An Assessment of Cameroon's Justice System for Children: Formal and Traditional Responses to Children in Conflict with the Law and Child Victims

17 January 2011
Joshua Dankoff
**Table of Contents**

Foreword ........................................................................................................................................ 4
Acknowledgements ......................................................................................................................... 4
EXECUTIVE SUMMARY .................................................................................................................. 5
I. INTRODUCTION ........................................................................................................................... 10
   1.1 Overview of the Justice System ............................................................................................... 10
   1.2 Overview of Children in Conflict with the Law ..................................................................... 11
II. PURPOSE AND METHODOLOGY OF THE ASSESSMENT ......................................................... 14
   2.1 Purpose, Objectives ................................................................................................................ 14
   2.2 Methodology .......................................................................................................................... 14
   2.3 Constraints .............................................................................................................................. 15
III. FINDINGS – CHILDREN IN CONFLICT WITH THE LAW ......................................................... 16
   3.1 Legal and Regulatory Framework .......................................................................................... 18
       a. Children in Conflict with the Law System Map ................................................................. 18
       b. Initial Contact ...................................................................................................................... 19
       c. Diversion ............................................................................................................................ 23
       d. Adjudicatory Process .......................................................................................................... 24
       e. Dispositional Alternatives, including Restorative Justice ............................................... 30
       f. Deprivation of Liberty .......................................................................................................... 31
       g. Re-integration .................................................................................................................... 38
   3.2 Management and Coordination ............................................................................................. 39
       a. System Coordination and Management ............................................................................. 39
       b. Data Capacity ....................................................................................................................... 39
       c. Donor Coordination and Partnership .................................................................................. 40
IV. CHILD VICTIMS AND WITNESSES ......................................................................................... 41
   4.1 Statistical Overview ................................................................................................................ 41
       a. Flow Chart of How a Child Victim of Sexual Assault Experiences the Justice System .... 41
       b. Legislation ............................................................................................................................ 42
       c. Child Victims in Practice ..................................................................................................... 42
   4.3 Management and Coordination ............................................................................................. 46
       a. Research, Policy Formulation, Program Development, and Data Capacity ...................... 46
       b. Donor Coordination and Partnership .................................................................................. 47
V. INFORMAL JUSTICE SYSTEM .................................................................................................. 47
Foreword

Cameroon is an incredibly diverse country with great human capital, and strong national identity. Despite a great number of complex challenges – including lack of resources, an often oppressive neo-liberal international economic system, and low salaries – the Cameroonian interviewed for this report show both resolve and a dedication to improving the justice system. In writing this report, I have worked hard to incorporate many voices, acknowledge the strengths of the system as well as its weaknesses, and make recommendations that are both feasible and strategic. This study is the result of a collaboration among UNICEF Cameroon and her government partners at the Ministries of Justice and Social Affairs, the UNICEF West and Central Regional Office, Loyola University Chicago School of Law, and Northwestern University School of Law. It is hoped that the study will offer valuable information as it relates to future programming and policy formulation in the areas children in conflict with the law and child victims of crimes.

Acknowledgements

Thanks are due at many levels. First, UNICEF Cameroon’s partners at the Ministry of Justice (M. Zibi, M. Ngacha, and Mme Ngouabe in particular) and the Ministry of Social Affairs (Mme Moussa and M. Nleme) worked tirelessly to fill in the numerous gaps in the author’s understanding of how the justice and social systems operate. A letter of introduction from M. Zibi facilitated numerous meetings in prisons, courts, and traditional chefferies throughout the country. Next, the UNICEF-Cameroon Child Protection Team – including Jean Lieby, Antoinette Ekam-Abogo, Eric Fouapan, Camille Geniston, and Matilde Sonezan – were founts of information, and crucial for enabling this project to come to fruition. Thanks especially to Antoinette for answering innumerable questions and maintaining a steady hand throughout. Thanks to the many lawyers, magistrates, prosecutors, social workers, prison officials, and NGO leaders who took time out of their busy schedules to speak with me and engage in the difficult task of brainstorming how to ameliorate the experience of young people in conflict with the law. A special thank you to the Fo’o of Bamendjou and to both Belinga Paul Octavien and Mougbet Ousseini, Chefs de Bloc in Biquoterie Centre 2, Yaoundé – the neighborhood chiefs for their willingness to speak with me about certain traditional justice approaches to children in conflict with the law.

Thanks also to Brigette Delay at the UNICEF West and Central Africa Regional Office, who saw the utility of sending students to undertake this assessment, made it happen, and provided extremely useful feedback along the way. Next, to Professors Diane Geraghty and Bernardine Dohrn for their support, an enlightening training, and for reading a draft of the assessment. Henri A. Nzedom provided important desk research on the state of the law and practice in Cameroon. Thanks to Max Mearsheimer for assistance with graphic design.

Special thanks to Mneesha Ilanya Gellman for her patience with internet-telephony and for providing crucial emotional support.

Finally, I visited six prisons in Cameroon in five weeks, and encountered more than 290 young people in the children’s quarters. Separately, I met with three courageous young women whose experience with the justice system as victims left much to be desired. I would like to acknowledge each of these children whose strength of character in the face of adversity is astounding.
EXECUTIVE SUMMARY

Cameroon has taken important steps over the last 20 years to improve its justice sector generally, and specifically in relation to children in conflict with the law and child victims of crimes. Having ratified most of the leading international and regional legal instruments, including the Convention on the Rights of the Child, Cameroon has shown an interest in bringing its police, adjudicatory, and prison justice sectors into line with international norms and practice. Indeed, the Code of Criminal Procedure (CPC) in 2005 contains many procedural protections for all accused of crimes, as well as articles directed specifically toward children in conflict with the law. The CPC builds upon the 1967 Penal Code, which provides a diminished criminal sanction for children. The Cameroonian government has, of late, increased investment in the prison administration, and increased the pace of training new magistrates to maintain a reasonable caseload. The Ministries of Justice and Social Affairs continue to work closely with UNICEF and other international partners (including the European Union) to make improvements to the system in the interest of children in conflict with the law and facing incarceration. There has been less of a focus within the government on ensuring protections for child victims of violent crimes.

Cameroon also boasts a rich diversity of more than 200 ethnic groups, each of which has an informal (or traditional) justice mechanism in place to handle issues in the community. While the more than 200 Customary Courts recognized by the Cameroonian government do not officially have the jurisdiction to address criminal matters, there is wide recognition that many children who are accused of breaking the law are heard in the community in traditional justice settings. Some traditional courts incorporate restorative justice principles, and these mechanisms appear to keep children out of the formal, government run justice system.

Despite the various indigenous resources and continued investment by the government, Cameroon continues to have room for improvement in assuring that children accused of crimes are treated fairly and impartially by the police, by prosecutors, by judges, and if necessary, by prison officials. Court procedures can take many months, and prison conditions vary widely, though many prisons are sub-standard.

This report seeks to provide a moment in time look at how children between the age of 10 (below which they lack criminal responsibility) and 17 (at 18, they are treated as adults) in conflict with the law and child victims of crimes (children here defined as anyone under the age of 18) experience the justice system in Cameroon. In addition to describing the workings of the system including the strengths and weaknesses, an overall goal is to identify opportunities to ameliorate access to justice, provide alternatives to incarceration, and ultimately divert children from entering the formal justice system through both diversion projects and prevention. The report uses the UNODC Juvenile Justice Assessment Toolkit as its organizing framework. The Toolkit is designed to provide a standardized approach to gathering baseline information on a country’s legal and practical responses to children in conflict with the law and to child victims and witnesses, and it hopeful that the information from this report can be used to inform projects by UNICEF, its government partners, and potentially other civil society and international NGO actors. Ultimately, this report seeks to provide concrete recommendations toward bringing the workings of Cameroon’s justice system into line with the obligations undertaken as signatory to the United Nations Convention on the Rights of the Child (CRC).

With the passage of the Criminal Procedure Code in 2005, and the drafting of a proposed Code for the Protection of the Child, Cameroon is poised to become a model for the region in terms of governmental treatment of children in conflict with the law, and child victims of crime. Continued attention to the implementation of the CPC from the government, along with cooperation from UNICEF and other non-governmental actors, can help assure that Cameroon carries out its obligations under the CRC.

Summary of Findings and Select Recommendations

General Child Protection Findings and Select Recommendations
- **Finding:** There is currently no operating government institution to provide training of new social workers, nor ongoing training of existing social workers.
  - **Recommendation:** Work to make the Institut National du Travail Social (INTS) operational, to continue training social workers and MINAS employees. Conduct an assessment of the socio-economic cost of setting up an operational INTS and child protection services under MINAS. Include specific training in children in conflict with the law and the needs of child victims of crimes.
- **Finding:** The police and gendarmes are not consistently well equipped to respond to child protection cases, nor to provide adequate services to child victims of crimes.
  - **Recommendation:** Create a specialized mechanism or unit within the police force and gendarmes for child protection cases to prevent, investigation and refer cases to appropriate service providers and community structures.

### Children in Conflict with the Law Findings and Select Recommendations

<table>
<thead>
<tr>
<th>Measurement</th>
<th>Finding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of children in detention&lt;sup&gt;2&lt;/sup&gt;</td>
<td>863, as of December 2009&lt;sup&gt;4&lt;/sup&gt;</td>
</tr>
<tr>
<td>Percentage of children in detention that are being held pre-trial&lt;sup&gt;4&lt;/sup&gt;</td>
<td>84%, as of December 2009&lt;sup&gt;5&lt;/sup&gt;</td>
</tr>
<tr>
<td>Average daily cost per child detainee</td>
<td>FCFA 240, or US$0.45&lt;sup&gt;6&lt;/sup&gt;</td>
</tr>
<tr>
<td>Number of children in care and welfare facilities</td>
<td>11,077 in 64 orphanages and 13 public institutions&lt;sup&gt;7&lt;/sup&gt;</td>
</tr>
<tr>
<td>Average time in pre-trial detention</td>
<td>10 months&lt;sup&gt;8&lt;/sup&gt;</td>
</tr>
<tr>
<td>Most common offense for children in detention</td>
<td>Theft&lt;sup&gt;9&lt;/sup&gt;</td>
</tr>
<tr>
<td>Birth registration rate&lt;sup&gt;10&lt;/sup&gt;</td>
<td>70%&lt;sup&gt;11&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

---

<sup>2</sup> At penitentiaries only; not including garde à vue, children’s homes, or administrative detention.

<sup>3</sup> Ministry of Justice, Penitentiary Administration Source.

<sup>4</sup> Pre-trial detention refers to the period when children are deprived of liberty between the moment of being charged and the moment of being sentenced. This is also referred to as preventive detention, or *detention prévenu*, in French.

<sup>5</sup> Ministry of Justice, Penitentiary Administration Source.

<sup>6</sup> Government of Cameroon Written Replies to Children’s Rights Committee, at 14. One official who works to feed prisoners in one prison stated that he works with FCFA 175, or US$0.33 per detainee for food.

<sup>7</sup> Government of Cameroon Written Replies to Children’s Rights Committee, at 15.


<sup>9</sup> The majority of children incarcerated in Douala, Yaoundé, and Ngaoundéré in June 2010 were there because of a theft related charge.
Knowledge base, data collection, coordination, partnership, and law and policy development:
- **Finding**: Cameroon does not have a separate system for administering justice for children in conflict with the law.
  - **Recommendation**: Encourage passage of the Draft Code on the Protection of the Child, which includes the creation of a juvenile court structure.\(^\text{12}\)
- **Finding**: The majority of children in pre-trial detention are confined because the system is unable to locate and inform caregivers and there lacks alternative care options for out of home children in conflict with the law.
  - **Recommendation**: Provide improved funding, training, and support for Ministry of Social Affairs (MINAS) social workers to locate families of children in custody and child victims.
- **Finding**: Children with caregivers supporting them are much less likely to continue into the justice system (i.e. move from police station to pre-trial detention, and have case sent to state counsel). Families of children who are known in the community routinely offer money to victims of theft and other crimes. The police, state counsel, or investigating magistrate can release children on bail to their caregivers. Detained children without familial support also eat less in prison, and are more likely to have adverse health outcomes without family support. Children without parental support cannot generally pay the court expenses, and therefore spend longer in prison. Children living on the street or out of home do not have this family support in place, and in turn, they spend longer in detention.
  - **Recommendation**: Develop communication for development strategy for sensitization and behavior change around children in conflict with the law and child victims of violent crimes.
- **Finding**: Data collection and dissemination concerning child protection is neither consistent nor adequate, both related to children in conflict with the law and child victims of crimes. Policy decisions are therefore made without complete data.
  - **Recommendation**: Improve data collection and consider piloting a database on justice-related indicators, including children in conflict with the law and child victims.

**Police**
- **Finding**: Some children are subject to physical punishment upon arrest and in custody at the hands of the police and gendarmes.
  - **Recommendations**: Integrate training on children’s rights upon arrest into the police and gendarme’s schools. Supplement support for social workers at the police stations to monitor children’s treatment in custody.
- **Finding**: Police can and do mediate conflicts and release children to their parents or other family member without pressing charges; this police mediation occurs in cases of minor infractions such as theft, but some informants stated that police have mediated cases as serious as rape. Street children and other out of home children do not have this luxury.

---

\(^{10}\) Birth registration provides a means for acquiring citizenship benefits, including public education, and national identity cards. Further, police can detain any person who does not display their national identity card.

\(^{11}\) *Pauvreté et disparités chez les enfants du Cameroun* (2009). Id. Statistics were not available as to the level of birth registration among children in conflict with the law.

\(^{12}\) This recommendation aligns with the January 2010 Committee on the Rights of the Child recommendation to Cameroon based on the second periodic report. See United Nations, Concluding Observations: Cameroon, CRC/C/CMR/CO/2, at ¶¶10 and 80.
- **Recommendation:** Further research is necessary to determine the utility of creating a special police unit for children (addressing both child victims and children in conflict with the law).

