situation also affects the very many foreign prisoners sentenced to death who are left entirely to their own fate: according to some organisations operating at Maroua, foreign nationals, including many Nigerians, could represent 40% of people sentenced to death detained at that

prison.¹⁹⁵ According to those interviewed, foreign nationals do not have access to any facilities enabling them to receive communication from their diplomatic or consular representatives, something which is contrary to international standards in this matter.¹⁹⁶ Only Yaoundé prison contains a unit responsible for keeping in touch with embassies but this prison does not have any foreign prisoners sentenced to death.

195 Nationally, foreign nationals represent 4.7% of overall prison numbers. Appendix 12 of the national report on Cameroon for the 3rd cycle of the Universal Periodic Review.

196 Particularly Nelson Mandela Rule No. 62: "Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong."

CONCLUSIONS ON THE CONDITIONS OF DETENTION OF PRISONERS SENTENCED TO DEATH



Conditions of detention are extremely precarious in Cameroon and largely operate on a market basis. At most prisons, prisoners sentenced to death are mixed together with other detainees due to endemic overcrowding and the absence of financial resources. Prisoners sentenced to death, like other detainees, do not have access to sufficient food, in terms of both quantity and quality. Even though the infirmaries do not have the medicines required to treat the most common illnesses, most prisoners sentenced to death are not authorised to access medical treatment outside the prison. Due to a lack of treatment, despite the presence of several organisations aiming to support the state of health of detainees, several prisoners sentenced to death have recently died and the mental state of some detainees has declined very significantly.

Most prisoners sentenced to death are without hope. Prisoners sentenced to death at Maroua prison are in a particularly worrying situation because they only have very restricted contact with the outside world and therefore cannot obtain any psychological or financial support to survive in prison or advance their legal case. In parallel, death sentences have very serious negative impacts on the families of prisoners, something which contributes to reinforcing their precarious situation even further.

THE IMPACT OF DEATH SENTENCES ON RELATIVES



Death sentences have very serious consequences for the families of those convicted. Imprisonment is a difficult time for all families of detainees. Financially, some detainees who were responsible for their families before being imprisoned find themselves being the ones who are looked after. Detention can lead to a significant loss of income for the family as a whole. Sylvie, the wife of a prisoner sentenced to death at Douala prison, thus explained: *“My husband’s business activities have collapsed, everything has nosedived. It’s very hard for the family.”* Marthe, the sister of a prisoner detained at Bafoussam, confirmed this: *“My brother is a dependent who doesn’t produce anything anymore.”* For Aminou, the father of a death-penalty prisoner detained in Maroua, *“this death sentence has led to [...] extreme poverty in the family because the prisoner was the one whose work provided for the family’s food and needs.”*

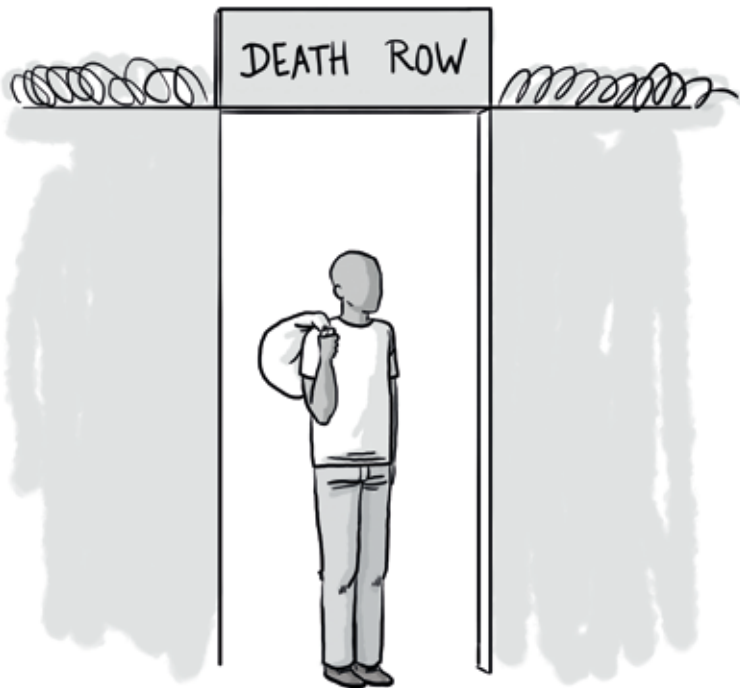
On top of this there are, amongst other things, travels costs for going to prison, the costs for visiting detainees (tickets and visit books), purchasing food, toothbrushes or soap for the detainees, or paying their medical costs, something which increases the financial burden on the family. In many cases, this has led to separation from the family: unable to manage the costs alone, a number of wives of prisoners sentenced to death have gone back to their own families, sometimes abandoning their children. There are many children who have to stop going to school. Several cases of children living in the street were reported. Laurent, the uncle of a prisoner sentenced to death detained at Maroua, revealed: *“His wife divorced him and left, leaving the children running wild. They’re not going to school anymore.”* Carine, the daughter of a prisoner at Bafoussam, said: *“We left school very early and had to get married early.”*