**Diversion**
- Officially recognized diversion\(^{13}\) programs do not exist under Cameroonian law or in practice, and the concept of diversion is not widely known. That said, there is a wide recognition that Cameroon’s extensive and diverse informal / traditional justice systems handle a large number of community conflicts wherein a child may be accused of committing an offense or a crime. As in other countries in the region, some victims and caregivers generally prefer to go to the traditional leaders instead of going to the police and the justice system to solve a problem. Also, many police and states counsel reported that they unofficially mediate many conflicts involving children.
  - **Recommendations:** Provide further education and awareness raising within justice and police communities concerning the concept of diversion. Support further research into piloting a diversion program for non-violent offenses committed by children. Engage in further study on traditional mediation practices and how children experience community actions.

**Adjudicatory Process**
- **Finding:** There are long delays in trial due to a lack of prioritization of children’s cases by states counsel and investigating magistrates, and a slow process service (citation) system. The long delays in trial lead to lengthy pre-trial detention periods.
  - **Recommendation:** In the absence of a separate juvenile court system, encourage a focus by all justice actors on speeding up adjudicatory process.
- **Finding:** Children rarely have any legal representation or assistance, and almost never at the police station. However, private (often parochial) associations of paralegals and NGOs working in and around prisons have the capacity and desire – though not the resources – to provide crucial legal assistance to some children.
  - **Recommendation:** In response to the general lack of assistance counsel by incarcerated children, UNICEF and the government should consider working to implement a three-tiered response for improving legal assistance to children, including funding for lawyers, paralegals, and assistance to MINAS social workers.

**Deprivation of Liberty**
- Detention is not used only as a last resort, and prison conditions are sub-standard in most places in the country. Children complain of hunger, over-crowding, and at times a mixture of children and adult detainees.
  - **Recommendation:** Improve alimentation at prisons. Carry out the systematic prison inspections at the national, regional, and departmental levels, and internal audits of the status of legal cases for those awaiting trial.
- **Finding:** Only one prison out of more than 70 has a government-operated school inside.
  - **Recommendation:** Integrate Ministry of Education schools and teachers into all prisons.

**Restorative Justice and Reintegration**

\(^{13}\) **Diversion** means channeling children in conflict with the law away from judicial proceedings through the development and implementation of procedures or programs that enable many - possibly most - to avoid the potential negative effects of formal judicial proceedings, provided that human rights and legal safeguards are fully respected.
- **Finding:** Cameroon’s formal justice system does not incorporate substantive restorative justice principles.

**Child Victims of Crimes**

- **Finding:** The Ministry of Social Affairs (MINAS) is primarily charged with addressing the needs of child victims of crime, though MINAS does not have adequate staff or resources to provide adequate services on a national scale. The government is not currently training new social workers, as the training school has been closed for four years.
  - **Recommendation:** As mentioned above, work with the government to operationalize INTS.

- **Finding:** Children are often victims of rape. According to a recent report, the average age of rape victims is 16, while the average age of perpetrators of rape is 25.\(^{14}\) The same report found that 12% of victims of rape in Cameroon are less than 10 years old. Due to a range of barriers to seeking and obtaining justice, only 1 in 20 men who have raped are found guilty by the courts.\(^{15}\) Therefore, the justice system is not consistently welcoming to child victims of crimes, especially rape. The justice system is not consistently welcoming to child victims of crimes, especially rape, and there are not child-friendly investigation processes in place.
  - **Recommendation:** Work with MINAS to help provide child victims with assistance of counsel, perhaps using “pupil advocates” (recent law school graduates). Work to improve MINAS capacity to provide adequate psychosocial support and when required, culturally appropriate mental health services for child victims of crimes. Implement child-friendly investigation and court proceedings that only ask the child victim of crime to retell her story once.
  - **Recommendation:** Initiate communication for development programs to increase public awareness of the seriousness of the sexual violence problem.
  - **Recommendation:** Identify and pilot a decentralized mechanism for improving coordination between justice and other service providers working with child victims of crimes.

---


\(^{15}\) Id.
I. INTRODUCTION

In addition to describing the workings of the justice system as it affects children in Cameroon, this report identifies opportunities to ameliorate access to justice, provide alternatives to incarceration, and divert children from entering the formal justice system. Section 1 of this report introduces the assessment, and provides an overview of the justice system as it relates to children in conflict with the law and child victims of crimes. Section 2 discusses the purpose and methodology of the report, and includes a brief note on the constraints. Section 3 provides an in depth account of how children in conflict with the law experience the justice system in Cameroon. This section first covers what the law says, identifies what gaps exist in implementation of the law, and provides opportunities or recommendations for future policy development concerning the justice system. Section 4 looks in depth at how child victims and witnesses experience the justice system, and considers whether child victims’ needs are met, and if not, provides recommendations. Section 5 provides a case study of two traditional justice approaches to children in conflict with the law: one from a neighborhood chief in Yaoundé, and one from the town of Bamendjou, in the West Region.

1.1 Overview of the Justice System

The Republic of Cameroon (French: République du Cameroun) is a unitary republic in central Africa. The former French Cameroon and part of British Cameroons merged in 1961 to form the present country. Cameroon is home to over 200 different ethnic and linguistic groups. Cameroon’s population on 1 January 2010 was 19,406,100. The population is young and growing: an estimated 43.6% are under 15, and 64.2% are under 25; the birth rate is estimated at 34.1 births per 1,000 people, while the death rate is 12.2. Seventy percent of Cameroon’s population works in agriculture (many at a subsistence level), and the country’s GDP per capita (keeping in mind purchasing power parity) is US $2,300.

Approved by referendum 20 May 1972, Cameroon’s Constitution has been revised several times, most recently in 2008. The constitution divides Cameroon into 10 regions, each headed by a presidentially appointed governor. The 10 regions are: Far North (Extrême Nord), North (Nord), Adamawa (Adamaoua), Centre (Centre), East (Est), South (Sud), Littoral (Littoral), Southwest (Sud‐Ouest), Northwest (Nord-Ouest) and West (Ouest). The Northwest and Southwest were once part of British Cameroon and thus they are English speaking; the other regions were in French Cameroun. English and French are the official languages.

Reflecting this unique bifurcated colonial history, Cameroon’s legal system is based primarily on the French civil law system with British common law influences. In addition, customary law continues to play an important role in Cameroonian society, and traditional chiefs exercise a considerable amount of power over their local population, though this power varies by region. The Cameroonian state recognizes some traditional power holders, and this relationship is managed by the Ministry of Territorial Affairs (MINAT).

---

16 General Census of the Population and Habitat, 2010.
17 Id.
18 Id.
19 The relationship between the state and traditional power structures is discussed in more detail supra section 5.1.
Cameroon’s executive branch comprises a chief of state (president, a prime minister head of government appointed by the president, and the cabinet appointed by the president from proposals submitted by the prime minister. The legislative branch is a unicameral national assembly of 180 members elected by direct popular vote to serve five-year terms; the president can either lengthen or shorten the term of the legislature. The Constitution calls for an upper chamber for the legislature, to be called a Senate, but this body has yet to be established.

The judiciary is a three-tier system. The first level comprises courts of first instance and high courts whose jurisdiction depends on the gravity or nature of the matter, and first degree tribunals which apply customary law. Further, the government recognizes 227 Customary Courts (Tribunaux Coutumiers) that have the same force of law as the First Instance Courts. The second level is made of appeal courts with one in each province. At the top there is a Supreme Court (judges are appointed by the president) and a High Court of Justice (consisting of nine judges and six substitute judges; elected by the National Assembly). Cameroon accepts compulsory ICJ jurisdiction.

Cameroon’s criminal justice system favors punishment in the form of deprivation of liberty and fines, and is best characterized as retributive in nature. Restorative justice principles do not play a role in the administration of the formal justice system. By contrast, traditional leaders routinely involve both parties in informal reconciliation and mediation efforts.

Cameroon has ratified a range of international and regional legal instruments including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the African Charter on Human and Peoples’ Rights, and the African Charter on the Rights and Welfare of the Child. Most recently, Cameroon signed, but has not yet ratified the African Youth Charter. As such, Cameroon’s challenge lies not with the ratification of international conventions, but in the putting in place and carrying out laws, structures, and policies that will bring the system in line with international obligations.

### 1.2 Overview of Children in Conflict with the Law

<table>
<thead>
<tr>
<th>Measurement</th>
<th>Finding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of children in detention</td>
<td>863, as of December 2009</td>
</tr>
<tr>
<td>Percentage of those children in pre-trial detention</td>
<td>84%, as of December 2009</td>
</tr>
<tr>
<td>Average daily cost per child detainee</td>
<td>FCFA 240, or US$0.45</td>
</tr>
<tr>
<td>Number of children in police custody</td>
<td>Not available</td>
</tr>
</tbody>
</table>

21 Restorative Justice is defined by the UN Basic Principles as an approach in which the victim/survivor and offender, and in some cases other persons affected by a crime, “participate actively together in the resolution of matters arising from the crime, generally with the help of a facilitator.”
27 At penitentiaries only; not including garde à vue, children’s homes, or administrative detention.
28 Ministry of Justice, Penitentiary Administration Source.
29 Pre-trial detention refers to the period when children are deprived of liberty between the moment of being charged and the moment of being sentenced. This is also referred to as preventive detention, or détention prévenu, in French.
30 *Government of Cameroon Written Replies to Children’s Rights Committee*, at 14. One official who works to feed prisoners in one prison stated that he works with FCFA 175, or US$0.33 per detainee for food.
| Number of children in care and welfare facilities | 11,077 in 64 orphanages and 13 public institutions 31 |
| Average age of children in detention | Not Available |
| Average time in pre-trial detention | 10 months 32 |
| Most common offense for children in detention | Theft 33 |
| Number of prosecutions of children in 2009 | Not available |
| Number of convictions of children in 2009 | Not available |
| Number of sentences involving deprivation of liberty | Not available |
| Percentage of children with legal counsel 34 | Not available 35 |
| Percentage of children with legal assistance 36 | Not available. |
| Birth registration rate 37 | 70% 38 |

The 1967 Penal Code (Code Pénal) and the 2005 Code of Criminal Procedure (Code de Procédure Pénale) (CPC) (which came into effect in January 2007) spell out the crimes and criminal justice procedure for both children and adults for the entire country. The Penal Code treats children differently depending on their age. Children below 10 years of age totally lack criminal responsibility, 39 and cannot be brought before a judge for sentencing. 40 Children between 10-14 can be considered criminally responsible, but a court may not give a prison sentence, and may only provide “special measures,” such as returning the child to her family, putting the child on probation, or placing the child in the home of a trustworthy person or a boarding school/charitable institution. Children between 14-17 are subject to the “special measures” described above, and children aged 15-17 are subject to prison terms. All children receive mitigated sentences and fines. 41

The CPC has been called a revolutionary document 42 as it brings together formerly disparate Anglophone and Francophone systems. The law as written does respect central rights of children,

---

31 Government of Cameroon Written Replies to Children’s Rights Committee, at 15.
33 15 out of 20 children incarcerated in Douala, and a majority of those in Ngaoundéré in June 2010 were there because of a theft related charge. The author also heard numerous informants refer to theft as the most common crime for which children are implicated.
34 Legal representation refers to representation in court by a qualified lawyer (or a legally trained person who is authorized to appear in court).
35 Legal representation remains low, though it varies widely by region, as many smaller cities and towns with prisons do not have any lawyers. In Bafoussam prison, only 7 out of 62 children stated that they had a lawyer.
36 Legal assistance means advice which can be provided by NGOs, paralegals, or even offered through rights-based training to children in conflict with the law at any stage of the criminal justice process.
37 Birth registration provides a means for acquiring citizenship benefits, including public education, and national identity cards. Further, police can detain any person who does not display their national identity card. The Committee on the Rights of the Child has recommended strengthening institutional structures to implement a national system of registration. United Nations, supra note Error! Bookmark not defined., at ¶ 34.
38 Pauvreté et disparités chez les enfants du Cameroun (2009). The rate of birth registration is higher in urban areas (86%) versus rural areas (56%), and higher in richer households (91%) versus poorer households (51%). Id.
39 The UN Committee on the Rights of the Child has expressed concern at this age, and recommends raising the minimum age to 12 years, at least. United Nations, supra note Error! Bookmark not defined., at ¶¶ 79(a) and 80(a).
40 Though their parents can be forced to provide compensation to a victim of the child’s crime.
41 As per Penal Code Art. 80.
AN INCREASING POSSIBILITY OF INCARCERATION AND INCREASING LEVEL OF CRIMINAL RESPONSIBILITY AS AGE INCREASES (Penal Code 80; CPC 705, 706, 724, 725)

- Under 10 → No judgment. Only civil responsibility of parents.
- 10-11 → Child cannot be put into pre-trial detention nor condemned to detention.
- 12-13 → Child can be put into temporary detention in cases of capital murder, murder, or assault resulting in death, but upon judgment only subject to “special measures.”
- 14-17 → Temporary detention only when “indispensable.”
- 15-17 → Judgment may include incarceration, but subject to diminished responsibility.

though the real challenge in Cameroon concerns the implementation of the written law. This section will briefly introduce some key sections of the CPC, and the implementation challenges and actual practice will be discussed in more detail below in Section 3.1.

The CPC recognizes any person less than 18 years old as a minor. The Court of First Instance has jurisdiction to try all felonies, misdemeanors, and simple offences committed by children aged at least 10 years old and under 18 years old. However, if a child is accused of a crime with an adult accomplice or co-offender, the ordinary law courts take jurisdiction. The CPC states that pre-trial detention of children 14-17 can only take place when “indispensable,” and detention of children 12-14 shall not be remanded in custody, except when he is accused of capital murder, murder or of assault occasioning death. In practice, children aged above 14 are regularly imprisoned, while only a small number of children aged 12 and 13 are incarcerated. When detention of a child is necessary, the law provides that it should be in a Borstal institution, a children’s prison, or in a separate area of the adult prison. The CPC provides that any child charged with an offense has the right to assistance by counsel or by “any other person who is a specialist in the protection of children’s rights, and that the court shall assign a counsel to any child who cannot afford it.” For those children lacking a birth certificate proving their age, the judge can order a medical examination, though the one court proceeding observed by the author believed a child’s stated age based on his visible appearance. Finally, Cameroonian law provides for in camera (huis clos) court proceedings.

The CPC provides that a three-person panel – one judge of the First Instance and two assessors (assesseurs) – must sit to adjudicate children’s cases, though a judge alone adjudicates cases of children accused of committing misdemeanors or felonies with an adult. The CPC also creates probation officers (délégués de liberté surveillé) to monitor non-detained children.

---

43 Criminal Procedure Code of the Republic of Cameroon (hereinafter CPC) (2005), Section 700(1). This report primarily uses the term “child” instead of “minor.”
44 CPC Section 713.
45 CPC Sections 704-05.
46 CPC Section 706.
47 CPC Section 719(2) and (3).
48 CPC Section 720(1).
49 CPC Sections 709 and 713.
50 CPC Sections 730-37.
II. PURPOSE AND METHODOLOGY OF THE ASSESSMENT

2.1 Purpose, Objectives
This assessment provides a description of the Cameroonian justice system as it affects children, with an emphasis on documenting detention practices, diversion possibilities, alternative measures and access to justice for child victims of serious crime. The report seeks to provide a moment in time look at how children in conflict with the law and child victims of crimes experience the justice system. An overall goal is to identify both strengths of Cameroon’s justice system as it pertains to children, and opportunities where the system can be brought closer into line with international conventions. To that end, the report makes recommendations for future diversion and access to justice programs.

2.2 Methodology
This assessment is grounded in the UN Approach to Justice for Children. This approach integrates children’s issues into an overall framework for strengthening the rule of law rather than viewing child justice as separate from a nation’s broader justice, security, governance and social welfare policies and practices. The goals of the UN Approach are to promote greater understanding and support for the child justice provisions of the Convention on the Rights of the Child (CRC) and other international instruments, and to position children’s issues as central in a nation’s efforts to achieve its role of law objectives. To accomplish these goals, the UN Approach envisions a two-tracked approach: the first aimed at integrating children’s issues into broader rule of law efforts (e.g. institutional reforms, programming, traditional justice processes, and monitoring efforts) and the second focused on improving child-focused rule of law initiatives such as promoting developmentally-appropriate access to justice for children, strengthening community and civil society capacity to respond to children’s needs, and raising awareness of children’s rights in the justice system, including victims, witnesses, and child offenders.

This assessment uses the recently-developed UNODC Juvenile Justice Assessment Toolkit as its organizing framework. The Toolkit is designed to provide a standardized approach to gathering baseline information on a country’s legal and practical responses to children in conflict with the law and to child victims and witnesses. This information, in turn, can be used as a planning document by governments, civil societies, and international NGOs to set priorities and develop sustainable strategies for meeting a country’s child justice and rule of law objectives. The Toolkit draws on various child rights instruments as the basis for its organizational and content recommendations. It focuses in particular on three issues of central importance to measuring a country’s compliance with international norms: its legal and regulatory framework, its response to vulnerable children, and its management/coordination infrastructure.

---

Although this assessment generally follows the approach suggested by the UNODC Toolkit, it places special emphasis on documenting detention practices, diversion possibilities, alternative measures, and access to justice for child victims of serious crime, as well as on structural mechanisms for management and communication.

The research and report preparation included a multi-step methodology. First, a desk review was undertaken of the applicable laws, available statistics and reports concerning Cameroon’s justice system. Next, the author participated in a two-day training in Chicago that covered the UNODC Toolkit, interview technique, and assessment planning. During a five-week trip to Cameroon in June – July 2010, the author conducted meetings and semi-structured interviews with key stakeholders within the Cameroonian government, non-governmental organizations working on children’s rights and penal reform and representatives from inter-governmental organizations. The author met with government officials and agents of the justice system throughout the entire process of a child’s interaction with the state when in conflict with the law and when a victim of a crime. These stakeholders include the police, lawyers, state counsel (prosecutors), judges, assessors, social workers, probation officers, prison officials, as well as NGO leaders. As one focal point for the study is diversion and alternatives to incarceration, the author met with two neighborhood chiefs in Yaoundé, and a traditional chief in the West Province. Further, the author conducted site-visits to prisons in Douala, Yaoundé, Mbalmayo, Bafoussam, Mbouda, and Bamenda; observed children’s court in Douala, Yaoundé and Mbalmayo and the examining magistrate’s chambers in Bamenda; and visited the government-run Bepanda Center of Observation and Acceuil (children’s home) in Douala.

2.3 Constraints

Limitations of this research report include a relatively small number of prisons visited and judges, magistrates, and children in conflict with the law interviewed about their experiences within the system. The different practices within varying courts and prisons throughout the country suggest that this report does not represent a comprehensive view; rather, these experiences provide an idea of some of the practices on the ground. The inability to travel to the “Grand Nord,” or Adamawa, North, and/or Extreme North regions due to security restrictions represents a limitation in this research, especially given the strength of the traditional justice systems in the Lamidos’ courts. While the Prison Administration was consistently open to visits and discussions, the author did not find this same level of openness with respect to the police or gendarmes systems. Despite the difficulty in meeting with police and gendarmes, the author did make two visits to police stations to interview a select number of resource persons. The author was not able to meet with Gendarmes.

It was consistently difficult to receive up to date statistics on certain national-level data-concerning the number of children in conflict with the law, and even the number of incarcerated children. While some national data does exist, it is often not available on ministry websites, and there is a perception among some government officials that the data should only be used internally.

Despite the constraints mentioned, the author believes that the report provides a useful assessment of some of the positive and negative trends throughout the justice and social welfare systems as they relate to children in conflict with the law and child victims.

---

54 Thanks to Henri A. Nzedom for a thorough review of Cameroon’s international and local legal obligations.

55 Lamido is the fulfuldé (peul) word for traditional chief, and is the word used in the north of Cameroon.
III. FINDINGS – CHILDREN IN CONFLICT WITH THE LAW

Key Findings:

Knowledge base, data collection, coordination, partnership, and law and policy development:
- Cameroon has signed relevant international protocols and conventions (including the Convention on the Rights of the Child), and the 2005 Criminal Procedure Code includes provisions on the right to counsel, the appointment of an investigating magistrate, and the use of prison only as a last resort.
- Cameroon does not have a separate system for administering justice for children in conflict with the law. The minimum age of criminal responsibility is 10. Meanwhile, a child is defined as any person under 18.
- Street children are over-represented in the criminal justice system, especially in urban areas, in large part because these children do not have family members in town to help mediate / bail / take custody at various points in the interaction with the state. Cameroon has recently built two new centers to address the needs of street children, (in Yaoundé and Mfoundi). In general, the protection needs of children living on the street are not being met by the state, or by family members. Being a vagabond (vagabondage) remains a criminal offense in Cameroon,56 and the author encountered children in the Yaoundé prison accused of vagabondage.

Police
- The majority of children in pre-trial detention are confined because police (and other actors within the system) are unable to locate and inform caregivers, and because there is a lack of alternative care options for out of home children in conflict with the law. Children without caregivers to support them are pushed further into the system, and spend longer in detention.

Diversion
- While no official diversion programs exist in Cameroon, a large number victims and families continue to use traditional power structures (village or neighborhood chiefs) to reconcile and mediate conflicts in the community involving children. Such structures are more in line with restorative justice principles and can be reinforced to divert children from the formal system.

Adjudicatory Process
- There are long delays in trial due to a lack of prioritization of children’s cases by states counsel and investigating magistrates, and a slow process service (citation) system. The long delays in trial lead to lengthy pre-trial detention periods.
- Children rarely have any legal representation or assistance, and almost never at the police station. However, private (often parochial) associations of paralegals and NGOs working in and around prisons have the capacity and desire – though not the resources – to provide crucial legal assistance to some children. The Ministry of Social Affairs (MINAS) social workers at the police, court, and prison play a key role in providing paralegal assistance to children, though these offices are under-staffed and under-funded.

Deprivation of Liberty
- Detention is not used only as a last resort, and prison conditions are sub-standard in most places in the country. Children complain of hunger, over-crowding, and at times a mixture of children and adult detainees.

Restorative Justice and Reintegration

56 Penal Code Art. 247.
Cameroon’s formal justice system does not incorporate substantive restorative justice principles. The Criminal Procedure Code does emphasize the best interest of the child.\textsuperscript{57} Most criminal procedures involving children accused of crime are supposed to take place in camera, though in practice, this does not happen on a regular basis. Caregivers are encouraged to be a part of the child’s court case, and the law does give children the chance to be represented by counsel or others.\textsuperscript{58} Again, in practice, few children receive adequate counsel.

\textsuperscript{57} CPC Art. 702(3).
\textsuperscript{58} CPC Art. 719(2).
3.1 Legal and Regulatory Framework

a. Children in Conflict with the Law System Map
b. Initial Contact

**Key findings concerning initial contact:**

- Police and gendarmes routinely mediate conflicts between children accused of crimes (especially theft) and victims and encourage amicable settlement, even though the police do not have the legal authority to do so. Settlement usually occurs when the child’s family is available to reimbursement / restitution to victim.
- Children are routinely subjected to corporal punishment by the police.
- While the law provides for a maximum of six (6) or eight (8) days of police custody (see discussion of difference below), multiple children reported spending up to 14 days in police custody.
- Corruption is rampant at the level of the police thus that police officers request money from minors to secure their release.
- Children without family support in the neighborhood/city of their arrest will spend longer in police custody, and are more likely to have their file forwarded to the state counsel, thus pushing them further into the criminal justice system.
- Children almost never have access to legal counsel at the police station.

Children in conflict with the law may make initial contact with either the police or gendarmes. Both bodies operate under the Presidency, both have jurisdiction throughout the country, and both may make arrests and pass cases on to the state counsel. Children generally come into contact with police in one of three different ways:

- **A victim takes a child to the police, calls the police, or files a complaint against a child.**
- **A child comes in on a raid (rafle):** As one police officer described to the author, the police may conduct a raid in a “bad neighborhood” in the late evening to pick up any person in the street who does not have an identity card. The police’s goal in this process is to catch some “hardened criminals” in this bunch. However, children without identity cards, including street children, may be picked up in these raids. If the child does not have a caregiver to take custody of him/her, the child can remain in police custody, or have the case turned over to the state counsel.
- **Family members bring the child in to the police asking for assistance:** Police may “correct” them at the station – detain them for a couple days in the garde à vue. The parents may even ask the police to beat their kid, though one source said that police are reticent to do this. One study of 379 children in conflict with the law found that 72 children (or 21%) were brought to the police station by their parents to “teach them a lesson” (i.e. to have the police incarcerate and/or beat the children) before sending them home.59 Some parents even file an official criminal complaint against their own child.

The law allows anyone arrested “reasonable facilities” to contact family, obtain legal advice, make arrangements for defense, consult a doctor, and take necessary steps to obtain release on bail.60

---

60 CPC Art. 37.
In reality, arrested children have very little (if any) knowledge of their legal rights, nor do they generally have the funds to hire legal counsel.

Social workers (assistants sociaux) from the Ministry of Social Affairs (MINAS) are generally placed in police stations, courts, and prisons.61 The social workers are responsible for handling cases of arrested children, women, elderly people, and people with disabilities. In practice, however, not all police stations have a social worker; further, there are never social assistants in the Gendarme stations. The social worker is the primary point of contact at the police station when a child arrives and is accused of a crime, and the social worker may conduct a social inquiry and try to locate a child’s family. However, the social workers receive no budget for transportation or telephone calls, which limits their ability to carry out social inquiry reports for all children.

The police officers encountered during this field work stated that they would be happy to grant bail to children in conflict with the law in order to release the child to their family. This highlights the problem that children without caregivers to pay for bail or sign for release risk having their cases continue farther into the system.

Children experience police custody (garde à vue) in generally the same manner as adults, with some additional protections, namely (ostensible) separation from adults, and assistance from a social worker. Beijing Rule 26.3 provides that children must be held separately from adults. However, most police stations do not have separate spaces for children.

The Code of Criminal Procedure provides that suspects (both adult and children) have the right to be immediately informed of the allegations, and shall be “treated humanely both morally and materially.”62 The law provides that suspects shall not be “subjected to any physical or mental constraints, or to torture, violence, threats or any pressure whatsoever . . . or to any other method which is likely to compromise or limit his freedom of action or decision, or his memory or sense of judgment.”63 Suspects also have the right to be visited by their lawyer, family, or “any other person following up his treatment while in detention.”64 The state has the legal responsibility for feeding people in police custody, though family members and friends may bring food.65 Failure to comply with (or violation of) the above-mentioned provisions results in the potential for prosecution and disciplinary sanction.66

Despite these legal rights, several interviewees stated that children routinely receive corporal punishment and beatings from police officers upon arrest. These beatings are used by police both to

---

61 MINAS has roughly 700 employees in the entire country. The author was not able to determine what percentage of police stations, courts, and prisons had social workers stationed there. Five of the six prisons visited had social workers.
62 CPC Art. 122(1).
63 CPC Art. 122(2).
64 CPC Art. 122(3).
65 CPC Art. 122(4).
66 CPC Art. 122(5).
punish children for having “done wrong” (this in spite of the presumption of innocence), and as an interrogation technique to encourage/force confession. It is reported that the social workers may be aware that police beatings of children occur, though several social workers expressed that their tenure at the police station can be cut off by the police if they do not maintain good relationships with the police. In other words, some social workers reported that they do not report police misconduct, for fear of a resulting negative work environment, or losing permission to work at the police station altogether.  