Moreover, beyond detention, the families interviewed all indicated that they were ostracised because of the death sentence. The families are “contaminated” by the sentencing of their relatives; they are rejected by their own communities. Carine revealed: *“We’ve been labelled, stigmatised, insulted throughout our lives.”* The families of prisoners sentenced to death reported several occasions where an engagement had been broken off, cases such as Marthe, the sister of one of the death-penalty prisoners at Bafoussam: *“The first offer of marriage I received was broken off because of this assassination case. I’m still not married.”* Aminou, the father of a prisoner detained at Maroua, explained: *“I had to give up my responsibilities within our*

village association to avoid all the jeering.” To avoid insults, Sylvie, the wife of a prisoner detained in Douala, explained that she had had to separate herself from her children: “I was forced to send the children to my in-laws. The neighbour said that we’re criminals. I myself am seen as an accomplice.” These accusations of complicity are very frequent, including when families visit the detainees: in some cases, as has been seen above, visitors have been accused of terrorism, judged and then sentenced following their visit to prison.

This stigmatisation becomes extreme for the families of those sentenced to death detained at Maroua. Some have been forced to leave their villages following a sentence for terrorism. Issa, the brother of a prisoner at Maroua, explained that their hut had been burnt down by the villagers: *“We have to start a new life.”*

WHAT IS THE OUTLOOK FOR ABOLISHING THE DEATH PENALTY AND HUMANISING CONDITIONS OF DETENTION FOR PRISONERS SENTENCED TO DEATH?



GREATER MOBILISATION BY CAMEROON'S ABOLITIONIST MOVEMENT



The abolitionist movement has gradually become structured in Cameroon. Historically, the first civil society organisations to be included in the abolitionist movement in Cameroon were *Droits et Paix* and ACAT-Cameroon. *Droits et Paix* aims to protect and promote human rights, act in support of peace and non-violence, and improve prison conditions. Today, it is the only organisation in Cameroon which is a member of the World Coalition Against the Death Penalty. ACAT-Cameroon is a Christian organisation seeking to combat torture and the death penalty; it works via its ACAT-Littoral branch in particular. *Droits et Paix* and ACAT-Cameroon have been represented at the World Congresses Against the Death Penalty, organised every three years by *Ensemble contre la peine de mort* (ECPM), for a number of years. Other international actors based in Cameroon carry out activities to raise awareness about the death penalty, such as the Community of Sant'Egidio, an international Christian organisation which is very active on this subject in Cameroon.