Further, the police officers said that there was no money in their budget to pay for feeding those in their custody, leaving the responsibility of nourishing those in custody to family members. The adults visited in one holding cell did appear to have recently eaten, but this was only by the grace of detainees’ family members. Sometimes, police officers will purchase food out of their own salary for people in custody. The custody cell visited by the author was approximately a 3m X 4m empty room with no furniture, a bathroom off to the side, and lots of names carved into the wall. There were 6 men lying on the floor doing nothing. The police do not have medical personnel on staff. 

Several interviewees stated that the police are, at times, utilized by Cameroon’s urban local governments as a tool to ‘clean up the streets’ of street children and other beggars. Such actions are against the spirit of recommendations from the UN Committee on the Rights of the Child. The criminalization of street children – charging them with the ‘crime’ of begging (vagabondage), or of failure to produce an identity card – represents a failure of the child protection system.

An unannounced visit to a Police Station:

The author visited a police station while accompanied by an administrator from the office of the General Delegation for National Security (DGSN) – the body that oversees the police and Gendarmes. As we walked into the station, I noticed two teenage boys sitting on the floor behind the front desk.

The two children were aged 14 and 15 and are cousins; the 15 year old was accused of (and admitted to) stealing a portable phone the previous day. He says that he hid the phone for the night, but that it was gone in the morning. The 14 year old’s parents live in another part of the country, and he is currently staying with his cousin. It was the first time either child had been arrested, and neither child had gone to school in the last school year.

The children had been at the police station for one hour when we arrived. The police officer tried to call the children’s parents, but no one answered. The social worker was not at the station. The police officer said that the parents’ house was too far into the rural area to return the children.

At one point, the police officers ordered the children to stand up, and it was clear that the 15 year old did not want to put any weight on his feet. He was holding himself up on the table behind him with his arms, and was standing on the heels of his feet, in obvious discomfort. I asked him what was wrong with his feet, but he was quiet, and looked down. He admitted that it was hard to walk and that he had walked just fine into the police station. I said, “so whatever happened to your feet happened here.” He was silent, and looked briefly at one of the police

---

67 The Committee on the Rights of the Child recommends that Cameroon “undertake all necessary measures to prevent acts of torture and inhuman or degrading treatment or punishment.” United Nations, supra note Error! Bookmark not defined., at ¶ 36.

68 This site did not have any children detained on the day of the author’s visit.

69 See United Nations, supra note Error! Bookmark not defined., at ¶ 72.
officers, who in turn looked at me nervously. My host asked the police officers if they had beaten the child, and one said yes. Whipping feet is an extremely painful and long-used torture method in Cameroon. Two 12-16 inch long wood sticks sat on the police table.

**Corruption:** Several incarcerated children told the author that the police demanded money from them in order to be released. One child stated that the police asked for FCFA 50,000 (approx. US$100) to be released, but the child did not have this amount, so his case was passed to the state counsel. Cameroon has long battled a deeply engrained corruption problem, and ranks 141st out of 180 countries in Transparency International’s Corruption Perceptions Index.70

**Length of police custody:** Article 119(2) of the Criminal Procedure Code outlines the length of time that a person may be kept in police custody, though two interpretations of the law exist. One interpretation places the maximum length of time at six (6) days, while another interpretation places maximum at eight (8) days before the case must either be referred to the examining magistrate, or the child (or adult) released. The law states as follows:

* Criminal Procedure Code Section 119(2):*
  
  (a) *The time allowed for remand in custody shall not exceed forty-eight (48) hours, renewable once.*
  
  (b) *This period may, with the written approval of the State Counsel, be exceptionally extended twice.*
  
  (c) *Reasons shall be given for each extension.*71

During the course of the fieldwork research, the majority of states counsel interviewed took a wide reading of Section 119(2)(b), thus that the maximum amount of time in custody is eight days. (See chart below.) However, certain members of the Ministry of Justice believe that the term “this period” in section 119(2)(b) refers to the original 48 hour period, so that there are only two total possible total renewals. This interpretation results in only six total maximum potential days in police custody.

Based on what incarcerated children reported to the author, children routinely spend more than eight days in police custody. While statistics were not available on this subject, many children in prison indicated that they spent 14 days at the police station.

<table>
<thead>
<tr>
<th>Police/Gendarmes Custody (Garde à Vue) Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 1</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>Police/Gendarmes can hold child suspect for two days (CPC 119(2)(a)).</td>
</tr>
<tr>
<td>At any point during custody, police/gendarmes or investigating magistrate may release child to custody of parents or others (CPC 118(2)), or investigating judge may order child to prison for temporary detention (CPC 704-706).</td>
</tr>
</tbody>
</table>

---


71 CPC Art. 119(2).
Gaps

- Whatever interpretation of the law is correct, 6 or 8 days in police custody violates the spirit of international standards for length of time in police custody without charge. The International Covenant on Civil and Political Rights (ICCPR) states that those arrested should be “promptly brought” before a judge.\(^{72}\)

- Children routinely spend more than 8 days in police custody. Out of 10 children randomly interviewed by the author, 6 spent less than 8 days, while 4 spend more than 8 days at the police station / gendarmerie. Further data collection on police custody is required to determine whether children interviewed represent the majority of children engaged with the system.

- Though mandated by law, the police in Cameroon do not provide food to people in their custody, and rely on family members to provide food. This is a problem for children without caregivers in town, such as street children and other out of home children.

- Unless caregivers are willing and able intervene, children do not generally have access to legal assistance at the police station.

- It is widely reported that children are beaten at the police station and at the gendarmerie either in an effort to punish the child for behaving badly, or to force a confession. One problem is that judicial police officers\(^{73}\) and gendarmes do not work for MINJUSTICE, but rather are under the Presidency. This limits accountability between police and justice actors and leaves little recourse when abuses are identified.

- Police internal investigations of misconduct occur from the Regional Police Control Unit, but this body consistently comes back with a finding that there was no beating. The code allows people to go to the hospital to check for bad treatment.

- While children subject to mistreatment or lengthy detention by the police can lodge complaints, none of the resource people with whom the author spoke had ever heard of a child doing so.

c. Diversion

Cameroon does not have any formal diversion programs or projects, nor is it explicitly recognized by the law. Further, the concept of diversion is not well-known in Cameroon.\(^{74}\) However, a large number of cases go to traditional authorities (such as village or neighborhood chiefs) instead of entering the system at all. This is discussed at length below in Section V. Further, cases can be, and are dropped at various times through the administration of the formal justice system. For example, the police and gendarmes can play a role in mediating

---

\(^{72}\) “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power.” International Covenant on Civil and Political Rights, Art. 9(3), available at http://www2.ohchr.org/english/law/ccpr.htm.

\(^{73}\) The Judicial Police have jurisdiction to investigate crimes that could result in a lengthy loss of liberty.

\(^{74}\) For more information about diversion programs, see the UNICEF Diversion and Alternatives Toolkit, available at http://www.unicef.org/protection/index_53295.html.

---

D_{IV}E_{ISION} means channeling children in conflict with the law away from judicial proceedings through the development and implementation of procedures or programs that enable many - possibly most - to avoid the potential negative effects of formal judicial proceedings, provided that human rights and legal safeguards are fully respected.
conflicts at the station, arranging compensation, and then not forward the case onto the state counsel’s office.

There is not a well-developed culture of official mediation or alternative dispute resolution in Cameroon that operates within the formal government. In Yaoundé, however, (and probably in Douala) mediation capacity exists at the civil society level. Organizations like the Cameroon Society for the Prevention of Child Abuse and Neglect (CASPCAN), and School as an Instrument for Peace have the capacity to train others in mediation. Traditional mediation remains strong and can be used to develop more culturally appropriate models in the formal sector (in lieu of borrowing outside models).

d. Adjudicatory Process

<table>
<thead>
<tr>
<th>Findings:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- The adjudicatory process takes a very long time due to the necessity of the case going to the examining magistrate, and due to the flawed summons (citation) process. By the time the case finally gets to the time for judgment, and in recognition of the lengthy pre-trial detention, judges will often give “time served,” and liberate the child. Some children stay in pre-trial detention for longer than the maximum time that they could have been sentenced to if found guilty.</td>
</tr>
<tr>
<td>- Children are rarely assisted by counsel.</td>
</tr>
<tr>
<td>- Court procedures are not child-focused or child-friendly. While the CPC indicates that the examining magistrate should explain the procedure to the child in simple language, overall, children move through the procedures with little understanding of the process that intimately affects their lives.</td>
</tr>
</tbody>
</table>

The adjudicatory process for children in conflict with the law in Cameroon can take a very long time, often a year or more. Though the delays in the adjudicatory process are many and complex, two primary reasons stand out: First, while simple offenses can be sent straight to the judge of the first instance for judgment, any time a child is accused of a misdemeanor or felony, the case must go before the examining magistrate, whose investigation often takes several months. Second, the process serving (summons, or citation) of victims and witnesses is marred with problems that leads to lengthy delays in both the examining magistrate’s chamber, and in the judge’s chamber. This section will discuss the adjudicatory process, and highlight these slow processes throughout.

**Jurisdiction:** The First Instance Court (Tribunal du Premier Instance) (with a judge sitting with two assessors) have jurisdiction to hear all cases of children accused of simple offenses, and cases of children accused of misdemeanors, or felonies committed alone or with other children. If a child is accused of committing a misdemeanor or felony with an adult accomplice or co-offender, the case goes to the First Instance Court with a judge sitting alone for misdemeanors, and to the High Court (Tribunal du Grand Instance) with a judge sitting alone for felonies. Cases of children that are heard by the High Court follow all of the High Court procedures, though children can still benefit from the sentencing reductions from the “diminished responsibility” article in the Penal Code.

**State Counsel:** The police pass the file to the state counsel (procureur de la république). The state counsel does not have legal authority to mediate conflicts, though in reality, many states counsel play this mediating role, by meeting with the victim. In simple offenses (those that carry a prison term of under 10 days), the state counsel gives the file directly to the magistrate who will make the

---

75 CPC Art. 709.
76 CPC Art. 713, subject to Art. 716. See also Penal Code Arts. 80, 87.
77 Penal Code Art. 87.
judgment. However, in felony or misdemeanor charges, the state counsel can either decide not to continue with the case (issuing a formal decision called “sans suite”), or she can file a “holding charge” which seizes the Examining Magistrate to start the investigation. If the child has not been released on bail from the police department, the six (or eight) day police custody clock continues to run while the case is with the state counsel.

Examining Magistrate (Juge d’Instruction): The 2005 CPC (that came into effect in January 2007) made the “examining magistrate” system mandatory for all cases where a child is accused of a misdemeanor or felony (though not a simple offense). The idea behind ensuring that an examining magistrate investigates the case is to have some measure of separation between the person who judges, and the person who pulls together the relevant information and does the research. This was meant to be a protection for the defendant to assure that only people who had been fully investigated could be found guilty. However, this level of the procedure can take a long time to complete. If a defendant is in custody, the examining magistrate has a six month time limit before s/he must pass the case on to the judge (or release on bail); this period can be extended by 6 months for misdemeanors, or by 12 months for felonies. In other words, while the defendant waits in pre-trial detention, the examining magistrate has a maximum time of 12 months to investigate a misdemeanor and 18 months to investigate a felony.

<table>
<thead>
<tr>
<th>One judge offered the following explanation as to why children spend such a long time in jail.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Often children are granted bail, but there is no one to pick them up.</td>
</tr>
<tr>
<td>2. Serving witnesses takes time. There are no street addresses in Cameroon.</td>
</tr>
<tr>
<td>3. Shortage of magistrates means that cases move slowly, though there should be 600 new ones coming out in the next couple of years.</td>
</tr>
<tr>
<td>4. If the child’s birth certificate is lacking, the judge must order the police to take the child to a doctor to confirm his age.</td>
</tr>
</tbody>
</table>

In addition to leading the investigation into the merits of the claim, the examining magistrate makes several important decisions for the child’s case, and for the disposition of the child during the case, namely concerning (1) age determination, (2) custody, and (3) whether to order a social inquiry report. First, if a child does not have a birth certificate to prove his or her age, the examining magistrate must order an age determination by a medical professional, a process that can delay the procedure, and requires the police to accompany the child to a hospital.

Second, the examining magistrate makes a decision about the custody of the child while the case is ongoing. The Examining magistrate has three choices: she can (1) release the child to parents, guardian, custodian, or “any other trustworthy person, subject to bail requirements; order custody to a welfare center, observation center, vocational training center or health center, or “any specialized institution,” or (3) remand the child to temporary detention in a borstal institution, to special section of a prison only for children, or to an adult prison, but separated from adults. Temporary detention is not an option for children aged

---

78 CPC Art. 143. CPC Art. 700 requires all misdemeanors or felonies to go to an examining magistrate.
79 CPC Art. 221.
80 CPC Art. 225.
81 CPC Arts. 702 and 708.
82 CPC Art. 702.
83 CPC Art. 706.
12-13 who are accused of murder, capital murder, or assault resulting in death (corps mortel). For children aged 14-17, temporary detention should only occur when “indispensable.”

Third, in cases concerning children, the examining magistrate can order a social inquiry report, medical examination, and/or psychiatric tests. In practice, several informants, including assessors, judges, and court social workers reported that the social inquiry report almost never gets carried out. Even if a social inquiry report were drafted on a routine basis, the judge who manages the trial is not supposed to see this report until after reaching a guilty verdict, so the report can only influence the sentencing. Ostensibly, keeping the social inquiry report out of the judge’s hands until after judgment assures that the judge makes the decision on the facts of the case, and not develop a preconceived notion about the personality or other needs of the child.

<table>
<thead>
<tr>
<th>Table 1: Breakdown by nature of infraction of children condemned in the Court of First Instance and High Court (YEAR UNKNOWN, though other statistics from this report are from 2003)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nature of Infraction</strong></td>
</tr>
<tr>
<td>--------------------------</td>
</tr>
<tr>
<td>Felony</td>
</tr>
<tr>
<td>Assault against a person (Atteinte à l’intégrité physique)</td>
</tr>
<tr>
<td>Assault against property (Atteinte aux biens)</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>Misdemeanor</td>
</tr>
<tr>
<td>Assault against a person (Atteinte à l’intégrité physique)</td>
</tr>
<tr>
<td>Assault against property (Atteinte aux biens)</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>Violation (simple offense)</td>
</tr>
<tr>
<td>Assault against a person (Atteinte à l’intégrité physique)</td>
</tr>
<tr>
<td>Assault against property (Atteinte aux biens)</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>

Note from Table 1 above that 58% of all children’s convictions were crimes against property.

<table>
<thead>
<tr>
<th>Table 2: Breakdown by nature of punishment of children condemned in the Court of First Instance and High Court (YEAR UNKNOWN, though other statistics from this report are from 2003)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nature of Penalty</strong></td>
</tr>
<tr>
<td>-----------------------</td>
</tr>
<tr>
<td>Death Penalty</td>
</tr>
<tr>
<td>Imprisonment</td>
</tr>
</tbody>
</table>

---

83 CPC Art. 704.
84 CPC Art. 705.
85 CPC Art. 701.
86 CPC Art. 717.
88 Institut National de la Statistique, Annuaire Statistique du Cameroun 2006; Tableau 11.20, p. 202
<table>
<thead>
<tr>
<th>Imprisonment with Fine</th>
<th>110</th>
<th>4</th>
<th>114</th>
<th>19%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fine</td>
<td>27</td>
<td>3</td>
<td>30</td>
<td>5%</td>
</tr>
<tr>
<td>Suspended Sentence (Peine avec sursis)</td>
<td>220</td>
<td>6</td>
<td>226</td>
<td>37%</td>
</tr>
<tr>
<td>Other</td>
<td>100</td>
<td>15</td>
<td>115</td>
<td>19%</td>
</tr>
<tr>
<td>Total</td>
<td>579</td>
<td>32</td>
<td>611</td>
<td>100%</td>
</tr>
</tbody>
</table>

Note from Table 2 above that 40% of all children’s convictions resulted in imprisonment, including many for misdemeanors (see Table 1, above).

**Process serving (Summons) slows down the procedures.** The investigating magistrate and later, the judge, will issue summons (citations) to interested parties, including victims and witnesses. Summonses are served by bailiffs (huissiers de justice), and while Cameroonian judges understandably want to give adequate notice for victims to be summoned to court, the summons process slows down the investigatory procedure and delays a final judgment being made. There are a range of problems with the implementation of the summons process in Cameroon. Specifically:

- Multiple interviewees reported that victims often need to be sent multiple summonses. Interviewees reported coordination problems between the investigating magistrates, judges, states counsel, and bailiffs.
- Bailiffs receive compensation for each citation that they try to serve, not for citations successfully served. There exists no incentive for bailiffs to actually find the person cited, and one informant stated that bailiffs actually have a financial incentive to send multiple summonses for the same person.
- Homes and businesses in Cameroon do not have addresses, so bailiffs may have a difficult time locating individuals.
- Even when summoned by the court, many people do not actually show up in court. In the three court proceedings that the author observed, not a single victim was present, even when successfully summoned. If a victim does not show up, even after giving ample notice and time for victims to come to court, the judge must dismiss the case.

**Adjudication by Judge and Assessors:**

“If you come back in front of me for theft, I’ll whip you myself.” – Judge to a child who had appeared in court three separate times for theft.

The CPC provides that children accused of misdemeanors or felonies are to be judged by a panel of one magistrate (judge) and two assessors. The judge can sit alone if the assessors do not show up. Children accused of simple offenses are judged by a magistrate alone. Assessors receive appointment by a joint decision of the Ministries of Justice and Social Affairs, and their qualifications are that they “are known for the interest they take in matters affecting juveniles or for their competence in the field.” Most of the assessors the author met reported that they were social workers, although it was not clear whether they were professional social workers. While the law dictates that a majority of the three-person panel can make a final judgment, in practice, interviewees reported that the judge often wields more power and may make decisions alone. While the assessors are supposed to be paid, in practice the assessors work on a voluntary basis. This leads to many

---

90 CPC Arts. 40 et seq.
91 CPC Art. 709(1).
92 CPC Art. 711.
93 CPC Art. 709(2). Note that competence is neither defined or outlined.
jurisdictions wherein assessors do not come to court. Only one assessor was present in each of the three different court proceedings observed by the author. There are no provisions to have assessors present in the High Court, though appeals of children’s criminal cases from the First Instance court are heard by a panel of one appellate judge and two assessors.94

Multiple interviewees reported that the preliminary proceedings (including the investigating magistrate and summonses) take such a long time that often, by the time a judge (and assessors) actually open the file of a child who has been in custody for many months, the judge will give a guilty sentence and declare the punishment as “time served.” In some ways then, most children that are in pre-trial detention awaiting trial experience their punishment before even being judged, and the moment of judgment leads to their release.95 One informant stated that judges sometimes apply the strongest prison sentence possible because they do not want to be perceived as (1) being soft or weak on criminal behavior, or (2) having received a bribe from a defendant in return for the defendant’s release.

Some assessors complained to the author that they do not have many non-prison options for placing children. Cameroon does have four Borstal Centers (otherwise known as “Children’s Homes”) throughout the country (Bepanda, Betamba, Buea, and Maroua), but multiple people interviewed stated that these centers are often full, and are not adequate to cover the child protection needs at a national level. Further, some judges stated that when a child is assigned to a borstal center, the child’s family must pay up to FCFA 20,000 (approx US$40) for the registration which acts as a deterrent to placement. One judge stated that the options for judges to place children in re-education centers are insufficient. Other options are available under the law, such as placement with suitable individuals or private care institutions. However, several informants stated that there is a perception that children placed with individuals will not show up for their court dates.

In Camera Procedures: Children’s court is supposed to take place in private to protect the identity of the accused. The Code of Criminal Procedure spells out the in camera (huis clos) procedures for children,96 with the exception of the rendering of the sentence, which must be done in public.97 However, several attorney informants stated that the lawyer has to demand it. In Mbalmayo, due to space limitations, children’s court takes place in the judge’s office. In general, this creates a much-needed child-friendly environment. That said, the position of the state counsel next to the judge (and not the assessor) made the state counsel appear to be at the same level as the judge.

Assistance of Counsel: The Convention on the Rights of the Child provides that children in conflict with the law shall benefit from legal assistance and all other appropriate assistance at all stages of the procedure.98 Cameroonian law is in line with this, stating that “a minor shall be assisted by counsel or by any other person who is a specialist in the protection of children’s rights.”99 A very small number of children in conflict with the law can afford private counsel.100 The court can order a

---

94 CPC Art. 738.
95 The release can only happen once the fines or court expenses are paid off, or converted into more prison time. See discussion of court expenses infra text accompanying note 103.
96 CPC Art. 720.
97 CPC Art. 721(2)
98 CRC Arts. 37(d), 40(2)(ii).
99 CPC Art. 119(2).
100 Cameroon had 1,337 lawyers in 2004. Nchunu Justice Sama, Providing Legal Aid in Criminal Justice in Cameroon: The Role of Lawyers, in Access to Justice in Africa and Beyond: Making the Rule of Law a Reality 154 (2007). More recent informal estimates put the number closer to 2,000. See also Access to Legal Aid in
certain lawyer to represent a child, but as the payment to the lawyer is only FCFA 5,000 (approx US$10) per hearing (audience),\textsuperscript{101} often appointed lawyers either does not show up, or have little incentive to do a good job. However, it is widely accepted that the majority of children go through the entire justice process from beginning to end without legal assistance.

Judges have different opinions on what to do when there is no lawyer or other assistance present for a child. On the one hand, the law states that children should be represented. On the other hand, if judges postponed cases where a child did not have assistance, the adjudicatory process would slow down even further and this would be a disservice to children. One judge estimated that in Douala, 4 out of 5 kids in the criminal processes are street children, and added that these children almost never have money to pay for a lawyer.

When observing children’s court in Yaoundé, the author noted that a pupil advocate (a recently graduated lawyer who was interning at a law firm) showed up to represent children. He was assigned to three cases, and these cases were postponed. By contrast, during court proceedings in Douala, only one child had private counsel, one other had his caregivers present, and the eight other children were not represented at all.

Many smaller towns have courts, but do not have lawyers (or do not have very many). In these towns, some associations or NGOs provide paralegal services on a limited basis as a relatively inexpensive means of providing counsel for children.\textsuperscript{102} The institution of ‘paralegals’ is not well known in Cameroon, though some associations and NGOs self-identify as providing paralegal services.

One judge stated that he tried to do all that is possible to give kids access to legal assistance, either through a lawyer, an NGO, or through the MINAS social worker. In another judge’s experience, the MINAS social worker routinely acted as an advocate for children, and the judge would order that the social worker receive the FCFA 5,000 per audience when they acted as counsel. One MINAS social worker based in a Littoral Region court stated that he played a role speaking on behalf of roughly 60\% of the children who had criminal cases.

The Program pour l’Amélioration des Conditions de Detention II (PACDET II) project funded by the European Union supported lawyers to represent incarcerated adults and children. This project is discussed in detail below in Section 3.2.d.

**Court expenses:** In addition to fines being levied against children (despite a specific prohibition against that practice for this population), children (and adults) found guilty of criminal charges must also pay court expenses (dépens) before being released from prison. These expenses include registration charges, stamp charges, “expedit,” “citation.” One judge stated that these

---

\textsuperscript{101} The author did not see this amount in writing, but all parties interviewed agreed that this is the amount that should be paid to lawyers.

\textsuperscript{102} Officials at PACDET II estimated that the salary for a lawyer (though variable) could cover the salary costs of between five and 10 paralegals.
Restorative Justice is an approach to criminal matters in which the victim/survivor and offender, and in some cases other persons affected by the crime, “participate actively together in the resolution of matters arising from the crime, generally with the help of a facilitator.” (UNICEF Toolkit on Diversion and Alternatives to Detention 2009 Glossary) In broader terms, restorative justice is a way of “responding to criminal behavior which emphasizes repairing the harm caused by the crime and ‘restoring’ harmony as much as possible between offender, victim/survivor and society.” (Id.)

charges run between FCFA 10,000 and 30,000 (approx US$ 20-60). The Criminal Procedure Code allows for judges to ‘convert’ the expenses and fines into additional time in an order called “imprisonment in default of payment” (contrainte par corps). However, orders of imprisonment in default of payment are explicitly not to be imposed on persons under the age of 18.

Despite this prohibition, the author encountered many children who were only imprisoned because of the court expenses. One informant suggested that a barrier to judges’ converting the fine into additional time is that judges may have negative repercussions from their superiors for not collecting the expenses.

As a final note on the negative effects of court fees, the CPC states that “the fees of counsel assigned by the court of its own motion shall be paid as expenses incurred in criminal matters.” This means that the child may be charged FCFA 5,000 as a court expense for being assigned a defense attorney by the court – money which, in practice, rarely actually reaches the attorney.

e. Dispositional Alternatives, including Restorative Justice

Cameroon’s formal justice system does not incorporate restorative justice principles into the adjudication and disposition procedures. As mentioned above, the victims rarely show up to court, which makes their inclusion in a restorative justice process quite difficult.

Cameroon has four state-run alternative detention facilities, but does not operate community-based alternatives: The Centre d’Appui et Observation (CAO) at Bepanda (combined with the Centre de Rééducation at Bepanda) in Douala, the Centre d’Appui et Observation at Betamba (near Bafia), in the Center Region, the Borstal Institute, in Buea, South West Region, and the Maroua Center in the Extreme North Region (though one informant stated that the center in Maroua is empty). All of these centers are operated by MINAS. Given that there are 73 prisons in Cameroon, there is clearly not a focus on dispositional alternatives, as many regions do not have any alternatives to imprisonment. Further, as highlighted by the spotlight on Bepanda below, the centers are not truly

| Spotlight on Bepanda: The Centre d’Appui et Observation (CAO) at Bepanda, in Douala deserves some attention, as a state-run residential children’s home with the potential to house children accused of minor crimes. There is space for 120 children, though now they only have 27 kids. There are 17 staff, which represents a quite high staff to resident ratio. Children at Bepanda can arrive from a reference from their caregivers, from MINAS, or from the courts. The children there are all boys, and all entered between ages 10 and 14. They are generally ordered by the Court to stay for 24 months, though every child has an individualized action plan. The children currently at Bepanda are not in conflict with the law, but rather cases of child protection. One child is an orphan, another is a victim of international trafficking from Benin. |

---

103 CPC Art. 564. Up to FCFA 10,000 can be converted to 20 days; up to FCFA 20,000 can be converted to 40 days; and up to FCFA 40,000 can be converted to 90 days.
104 CPC Art. 565.
105 CPC Art 746(2)
CAO has an educational program, as well as skills training in agriculture, carpentry, metal working, and auto mechanics. CAO has a nurse on staff, and when the children arrive, and the children have regular medical check-ups (four times per year). The children at Bepanda eat three times a day, and have adequate living facilities.