Before 2014, a number of events to encourage advocacy, training, and awareness about abolition of the death penalty were held in the country, particularly to mark the World Day Against the Death Penalty on 10 October and the International Day of Cities for Life – Cities Against the Death Penalty on 30 November. In 2014 new actors emerged. *Justice Impartiale*, created in 2014, implements educational work for young people on the theme of abolition of the death penalty. In 2015, *Droits et Paix* facilitated the creation of RACOPEM which held its first General Assembly in August 2016. It aims to synergise national and international efforts for universal abolition of the death penalty or at the very least the establishment of a legal moratorium on executions in Cameroon, promote respect for human rights in the administration of justice, provide legal assistance for vulnerable people, mobilise legal professionals committed to abolition of the death penalty, and create a network of international solidarity among lawyers defending people facing the death penalty. From seven lawyers in 2015, RACOPEM had 32 in November 2018 located in 10 regions across the country, including some former presidents of bar associations.

From this period, discussions between abolitionist actors have been reinforced. Numerous activities were carried out to raise the awareness of decision-makers and the public such as filing proposed laws within the framework of discussion about the new Criminal Code, joint statements, the organisation of seminars on the death penalty, discussions with political decision-makers and opinion leaders, and announcements in the media (newspapers, radio, television and internet) to raise awareness about abolition of the death penalty and the conditions of detention of prisoners sentenced to death.¹⁹⁷

Following the activities carried out by abolitionist actors, for the first time Cameroon Bar Association, via its Human Rights Committee, recommended abolition of the death penalty and the automatic release of prisoners sentenced to death for at least 20 years in its 2015 annual report.¹⁹⁸

Despite all this work in support of abolition, the authorities restated their desire to retain the death penalty in legislation in 2018.

197 Kouokam, H. E. 2018, Mémoire sur l'abolition de la peine de mort au Cameroun, pp. 34-35. Droit et Paix, 2016, Rapport annuel 2015.

198 Human Rights Committee of the Cameroon Bar Association, 2015, Rapport sur l'état des droits de l'Homme au Cameroun, p. 11, in Kouokam, H. E. 2018, Mémoire sur l'abolition de la peine de mort au Cameroun. See too the Human Rights Commission of the Cameroon Bar Association, 2018, Rapport sur l'état des droits de l'Homme au Cameroun, 2017, p. 19.

FURTHER ATTEMPTS TO PREVENT TORTURE AND ILL TREATMENT IN PLACES WHERE PEOPLE ARE DEPRIVED OF THEIR LIBERTY



Italy, Uruguay, Rwanda, Brazil, Togo, Chile, France, Spain, the Czech Republic, Australia, Canada, Namibia and Ukraine recommended that Cameroon officially abolish the death penalty at Cameroon's UPR in 2018. Cameroon rejected all these recommendations and restated that it refused to abolish the death penalty in its legislation because the country was a *de facto* abolitionist country and the death penalty had dissuasive properties.¹⁹⁹ This attitude has been demonstrated by the authorities for several years, even though the dissuasive nature of this punishment is a myth which has never been proven.²⁰⁰ Nevertheless, the UPR gave Cameroonian authorities the opportunity to restate their desire to combat torture in places where people are deprived of their liberty and to improve conditions of detention.

PREVENTION OF TORTURE IN PLACES WHERE PEOPLE ARE DEPRIVED OF THEIR LIBERTY-



At the UPR, Cameroon indicated that a national mechanism for the prevention of torture in places where people are deprived of their liberty was in the process of being established in the country and this mandate had been entrusted to the CNDHL. Cameroon signed the OPCAT in December 2009. This Protocol obliges States to set up an independent national prevention mechanism to make regular visits to places where people are deprived of their liberty, whatever they may be, and to make recommendations. Although the country

199 Human Rights Council, 2018, Report of the Working Group on the Universal Periodic Review, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/39/15/Add.1, Recommendations 121.1-121.9, 121.92 and 121.96-121.98.

200 See in particular the two articles dealing with this issue specifically, analysing research carried out in several countries over the last 50 years, produced by the UN High Commissioner for Human Rights, 2015, Moving Away from the Death Penalty, <https://www.ohchr.org/EN/newyork/Documents/FR-MovingAway-WEB.pdf> (accessed on 22 November 2018).

has not yet filed the Protocol ratification instruments with the UN, it is encouraging for the prevention of torture that it has restated that this mechanism is being established. Effective implementation of this mechanism in all places where people are deprived of their liberty, including places where people are detained immediately after their arrest, could considerably reduce the frequency of acts of torture, and thus death sentences. In effect, as the accounts of prisoners sentenced to death have illustrated, torture is, after arrest, the main element provoking judicial errors which can lead to a death sentence.