The front gates are open, and the director emphasized that CAO “don’t want the children to feel like they are in prison.” However, the children do not leave. Other children come in to go to the school on the premises, which is integrated into the community.

There is a significant confusion concerning two different centers at the Bepanda location. The sign outside says CAO, but a 2009 law also created the Centre de Reeducation des Mineurs (CRM) at Bepanda. They have had difficulty in operationalizing the CRM for lack of resources, and the CRM only exists on paper. Sources within the Ministry of Justice suggested that there are plans to transfer all children currently in Douala Central Prison to the CRM Bepanda. This idea is seconded by the Committee on the Rights of the Child’s description of CRM Bepanda as an “alternative detention center for minors.”

f. Deprivation of Liberty

Key Findings:
- The large majority of detained children (84% of the total number of children in prison) are awaiting trial (prévenus).
- Children can spend long periods in pre-trial detention.
- Prison and social affairs officials do not develop individualized reintegration plans.
- Prison conditions differ widely for children from prison to prison. While the prison administrators generally have the best interests of children in mind, they lack resources to adequately provide for detained children’s physical, psychosocial, or legal needs.
  - On the positive side is the Principal Prison in Bamenda, North West Region. Bamenda is the only prison in the country with a Ministry of Education Recognized school inside; the Catholic Church runs training workshops for children; and there is adequate bedding and outdoor space for the children.
  - By Contrast the Prison of Mbouda, West Region – just one hour from Bamenda – has almost the same number of children as Bamenda (19 vs. 23), but has inadequate bedding (only two mattresses on the floor), no formal education, and minimal NGO/private association assistance.
- Detained children’s two primary complaints about their situation in prison concerned (1) a lack of adequate food, and (2) extremely slow judicial processes and inadequate legal assistance.
- Regular prison inspections do not occur as mandated.

“En prison, on forme les bandits.” “In prison, we train bandits.” – Key informant working at a prison.

Under the direction of the Penitentiary Administration (a section of the Ministry of Justice),

---

106 See appendix 8.E.
107 United Nations, supra note Error! Bookmark not defined., at ¶ 79.
108 This observation was also noted with concern by the UN Committee on the Rights of the Child. Id. at ¶ 79(b).
Cameroon operates 73 prisons. During field visits, the author visited six prisons located in: Douala, Yaoundé, Mbalmayo, Bafoussam, Mbouda, and Bamenda. This section provides some general statements about prisons in general, then highlights some positive attributes of children’s living situation in the Douala Central Prison and Bamenda Central Prison, and contrasts this with some troubling aspects of the other visited prisons, especially Yaoundé and Mbouda.

Key legal provisions. Prisoners have the right to one meal per day, and that the ration must be enough to avoid any alimentary deficiency (carence). All detained persons must receive a mat and cover “and eventually a mattress and bed frame.” Prisoners can be placed in an isolated cell (cellule de correction) for a maximum of 15 days. Women and children are only to participate in prison chores on the interior of the prison, or in fields belonging to the prison (champs appurtenant). Those awaiting trial are to be confined in separate quarters from those already convicted.

Children complained at every single prison about an insufficient amount and quality of food. Children do eat once a day, and some prisons visited (including Bamenda and Mbalmayo) provide a ‘double ration’ to the children. However, even with this double ration in some places, the amount of food does not suffice. More than one prison doctor also stated that malnutrition is a real impact of the prison regime.

One Prison Administration Official claimed that 60% of Cameroonian prisons have separate children’s quarters, though the true separation of children and adults in prisons occurs along a spectrum. The government did not share the exact number of children currently in detention, though some data collected from the Author’s visits and other reports is presented below. Throughout Cameroon, pre-trial detainees make up the majority of those in prison (84% in December 2009), and pre-trial detainees are houses together with those found guilty. Pre-trial detention for children routinely lasts for 8 to 12 months (the average of those in Ngaoundéré’s prison is 8 months), and can last for more than 24 months.

All incarcerated persons in Cameroon (including children) have the chance to receive visitors, though visiting rights can be suspended temporarily for disciplinary reasons. One informant stated that while most Cameroonian prisons provide one meal a day, a detainee would have to have family nearby to get a third. The Penitentiary Administration spends only FCFA 240 (approx US$0.45) per detainee per day, and the Administration recognizes that this is insufficient to provide adequate nutrition, and openly welcome family and associations supplementing this.

The Penitentiary Administration is charged with the transportation of children from prison to court. The European Union purchased new trucks for the prisons in each of the 10 regional capitals, though children continue to be transported together with adult prisoners to get to court.

The charts below represents statistics collected from the Author’s visits to six prisons, and statistics garnered from two regional delegation offices. Each prison is supposed to provide a report of the list of each child in custody to the president of the First Instance Court on a monthly basis.

---

109 The primary legal text that governs prison functioning is Decree No. 92-052 of 27 March 1992 regarding the Penitentiary Regime in Cameroon.
110 Decree No. 92-052, Art. 29.
111 Id. at Art. 30.
112 Id. at Art. 45(b).
113 Id. at Art. 50(2)
114 CPC Art. 553(1).
115 Decree No. 92-052 at Arts. 37, 45(d).
116 Thanks especially to the cooperation of the Penitentiary Administration Delegates in Littoral and West Regions for sharing region-wide data.
basis. While the judges do receive this report, there is inadequate follow up regarding children who have spent a long time in prison.

By law, prisoners can levy complaints to the warden in writing, to the state counsel, or to “inspectors during their visits.”117 In practice, children reported passing their complaints to the social workers, or through prison guards.

Prison inspections are supposed to take place at the national, regional, and departmental levels. At the national level, there is a National Commission for the Surveillance of Prisons, but this is not operational in practice. Secondly, the Regional Penitentary Administration is supposed to conduct inspections of the prisons two times per year, and on an ad hoc basis when there are problems. In practice, regular prison inspections do not occur. Third, each Department is supposed to establish a commission on the surveillance of prisons that should visit at least once per year, though interviewees reported that this also does not occur.118 Finally, judges and state counsels are suppose to do a tri-annual inspection to check to make sure that their orders are being followed, and that prisoners who they have sentenced are actually serving their terms. In sum, while systems have been created to have multiple levels of prison inspections, these inspections do not regularly take place.

MINAS assigns one social worker to most prisons, though the level of involvement of the social worker in the children’s lives and legal cases depends on the personal initiative of the individual person. The author encountered some extremely devoted and competent social workers at prisons, whose devotion to working on behalf of children in their charge was inspirational. Unfortunately, however, these social workers lack the budget to adequately carry out their work.

Civil Society: There is considerable energy from civil society around supporting prisoners’ needs. Urban prisons benefit from support from multiple NGOs that a range of educational, alimentary, legal, and skills training support to prisoners. For example, more than 20 organizations work in Douala’s Central Prison, though most of them work with both adult and child populations, and there is little coordination among groups. In Mbalmayo, a smaller city, one NGO – the Centre d’Écoute et Documentation – provides legal, alimentary, and other support to incarcerated children. In Yaoundé, several groups provide a range of services to incarcerated children, and UNICEF has played a coordinating role in cooperation with the Warden.

Each Region has one Prison Doctor, and nurses dispatched to the individual prisons. One doctor reported that the major medical problems in prisons (though not specific to children) are malaria, TB, and HIV.119 This prison doctor estimated an HIV prevalence rate in the prison population overall of about 10%, and a TB rate of about 12-15% (or about twice the national average on both counts). He estimated that at least one of the children in the central prison in which he worked was HIV positive, though he was well-versed in confidential practices around HIV. He reports that since the children have been moved to their own quarters, there have not been any complaints from them about rape.

Multiple interviewees stated that Cameroonian law provides that incarcerated women who are pregnant are to be provided temporary liberty for six weeks to give birth, or the judge should provide a safe place for the newly born child. However, there are reports that babies are born in prison facilities and remain there with their mothers. The author observed two babies living in the women’s sections of prisons.

117 Penitentiary Code, Art. 47.
118 Id. at Art. 58.
119 The UN Committee on the Rights of the Child urges Cameroon to provide detained children sufficient health care services. United Nations, supra note Error! Bookmark not defined., at ¶ 80(f).
Under Cameroonian law, a large range of public authorities may use administrative detention for 15 days, which can be indefinitely renewed.\textsuperscript{120} The prison officials interviewed for this report stated that while no children were currently in administrative detention in their prisons, such a situation is possible.

**Recent Funding of Prison Infrastructure:** The Cameroonian prison system has benefited in recent years to two major funding projects, one from within the government, and one from the European Union. First, the government funded “Program for the Modernization of Prisons” goes toward prisons in the head of departments and arrondissements – in other words the prisons outside of regional capitals. The government has invested FCFA 5 billion from 2007-2009 and an additional FCFA 2 billion in 2010.\textsuperscript{121} The second major infrastructure project is from the European Union, and entitled Programme d’Amélioration de Detention (PACDET, and a follow up program, PACDET II), and consists of FCFA 300 million each year since 2005 and the infrastructure going toward central prisons. PACDET II infrastructure support helped build the children’s quarters in Douala, as well as kitchens, a clinic, a wall, and septic systems in other regional capitals. PACDET funds were used to update the Warden’s residence in Yaoundé.

**Girls in prison:** Girls enter the formal justice system only rarely. The small number of girls in detention are lodged in the women’s quarters, and are not separated from adults. There were no girls in any of the six prisons visited by the author, and only 21 girls incarcerated in December 2009. Based on the visit to the women’s quarter in the Yaoundé Central Prison, this environment does not present as risky or dangerous situation for girls, as does the mixing of adult men and boys in prison. The women detainees in Yaoundé seemed genuinely interested in helping improve the life of any girl child who became incarcerated. While technically a violation of the separation of incarcerated children from adults, the situation facing incarcerated girls does not appear to be urgent. This statement must be made with the caveat that the author did not speak to any girls in conflict with the law to assess their experience within prisons, or with other state actors.

### Table 3: Number of Children in prison nation-wide over time

<table>
<thead>
<tr>
<th>Date</th>
<th>Awaiting Trial (Prevenus)</th>
<th>Convicted (Condamnés)</th>
<th>Total</th>
<th>% of total awaiting trial</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Boys</td>
<td>Girls</td>
<td>Boys</td>
<td>Girls</td>
<td></td>
</tr>
<tr>
<td>Jan-03</td>
<td>624</td>
<td>9</td>
<td>91</td>
<td>3</td>
<td>727</td>
</tr>
<tr>
<td>Dec-10</td>
<td>582</td>
<td>11</td>
<td>151</td>
<td>5</td>
<td>749</td>
</tr>
<tr>
<td>Oct-07</td>
<td>630</td>
<td>13</td>
<td>18</td>
<td>5</td>
<td>666</td>
</tr>
<tr>
<td>Jun-09</td>
<td>741</td>
<td>10</td>
<td>153</td>
<td>3</td>
<td>907</td>
</tr>
<tr>
<td>Aug-09</td>
<td>626</td>
<td>9</td>
<td>295</td>
<td>0</td>
<td>930</td>
</tr>
<tr>
<td>Dec-09</td>
<td>703</td>
<td>18</td>
<td>139</td>
<td>3</td>
<td>863</td>
</tr>
<tr>
<td>Average</td>
<td>651</td>
<td>11.7</td>
<td>141.2</td>
<td>3.2</td>
<td>807</td>
</tr>
</tbody>
</table>

### Table 4: Number on Children in selected prisons - May-July 2010


\textsuperscript{121} Penitentiary Administration Source.
<table>
<thead>
<tr>
<th>City, Region (Visited prisons IN CAPS)</th>
<th>Awaiting Trial</th>
<th>Condemned</th>
<th>On Appeal</th>
<th>Total</th>
<th>% Awaiting Trial</th>
<th>Children’s quarters?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Boys</td>
<td>Girls</td>
<td>Boys</td>
<td>Girls</td>
<td>Boys</td>
<td>Girls</td>
</tr>
<tr>
<td>DOUALA, Littoral</td>
<td>11</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Nkongsamba, Littoral</td>
<td>17</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Edea, Littoral</td>
<td>13</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Yabasi, Littoral</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Mbanga, Littoral</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>YAOUNDE, Center</td>
<td>145</td>
<td>0</td>
<td>28</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>MBALMAYO, Center</td>
<td>28</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>BAFOUSSAM, West</td>
<td>44</td>
<td>0</td>
<td>10</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>MBOUDA, West</td>
<td>19</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>BAMENDA, N. W.</td>
<td>17</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Ngaoundéré, Ad’wa</td>
<td>37</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTALS (not representative of entire country)</strong></td>
<td><strong>340</strong></td>
<td><strong>1</strong></td>
<td><strong>53</strong></td>
<td><strong>1</strong></td>
<td><strong>4</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>

**Douala’s Central Prison (New Bell): Separation of Child Detainees, and Reduced Numbers.**

Douala’s Central Prison’s children’s quarter is nearly empty: while Douala previously held as many as 120 children, this number fell to 52 in July 2009, and only 17 on the day of the author’s visit in July 2010.\(^{122}\) Though difficult to attribute causality, several informants believed that the reasons for this incredible decline in the number of incarcerated young people include:

- Legal assistance from PACDET\(^{123}\) attorneys; and
- A deep understanding and appreciation of having incarceration as a last resort at the level of the Littoral Regional Attorney General (*Procureur General*), and Douala State Counsel and Judges.

Douala’s Prison is that they have recently built a “children’s quarter” (*quartier des mineurs*) that keeps children separated from adults during the day and night.\(^{124}\) The facility is well-constructed, boasts new beds, and the children have adequate room to move around (especially given the small number of children there. The median age of children in Douala Prison is 17 years old, though the ages ranged from 14 to 20;\(^{125}\) the majority of the children there are accused of minor theft and are

---

\(^{122}\) A handful of children escaped from the prison within the last year in one incident, but the decline in numbers has been consistent even without the escape.

\(^{123}\) A European Union-funded project; see *infra* Section 3.4.d (discussing donor coordination).

\(^{124}\) The UN Committee on the Rights of the Child recommends, in line with the Convention on the Rights of the Child, the separation of children from adults in all detention facilities. United Nations, *supra* note Error! Bookmark not defined., at ¶ 80(g).

\(^{125}\) Not all of the young men housed in the children’s quarters are children by the United Nations Definition. Some young men who were sentenced as children are still in the children’s quarters even after having reached
prime candidates for diversionary measures. Among the children incarcerated at Douala, there is an average of five months of pre-trial detention, though one of the children there had been in pre-trial detention for 16 months. The children at Douala Prison have contact with adult prisoners during sport

Three profiles of incarcerated children:
(1) One 17-years old detainee had been in Yaoundé’s Central Prison for 14 months, and his next court date was scheduled for the following week. He is accused of theft of money from a store. His father lives in Maroua (in the Extreme North Region of Cameroon), though his mother lives in Yaoundé, and has visited him. Even though he does not have an attorney, he felt that the help that he was getting from the social worker was sufficient. He complained that in prison, he did not have adequate shoes or clothing.

(2) One 13-year old child was living on the street when he was picked up for begging (vagabondage) four months previous. He is still awaiting trial.

(3) One 16-year old child stated that he was picked up for begging, and has been incarcerated for four months, but that his parents – who live in Yaoundé – do not know where he is.

time, during transportation to and from court, and when joining the adults for religious services. As the children’s quarter is set up as a unisex operation, any girl prisoner would be housed with the adult women; this is the case for all prisons throughout Cameroon, suggesting a different standard for separation linked to gender.

The 17 child detainees at Douala have access to classrooms and receive instruction from adult prisoners who are trained teachers. Some of the beds had mosquito nets. A large number of private Associations and NGOs jockey to provide educational, training, and post-incarceration support to children at Douala Prison, many times doubling up on efforts. Some level of harmonization/coordination of these associations has been attempted by UNICEF.

The majority of prisons in Cameroon do not have functioning education programs for incarcerated children operated by the government. The Ministry of Education does not provide teachers. In Littoral Region, only the Central Prison of Douala (New Bell) has an educational program, in this case run by incarcerated teachers and external NGOs. Likewise at Yaoundé, a number of private, often parochial, associations provide educational support to children.

The Douala Prison warden reported that the only discipline that the children receive is a “consultation” and then washing/mopping the floor. They do not, he claimed, use confinement, or physical punishment. The children eat 2 times a day, at noon and at 7pm. The Douala Prison Director reported that all of the children are represented by a lawyer in their judicial process, though on a show of hands, about half of the children reported having legal representation. The others said that when they arrive in court, they are alone. There is one non-Cameroonian child in the Douala Prison, a

age 18. This is the same case as in Douala, where at least one young man in the children’s quarters is 20 years old. While this is technically in violation of the separation provision of the CRC, the author finds this practice generally defensible when carried out with the interests of these young detainees in mind. The alternative – being housed in the adult portion of the facility – carries many risks, including sexual assault, and one prison official stated that they keep in mind the “fragility” of the individual detainee.
“refugee” from Central African Republic accused of theft, and the Prison Director has been in contact with the Embassy.

Some prison guards and other officials at the Douala Prison have received training from UNICEF/Ministry of Justice concerning children’s rights and the laws. All of the prison officials who had benefited from the training expressed interest in receiving more training. The prison guards do not as a rule receive special training for the needs of child detainees, and all guards rotate in and out of the children’s quarter.

When a child detainee arrives in the Douala Prison, he is seen by a doctor, and then meets with a “welcoming commission,” where the child learns the rules, rights, and services at the prison from various NGOs and MINAS officials. Similar entrance processes were confirmed by other prisons.

**Bamenda Central Prison**

“I receive more attention and training in prison than I would have gotten outside.”
- A child in the Bamenda Central Prison

Bamenda’s prison has the best situation for incarcerated children that this author observed. The children’s quarter is completely separated from the adults, and is sizable (perhaps 40 X 30 meters). There is dormitory capacity for 80 children, though only 23 are there. The Bamenda Prison boasts the only Ministry of Basic Education (MINEDUB)-recognized school within a prison in the entire country: the Juvenile Reformatory School with three full-time teachers, a library, and classrooms. The school suffers from a lack of resources, but compared to the educational opportunities available in other prisons, this situation is quite good. All of the students from the school passed their annual exams in 2010, no small feat – especially in contrast to children in other prisons complaining that they could not even take the exams. Furthermore, the Catholic Chaplaincy has five full time staff members running mechanics, welding, and computer workshops within the prison. The prison warden seemed genuinely interested in reforming the children, and helping them re-enter society better trained and educated. The warden explained that he keeps kids up to age 20 in the children’s quarters as long as they are taking advantage of the school / training curricula. If they are over 18 and refuse to go to school, he will transfer to be with the adults. The warden observed that a caregiver’s involvement while a child is in prison provides hope for the child and a reminder of their life afterward.

Despite the comparatively positive incarceration arrangements for children in Bamenda, the children still complained of insufficient food. Further, three individual children presented cases that highlight the challenges that still face the Cameroonian justice and incarceration systems:  

- **Example 1.** One child entered the Bamenda Prison when he was 13. He was accused of defiling and killing a two-year old child and has been sentenced to go to Buea Borstal Institute. However, because this child’s parents have not paid a large sum (more than FCFA 1 million, or more than USD $2,000) to the victims as part of a civil settlement, the child remains in Bamenda Prison indefinitely.

---

126 His refugee status was not confirmed. However, the Committee on the Rights of the Child has commended Cameroon for its acceptance of refugee children from neighboring children, and the adoption of the Act concerning the Status of Refugees (Act No. 2005/006). United Nations, supra note Error! Bookmark not defined., at ¶ 67.

127 Note that all of these stories are based on either prison warden’s or the child’s description of events. The author was unable to triangulate with case files or victims.
- **Example 2.** One child was accused of stealing a goat when he was 17, and he admitted doing so. He was arrested and has spent two years and four months (26 months) at Bamenda’s Prison, having never once gone to court. This child’s name was not on the list of incarcerated children. With some coordination and follow up from a prison guard, the court clerk, and the judge, it was determined that this young man (now 19 years old) had been charged with not having a national identity card, and the judge released him. The case highlights how it is possible for young people to slip through the cracks of the system, and shows the important role of birth certificates, as they are necessary to obtain a national identity card.

- **Example 3.** One child was lying on a bench apart from the rest of the children, looking skinny and weak. It appeared to the author that he was ill, which was supported by the prison doctor. The doctor explained that the child has tuberculosis and was likely going to die. He is being treated at the central hospital, but the prison does not have enough money to increase his treatment. Any additional treatment would have to be paid for by his caregivers, and they have not come.

**Yaoundé Central Prison: Crowded, and only barely separated from adults.**

The Central Prison of Yaoundé has a decidedly less child-friendly environment than Douala or Bamenda. On the day of the author’s visit, the children’s quarter had 177 children, in a space that was built for 60, and the space felt very cramped. Only 28 children had been found guilty, while 145 (or 82%) were in pre-trial detention, and two were on appeal. Like in Douala, children make up a small percentage of Yaoundé’s 3,829 prisoners.

The children’s quarters in Yaoundé are separated by a door that often opens to the adult section. The door is locked during the night, and someone (an adult prisoner) stands guard during the day to monitor those who pass. The children in detention play soccer with the adults, and are also transported to court with adults.

Given the crowded living conditions and precarious legal situation, the Yaoundé children’s quarters exuded a high level of hopelessness. The cells are lined with three levels of bunk-beds, and one cell slept 27 children in a room with 18 beds (some children sleep two-to a mattress) that was probably built to house 10. Some children have access to income generating activities and workshops, including art, computer classes, tv / dvd repair, and tailoring.

Children can go out for educational experiences with Associations working with the prison, including to the “Salle de l’Espérance” run by the Catholic Diocese operating behind the prison. Seven children from other countries are in Yaoundé’s Prison, including at least one holder of a refugee card originally from Central African Republic.

**g. Re-integration**

“*L’enfant qui sort du prison n’a rien.*”  “The child that leaves prison has nothing.”

– State Counsel Informant

Probation services are not well-developed in Cameroon. The Criminal Procedure Code of 2005 spells out the creation of probation officers (*delegués de liberté surveillé*) overseen by MINAS. The specific payment structure for probation officers has not been decided, and most do not get remunerated; however, some Presidents of Tribunals have taken it upon themselves to arrange for payments. The probation officer can ask judge to change the term of imprisonment.

In some urban areas, NGOs and associations are involved in the reintegration process of children. For example, the Foyer d’Espérance in Yaoundé provides a place for children who have been released from prison to sleep and eat before heading off on their own.
3.2 Management and Coordination

a. System Coordination and Management

There is very little coordination of the justice system pertaining to children on an institutional level in Cameroon. Despite the multiple state actors that interact with a child in conflict with the law, no juvenile justice coordinating bodies exist at national, regional, or departmental levels. The Ministry of justice appears to play a convening role in terms of wider justice policy.

UNICEF and the Ministries of Justice and Social Affairs have provided training in children’s rights for various actors in the process, including judges, probation officers, assessors, police, and prison officials. In the author’s estimation, these trainings have had a positive effect in raising awareness of children’s rights among key government actors who interact with children in conflict with the law. In Mbalmayo, for example, a positive, though informal synergy now exists among the judge who handles children’s cases, the departmental delegate for social affairs (MINAS), and the prison warden. Each of these actors expressed a genuine commitment for speeding up the court procedures for children, utilizing the best interests of the child standard for decisions affecting children, incorporating child-friendly court procedures, and using incarceration as a last resort.\(^{128}\)

The Ministries of Justice and Social Affairs, along with the Direction of National Security are the primary agencies involved with the delivery of services to children in conflict with the law. The Prison Administration, judges, prosecutors, and other court personnel all work under the Ministry of Justice; the social workers work under the Ministry of Social Affairs; the assessors and probation officers are appointed by both ministries. The Ministry of Justice does not have a specialized structure at the national level that develops policies affecting children. The Ministry of Social Affairs organizes itself around the concept of protecting children’s rights, and has a Director of Children’s Rights at the Ministerial level. This role encompasses a wide range of children in need, including both children in conflict with the law and child victims of crimes. Neither the police nor the gendarmes have special investigators for children in conflict with the law. Several actors expressed that tension exists between MINAS and MINJUSTICE concerning how best to judge children. Some social workers believe that magistrates are willing only to apply the law, at the expense of considering the social factors such as the family situation.

b. Data Capacity

The National Institute of Statistics collects statistics relevant to justice from various ministries, and publishes an Annuaire Statistique every two years.\(^{129}\) However, it is not clear whether the regular collection of statistics flows directly into the development of justice policies for children in conflict with the law. The UN Committee on the Rights of the Child expressed concerns at the data collection constraints and capacity in Cameroon, and made recommendations toward Cameroon’s strengthening of the data collection system.\(^{130}\)

Data collection differs across different ministries. Data collection at the courts generally occurs by hand in written log books. The court clerks generally have a separate book for prosecution of children’s cases, these records are not aggregated and used by officials for policy-making purposes.

\(^{128}\) In the author’s travels, only in Mbalmayo did a government official mention the best interests of the child standard, as recommended by the United Nations Committee on the Rights of the Child. See United Nations, supra note Error! Bookmark not defined., at ¶ 30.

\(^{129}\) See also TBS.

\(^{130}\) See United Nations, supra note Error! Bookmark not defined., at ¶¶ 19-20(a).
at the regional level. The author did not gain access to police or gendarmerie statistics regarding the number of arrests of children. The prison administration keeps generally adequate records of those incarcerated in the children’s quarters, though the children’s quarters (when they exist) routinely house young people aged 18, 19, and even 20.\footnote{See supra note 125 for a discussion of who is in children’s quarters.}

The data that is collected at the local level generally gets passed up the chain to regional and then national levels, but does not get synthesized at the local or departmental level. Judges and social workers at the local level did not have access to the synthesized data, and could not easily answer questions about the number of cases that passed through the courts.

c. Donor Coordination and Partnership

While a complete donor-mapping of justice programs in Cameroon was not possible to compile given the time constraints, this section provides information about some of the donors working in this area. International funding represents only 6% of Cameroon’s GDP. However, given that the Ministries of Justice and Social Affairs receive about 1% and 0.1% respectively of the federal government’s budget, there is wide acceptance that international partners can play an important role in this field to affect positive change within the justice system. Some donors, especially embassy-based small grants programs, expressed that justice projects were risky due to the perception that these projects run up against corruption and other overtly political problems within the government. Despite these challenges, UNICEF has worked consistently with government and non-governmental partners in child justice projects in recent years as part of the child protection unit.

The European Union (EU) has been the largest donor to work in the justice sector in Cameroon over the last decade as part of the European Development Fund mechanism. The EU’s PACDET and PACDET II programs represent an investment of up to €7.5 million for prison infrastructure and legal representation. PACDET did not focus specifically on children, and the PACDET II administrators were not able to disaggregate the number of children who received legal assistance. The PACDET II program had contracts with individual lawyers, though did not provide training or capacity building for those lawyers. The EU’s focus for the “budget” funding is human rights of prisoners, and rights of stigmatized groups, such as homosexuals, albinos, or people living with HIV. Beyond the European Union and UNICEF, other recent donors to NGOs working with children in conflict with the law include the Canadian Embassy’s small grants program, the Commonwealth Fund and Mensen met en Missie (based in Holland).

Donors in Cameroon generally follow the ‘division of labor’ aid theory, with France and Germany focus on health and education, and the EU focusing on governance. While there is donor coordination on this broad level, no specific coordination exists specifically around children in conflict with the law.