It should be noted that the CNDHL already visits places of detention. This institution, created in 2004, was set up to promote and protect human rights and freedoms, and to that end, “*where necessary it carries out visits to prisons, police stations and gendarmerie units in the presence of the Public Prosecutor or their representative*”.²⁰¹ The CNDHL therefore visited 15 prisons in 2017²⁰² but it has revealed that it was prevented from visiting several places of detention, particularly the cells of the SED.²⁰³ Special attention must therefore be paid to the conditions for implementing the future mechanism to guarantee its efficiency.

HUMANISING CONDITIONS OF DETENTION

At the UPR, Cameroon restated its commitment to improving the conditions of detainees. It accepted the recommendations of Italy and Morocco which invited it to improve conditions of detention and observed moreover that: “*The improvement of detention conditions is a continuous endeavour. With the increased available means, infrastructure is constantly improved, human capacity strengthened, in order to humanize the condition of detainees*”.²⁰⁴ Restating its political will to improve conditions of detention is also part of the 2015-2019 National Action Plan to Promote and Protect Human

201 Article 2, Law No. 2004/016 of 22 July 2004 on the creation, structure and functioning of the CNDHL.

202 CNDHL, 2018, Rapport sur l'état des droits de l'Homme au Cameroun en 2017, p. 92.

203 CNDHL, 2018, Ibid., pp. 31-32.

204 Human Rights Council, 2018, Report of the Working group on the Universal Periodic Review, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/39/15/Add.1, Recommendations 105 and 106.

Rights which seeks to improve conditions of detention, particularly by strengthening the capacities of staff, increasing the financial resources allocated to prisons, building or renovating new prisons, improving access to hygiene and water, and improving detainees' food, health and communication.²⁰⁵ The Action Plan does not specify the resources which must be allocated for this work but implementing it requires a considerable increase in the budgets allocated to prisons, taking into account the increase in prisoner numbers.

As we have seen in earlier sections, the conditions of detention of the prisoners sentenced to death interviewed by the data collection team are even worse than those of other detainees: depending on the prison, excessive overcrowding and insufficient food and medication are added to unjustified disciplinary sanctions, a refusal to provide medical treatment outside the prison, hindrances to family visits and extreme psychological distress. Specific attention must therefore be paid to these particularly vulnerable detainees.

205 Ministry of Justice, 2015, Plan d'action national de promotion et de protection des droits de l'homme au Cameroun 2015-2019, pp. 128-129.

CONCLUSION



This study aimed to establish a picture of the conditions of detention of people sentenced to death in Cameroon. Analysis of the historic evolution of the death penalty demonstrated that death sentences were frequently handed down by Cameroon courts, although the last execution dates back to 1997. Since 2014, the year the Anti-Terrorism Law was enacted, the scope of capital punishment has been considerably extended, as well as that of the military courts. More than 300 people have been sentenced to death since 2015. Due to a lack of clarity in the legislation, the death penalty currently hangs over the heads of a growing number of people, including within the framework of the Anglophone conflict. This data is even more concerning as a resumption of executions remains a possibility as long as the country has not officially committed to abolition. The example of Gambia, which resumed executions in 2012 after 27 years of a moratorium, is a worrying precedent.

The accounts of the detainees interviewed revealed that most of them had been sentenced to death within the framework of trials presenting very serious violations of the right to a fair trial. Prisoners sentenced to death confided that their confessions had been obtained under torture or duress and that they had not had any access to a legal adviser until the court hearings. In all cases, magistrates refused challenges to such confessions in the absence of evidence. Conditions for the provision of State-appointed lawyers have meant that it is impossible for legal advisers to provide their clients with an effective defence. Access to avenues of appeal is limited, particularly because of the meagre financial resources of prisoners as a significant amount of money is required for their appeals to be admissible. In these conditions, the risk of judicial error is particularly high.

According to Cameroonian NGOs, more than 330 people sentenced to death are currently detained in the country's prisons in conditions resembling inhuman and degrading treatment. As overcrowding is extreme in certain prisons, most prisoners sentenced to death are mixed in with the rest of the prison population. Although the

exact number of prisoners sentenced to death who have died is not documented, the total number of deaths in prisons tripled between 2014 and 2016, despite the support of humanitarian organisations, and several cases of prisoners sentenced to death who have died have been reported over the last few years. Although prisoners sentenced to death encounter the same problems as other detainees (insufficient food, insufficient medication, absence of psychiatric treatment), they face certain specific restrictions which make their conditions even more precarious. In most places of detention, they are prohibited from receiving medical treatment outside the prison. They are sometimes subjected to abusive disciplinary sanctions. At Maroua prison, families only rarely come to visit their relatives, having received threats when they came to visit detainees.

Further, death sentences have serious consequences for the families of detainees. As well as the loss of income provided by those convicted, who were often responsible for their families, there are financial costs caused by detention such as travel costs and paying guards to visit detainees, and payment for food and hygiene products or medicines for detainees. Moreover, a death sentence affects the entire family which is rejected by the community, stigmatised and threatened. In some cases, families are forced to leave their community to begin a new life.

In the light of this situation, the abolitionist movement in Cameroon has mobilised, particularly since application of the Anti-Terrorism Law. Activities to raise public awareness and advocate with decision-makers are increasingly frequent and involve more actors. Although for now Cameroon retains its position of rejecting abolition of the death penalty officially, in 2018 it reaffirmed its commitment to combating torture and improving conditions of detention, particularly with the creation of an independent mechanism aiming to prevent torture in places where people are deprived of their liberty. In view of the number of people sentenced to death in questionable conditions and the conditions of detention of those detainees, today the State must comply with its commitments by allocating the resources required to implement them.

RECOMMENDATIONS

The recommendations of this study are based on the interviews and research carried out.

RECOMMENDATIONS TO THE STATE OF CAMEROON

Commit to abolition of the death penalty

- Officially commit to abolition of the death penalty in law by ratifying the Second Optional Protocol to the ICCPR aiming to abolish the death penalty, and by supporting the UN Resolution on establishing a universal moratorium on application of the death penalty;
- Ask magistrates to set up a moratorium on issuing the death penalty;
- Commute the sentences of all prisoners sentenced to death to life imprisonment.

Redefine the regulatory content of anti-terrorism legislation

- Amend the provisions of the 2014 Anti-Terrorism Law so that they comply with international law.

Limit the jurisdiction of military courts

- Amend legislation so that military courts do not judge civilians;
- Amend the Code of Military Justice to remove the interference of the Executive in the Judiciary.

Prevent torture and ill treatment as from the preliminary investigation phase

- Publicly condemn torture and ill treatment committed by the security forces at the highest level, and investigate and pursue any individual suspected of torture and ill treatment;
- Guarantee the representation of people facing the death penalty by a lawyer of their choice as soon as deprivation of liberty begins and throughout the process;
- Ensure that a presumed victim of torture or ill treatment receives a forensic examination as soon as possible;

- Ensure that detainees can quickly inform their relatives of the grounds for their arrest.

Improve the initial and continuous training of civilian and military magistrates

- Guarantee that all allegations of torture, ill treatment and procedural irregularities are subject to detailed investigations by magistrates;
- Ensure that confessions obtained under torture or duress are declared inadmissible;
- Improve magistrate training on the criminal irresponsibility of those with a mental illness or who are insane;
- Train magistrates on the African Charter on the Rights and Welfare of the Child and particularly rejection of the death penalty for mothers.

Guarantee high quality legal representation for people facing the death penalty

- Take steps to ensure that all those facing the death penalty are represented by experienced and properly paid lawyers, and allocate the necessary resources;
- Amend legislation to provide for compulsory free legal assistance for people sentenced to death appealing a verdict issued by a court of first instance.

Improve the accessibility and effectiveness of avenues of appeal

- Take steps to ensure that destitute individuals sentenced to death are exempt from the obligation to pay legal costs to exercise avenues of judicial appeal;
- Ensure that all those sentenced to death receive the pardons decreed by the President of the Republic.

Grant special attention to certain particular cases:

- Ensure that H el ene Teuba receives a pardon so that she can receive medical treatment appropriate for her state of health;
- Ensure that the appeal of Pierre Saah, imprisoned since 1982, is examined as soon as possible. If the file cannot be found, grant him a pardon.

Strengthen the rights of foreign nationals

- Guarantee the presence of an interpreter for foreign nationals where necessary, beginning at the investigation phase and throughout the process, including the translation of reports;
- As from the preliminary investigation phase, inform foreign nationals of their right to receive consular assistance.

Improve the conditions of detention of prisoners sentenced to death

- Significantly increase the budgets allocated for the food and healthcare of detainees, taking into account the increase in prisoner numbers, and take steps to combat prison overcrowding;
- Continue to renovate Cameroonian prisons, close insalubrious prisons and build new prisons which comply with international standards;
- Separate those on remand from convicted prisoners in practice;
- At all prisons housing prisoners sentenced to death, develop programmes where prisoners can work outside, particularly in fields, something which would also improve the quality and quantity of food rations. Supervise the right to work of detainees in such a way as to strictly comply with the Nelson Mandela Rules, particularly with regard to the health of detainees, the absence of a punitive nature to the work, remuneration, non-discrimination, etc.;
- Develop social, cultural and sporting activities for prisoners sentenced to death, both men and women;
- Enable those sentenced to death to access free medical treatment outside prison if their state of health requires it;
- Carry out a psychiatric examination of people sentenced to death who demonstrate mental illnesses and, if necessary, place them in an establishment which is appropriate for their state of health;
- Ensure that prisoners sentenced to death can receive visits from their families and their legal advisers without hindrance or threat;
- Amend the Decree of 1992 on the prison system and limit disciplinary sanctions to sanctions which comply with international and regional standards on the treatment of detainees.

Establish an independent mechanism to prevent torture

- Deposit the instruments of ratification of the OPCAT with the United Nations;
- Guarantee that the mechanism to prevent torture is under the responsibility of an independent institution and involve civil society in that mechanism;

- Ensure that the mechanism to prevent torture is authorised to visit any place where people are deprived of their liberty, including all premises where preliminary investigations take place, at any time and without hindrance.

Publish data on the death penalty

- Every year, publish data on the number of people sentenced to death, the nature of the offences for which they have been sentenced, the number of people sentenced to death being detained, their nationality, the place where they are being detained, the number of people sentenced to death who have died in prison, the reason for the death, the number of death sentences commuted or confirmed at appeal and before the Supreme Court, and the number of people sentenced to death who have received a presidential pardon.

RECOMMENDATIONS TO LAWYERS AT CAMEROON BAR ASSOCIATION:

- Define a national strategy for abolishing the death penalty in Cameroon;
- Strengthen the capacities of lawyers to ensure effective, full and entire representation of their clients by proposing the necessary specialised training in terms of the right to a defence, standards relating to people facing the death penalty, the jurisprudence of international courts, procedural elements and defence techniques;
- Ensure that those facing the death penalty are represented by experienced lawyers at all stages of the criminal process; ensure, as a minimum, that trainee lawyers who represent people facing the death penalty before the courts receive the assistance, supervision or permanent support of experienced lawyers;
- Ensure that, in all cases where a death sentence has been issued, the avenues of appeal are used against that verdict;
- Encourage lawyers to join RACPOEM to lead the abolitionist struggle.

RECOMMENDATIONS TO HUMANITARIAN AND CIVIL SOCIETY ORGANISATIONS

Support people sentenced to death

- Develop legal support activities for people sentenced to death, particularly to help them write their appeal statements;
- Financially assist those sentenced to death with payment of legal costs in the event of an appeal;
- Ensure that the families ties of the most isolated individuals sentenced to death are maintained by contacting the families;
- Continue regular visits to detainees, particularly those sentenced to death.

Continue to mobilise actors

- Strengthen the network and discussions between legal and judicial actors on the issue of the death penalty;
- Continue activities to advocate with and raise the awareness of decision-makers and public opinion on abolition of the death penalty;
- Develop specific advocacy activities with the authorities to improve prison conditions.

RECOMMENDATIONS TO ACTORS WORKING IN REGIONAL AND INTERNATIONAL DEVELOPMENT

Ensure high-level advocacy

- Advocate for abolition of the death penalty and the prevention of torture and ill treatment, in fact and in law.

Finance more operations within the prison environment

- Finance more projects to improve prison conditions, particularly legal assistance, access to medical treatment, preventing malnutrition, sanitary conditions, maintaining social and family ties of detainees, etc.

APPENDIX

APPENDIX 1 STATUS OF RATIFICATION OF INTERNATIONAL AND REGIONAL INSTRUMENTS (CAMEROON)

Treaty	Date of signature	Date of ratification / accession / (a)
International instruments		
CAT – Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment		19 Dec. 1986 (a)
OPCAT – Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	15 Dec. 2009	
ICCPR-OP2 – Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty		
ICPPED – International Convention for the Protection of All Persons from Enforced Disappearance	06 Feb. 2007	
CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women	06 June 1983	23 Aug. 1994
CERD – International Convention on the Elimination of all Forms of Racial Discrimination	12 Dec. 1966	24 June 1971
CMW – International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	15 Dec. 2009	

CRC - Convention on the Rights of the Child	25 Sept. 1990	11 Jan. 1993
OPAC – Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	05 Oct. 2001	04 Feb. 2013
OPSC – Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	05 Oct. 2001	
CRPD - Convention on the Rights of Persons with Disabilities	01 Oct. 2008	
ICCPR – International Covenant on Civil and Political Rights		27 June 1984 (a)
ICESCR – International Covenant on Economic, Social and Cultural Rights		27 June 1984 (a)
Regional instruments		
African Charter on the Rights and Welfare of the Child	16 Sept. 1992	05 Sept. 1997
African Charter on Human and Peoples' Rights	23 July 1987	26 June 1989
AU Convention Governing Specific Aspects of Refugee Problems in Africa	10 Sept. 1969	07 Sept. 1985
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	25 July 2006	13 Sept. 2012

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SENTENCED TO OBLIVION

FACT-FINDING MISSION ON DEATH ROW

CAMEROON

"I didn't have the necessary time to prepare my client's defence. I was appointed by the President of the military court as a State-appointed lawyer. He made me plead the case immediately. [...] I requested an adjournment to meet my client and this was refused under the pretext that the hierarchy was demanding results and the case needed to be judged quickly. I didn't have time to examine the investigation report carefully and talk to my client." A lawyer interviewed in Maroua in the Extreme North region

"Very recently, there was a prisoner sentenced to death who was sick. It was really worrying. We told the administration. But because he was a prisoner sentenced to death, he was just left there, without treatment, when his case was urgent and required serious medical attention. Finally, when the administration accepted that he needed to be taken out of prison, it was late and he died." Henri, a prisoner in Douala

This book is derived from a fact-finding mission carried out in Cameroon from May to October 2018 by the Network of Cameroonian Lawyers Against the Death Penalty (RACOPEM) and ECPM (Together Against the Death Penalty). It was led by Mr Nestor Toko, President of RACOPEM, with a team of lawyers from the network. The team of investigators visited 5 prisons and met death row prisoners, the families of prisoners sentenced to death, prison directors and wardens, lawyers and NGOs working on death row. Carole Berrih, Director of Synergies Coopération and author of this report, accurately uses the accounts collected by the investigators and puts them into context within the country's criminal and penitentiary systems.

This report is part of the "Fact-Finding mission on death row" collection which aims to make an assessment of the living conditions on death row in various countries across the world. The goal is both to report on the reality of death row and to engage public opinion.



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