One potential partner for future UNICEF justice programs is the Center for Human Rights and Democracy in Central Africa (part of Regional Office for High Commission for Human Rights), based in Yaoundé. The Center has a mandate to promote human rights in Central African nations, including Cameroon. In an effort not to duplicate work of other UN agencies, the Center carries out programs that no one else is doing in a country, or support other UN agencies working in country whose goals overlap with the HR goals. The Center has no specific focus on children, nor does it currently work with UNICEF Cameroon. However, if UNICEF Cameroon were to plan a project that overlaps with
human rights (such as a justice and prison project), the Center might be able to provide financial support. The Center will be developing the Universal Periodic Review in Cameroon this year.

IV. CHILD VICTIMS AND WITNESSES

“Quand l’enfant est la victime, on ne s’occupe pas de ça.” “When the child is the victim, we do not deal with that.” - Lawyer informant

Key Findings:
- The Ministry of Social Affairs (MINAS) is primarily charged with addressing the needs of child victims of crime, though MINAS does not have adequate staff or resources to provide adequate services on a national scale
- The justice system is not consistently welcoming to child victims of crimes, especially rape.

4.1 Statistical Overview

Government-collected statistics on child victims of crimes and witnesses were not made available, and multiple informants indicated that these statistics are not regularly collected.

4.2 Legal and Regulatory Framework

a. Flow Chart of How a Child Victim of Sexual Assault Experiences the Justice System

- Child victim (and/or parents) go to police to report sexual assault. (Reporting is not obligatory for professionals.) Social worker at police station is immediately contacted.
- Police refer case to State Counsel
- Judicial Inquiry (Inquête judiciare)
- Child provides testimony to judge in camera (huis clos).
- Police refer victim to hospital for check up and medical certificate
- Social inquiry (inquête social) conducted by MINAS social worker.
- If case of abuse within the family, child placed temporarily with extended family or in institution during social and judicial inquiries.
- Police mediate between victim and perpetrator.
- At close of social inquiry, child placed permanently with extended family.
- At close of social inquiry, child placed permanently in institution.
- At close of social inquiry, child reinserted into family.
- MINAS provides ongoing support to child.
b. Legislation
Cameroon has very few specific laws that provide special procedures for child victims of crimes or witnesses. Victims in general, children and adult victims are treated the same by Cameroonian law and principle. The only difference (and it speaks more to the aggressor) is that penalties are aggravated for crimes against children. The UN Committee on the Rights of the Child lauded Cameroon for the CPC provision that child witnesses are considered in legal proceedings against children. The Law of 2005/302 of 21 September 2006.140

Cameroon passed a child trafficking law in 2005 that criminalizes the movement of children for economic gain. While exact statistics were not available, several informants stated that only a handful of cases have been brought under this new law since 2005.

Social workers are, by law, placed in various locations throughout communities in Cameroon, in what are called “social service actions” (service de l’action social). They are to be placed at universities, hospitals, courts, police stations, and prisons.

c. Child Victims in Practice
Child and adult victims of crimes must follow the same procedures in court. There is nothing in the law that requires that child maltreatment be reported. None of the interviewees knew of child friendly procedures for child victims. However, several prosecutors stated that any victim can demand in camera procedures. Parties can file a criminal and civil complaint at the same time to try to receive compensation from a guilty party. Some informants stated that when a child is giving oral testimony, some judges require that there be corroborating evidence.

Social workers are, ostensibly, trained in the specific steps in the intervention of a crime victim. They are charged with playing both a coordination role (in terms of caregivers, other social workers, etc), and in providing psycho-social support to the child. However, in practice, it is widely acknowledged that there is not sufficient personnel for the one social worker in the police station or prison to handle an entire arrondissement (of 5000 people or more). There exists an internal reference system (referred to as a social liaison (liaison social) for social workers within MINAS to refer a case to another social worker within the system, though multiple interviewees stated that these references do not, in practice, occur on a systematic basis.

École Normale des Affaires Sociales (ENAS), the government-operated social work school has not taken new students since 2006. It has been replaced (on paper, at least) by the Institut National du Travail Social (INTS) by a 2006 Presidential Decree. Unfortunately, the INTS is not operational and exists only on paper. As a result, no social workers have been trained since 2006, nor have MINAS’ 700 social workers returned for refresher courses. According to multiple informants, the

---

132 United Nations, supra note Error! Bookmark not defined., at ¶ 49.
133 Law No. 2005/015 of 29 December 2005 Against Child Trafficking and Slavery in Cameroon.
135 Id. at Art. 71.
136 Id. at Art. 72.
137 Id. at Art. 73.
138 Id. at Art. 74.
139 Id. at Art. 75.
government’s reasoning for cutting back on trainings for social workers is that the profession does not help grow the national economy.

Paradoxically, at the same time that there is not any new training, the Minister of Social Affairs has expressed that there should be a social worker in every arrondissement. In order to do this, and to fulfill their mandate, one MINAS representative stated that there would have to be more than 4,000 MINAS employees nationwide, as opposed to the current 700. The UN Committee on the Rights of the Child, at Cameroon’s January 2010 periodic review, recommended that Cameroon increase the budgetary allocations to inter alia MINAS toward its work with children,\textsuperscript{141} and generally recommends an increase in the number of professionals (including social workers) trained on the rights of the child.\textsuperscript{142}

c. Institutional Framework

There is limited coordination between ministries in terms of managing child victims of crimes. Several stakeholders identified MINAS as the primary ministry charged with handling crime victims. While MINAS and other stakeholders recognize that child victims of crimes, especially sexual violence, have unique medical and psychological needs, these services – especially the psychological services – are not generally available from the public sector.

### Toward the Creation of a Children’s Rights Commission

The author attended the Workshop to Validate the Draft Law for the Creation of a Children’s Rights Commission (L’Atelier de Validation de l’Avant-Projet de Texte Relatif au Suivi de la Mise en Oeuvre de la CDE). The United Nations Children’s Rights Committee recommended the creation of just such a children’s rights commission. The workshop included a line-by-line reading and editing of the draft law, and discussed the strengths and weaknesses of the Human Rights Commission created in 2004.\textsuperscript{143} The creation of a Children’s Rights Commission in Cameroon, if created through legislation, would address issues concerning both children in conflict with the law, and child victims.

There is not a supportive environment for victims of child rape to bring their cases to traditional leaders or the police / state counsel. As one informant stated, any woman who makes such an accusation “will either be ignored, or will be looked at like she is crazy.” Further, there is a reluctance in the public to bring incest cases to authorities because of fear of losing family image. Several informants stated that parents of rape victims often do not believe their child has been raped. As one interviewee stated, “Children in Cameroon do not have a voice.”

### Example of challenges of bringing a child rape case to justice (as recounted by staff at GTZ):

In one case, a three year old was raped. The parents filed a criminal case, but the court proceedings took three years. During this time, the child was subpoenaed to court and to the

---

\textsuperscript{141} See United Nations, supra note Error! Bookmark not defined., at ¶ 18(a).

\textsuperscript{142} United Nations, supra note Error! Bookmark not defined., at ¶ 50(d).

\textsuperscript{143} See Loi No 2004/016 du 22 Juillet 2004 Portant la Création et Fonctionnement de la Commission Nationale Des Droits de l’Homme et des Libertés. One of the weaknesses of the Human Rights Commission as originally structured by the 2004 law was that because it contained four voting government members, it was seen as not independent enough from the Cameroonian state. For this reason, the Human Rights Commission only had observer status at international human rights meetings. This structural weakness was corrected by a 2010 law which makes the government members “deliberative” only, and not voting. See Loi No 2010/004 of 13 April 2010.
gendarmes so many times that she missed a lot of school. There were not child-friendly procedures at the courts, and the child had to tell her story over and over, sometimes in the public courtroom. The parents did not know that they could ask for in camera proceedings. The case was postponed 17 times. After three years, a lawyer for Reseau National des Associations des Tantines (RENATA) intervened, and forced the judge to make a judgment after two months. However, the defendant was found not guilty for a lack of evidence because the medical certificate had said “suspected rape,” and that was enough to get the defendant off.

There are numerous cases of child neglect, according to informants, but these cases do not generally go into the justice system.

MINAS has an internal process for taking a child into custody after a report of abuse has occurred. Note that this is all based on an internal memo from the minister and that there exists no law specifying the process.

1. MINAS makes an attestation of provisional custody (attestation de garde provisoire).
2. MINAS conducts a social inquiry, generally on an unannounced visit to the home.
3. The MINAS local delegate must inform the Minister within 48 hours of taking custody.
4. MINAS works with the family to ascertain who can take the child on a provisional basis. This might be with the extended family or a neighbor and is called “Prise en charge communautaire.” Note that the government provides nothing to families that take children; UNICEF may provide nutritional, educational, and birth certificate access.

There is some vibrancy at the NGO level for dealing with child victims of crimes, especially victims of sexual abuse. The Cameroon Society for the Prevention of Child Abuse and Neglect (CASP CAN) conducts research, education / training, public-awareness, and action (including a drop in center where they have provided support to 500 children). When a child is a victim of sexual abuse from an adult, CASPCAN pursues criminal means. However, when it is a question between two children, CASPCAN prefers to act as mediators between the two families. Further, cases of incest rarely go to court, but are ‘arranged’ (i.e. cash payments) within the family. However, if incest is arranged (ie mediated) in the family, the child is not taken care of psychologically. If a person does decide to take their case to the courts, there is nothing in the law to protect children from being re-traumatized by telling their story many times.

<table>
<thead>
<tr>
<th>Three personal stories from child victims of rape. These three young women were raped as teenagers and tried to seek justice, but failed.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Jeanette’s story.</strong> When I was 16 years old, my teacher made sexual advances to me. I told him no, but he kept asking. I firmly told him no, and he beat me severely. I spent two weeks at the hospital recovering from the beating. I went to the police and filed a complaint. The state counsel called me in to his office, and told me that my teacher accused me of stealing books from him, and that is why he beat me. The headmaster – a white lady – testified in defense of my teacher. I did not steal any books. My father worked at the printing press, and we had plenty of books at the house. The case never went farther than the state counsel’s office, and that teacher is still moving around. Now, I want to be a lawyer because I love justice and freedom.</td>
</tr>
<tr>
<td><strong>Marie’s story.</strong> When I was 13, my father raped me on a regular basis for about a year. He was also seriously mistreating my brother. I waited about a year after, and I went to the police, but they said that the police do not respond to family problems, and they said to go to the social</td>
</tr>
</tbody>
</table>

---

144 All names have been changed.
service center (service social) run by MINAS. I went there to tell them, and while sitting in the waiting room with lots of other people sitting there, a MINAS person asked me why I was there. There was no privacy, and I did not want to talk to them in public about it. Through a friend, I contacted a woman social worker who listened to my story (in private) and gave me an official subpoena (convocation) to give to my father. When I gave the summons to my father, he beat me and my brother severely. That is when I left the house, and waited on my neighbor’s porch – this neighbor is a police officer. When he came home and I told him that our father had beaten us, the neighbor told us to get away from his house, and took off his belt threatening to whip us. We went to my aunt’s house, but I stopped going to school for five years because of this. My father never responded to the subpoena, so we got another one and slipped it under the door of his house. In total, there were three subpoenas. The police said that so much time had passed, and that there was no proof that he did anything, so they refused to start a case. When I got involved with the Aunty’s Program run by RENATA and GTZ, I told my story on TV and in the newspaper. After that, I received many threats from my father’s family. My grandmother told me that I have shamed the family, and that she wanted me dead. My cousin called me and said that if he should meet me in the street, he would kill me. I do not even know where my father is. I am now back in school and working, and I just passed my exams.

**Marguerite’s story:** When I was 15 years old, five boys raped me – they were friends of my brother. After they raped me, one boy hit my head with a bottle leaving this big scar and told me that if I told anyone, that they would kill me. I spent two weeks in the hospital, and I did not speak for a month after it happened. Afterwards, I went to the police, and told them who raped me. The police caught one of the boys, but the other four left the city. The one boy they caught said that he did it alone, and he hired a lawyer. The boy’s family bribed the court to let him go, so now all of them are free. I left that city and went to Douala for school. I got pregnant from being raped, and now I have a 9 month old baby.

GTZ, the German Development Corporation, has operated a project on reproductive and sexual health, and prevention of violence against women through the creation of aunty (tantine) associations in coordination with a local partner, RENATA. The project was started in 2000, and GTZ’s support will lend in 2012, with RENATA continuing to run the project alone. GTZ creates aunty associations, trains teenage mothers, and provides funding and technical assistance. There are now 246 associations of aunties (who were aged 11-19 while pregnant) in all 10 regions numbering more than 12,500 girls. The girls are trained in reproductive health and counseling. Their goal is to train 15,000 girls in order to train an entire generation of girls to treat their own children better. Within the group of girls trained, victims of rape are identified, and they can get special psycho-social support services. They also identify girls who have had ‘hot-water massage’ or the pouring of boiling hot water on the stomach after giving birth, and breast ironing.¹⁴⁵

Abortion is legal in Cameroon in cases of rape or incest, though this fact is not very well known by medical professionals. Doctors routinely say that it is illegal, though it is up to a committee within each hospital to decide whether to provide the service. There are reports of a large number of clandestine abortions and home-made concoctions to induce abortion, which can lead to the mother’s death.

¹⁴⁵ The process of pouring hot water or placing hot stones on the breasts of a girl to postpone puberty.
Some Rape Statistics from GTZ’s research on Rape and Incest in Cameroon.146

The average age of rape victims is 16; the average age of rapists is 25. 12% of victims of rape in Cameroon are less than 10 years old.

Out of those women and girls who responded to the survey,
- 32% went to the hospital for an examination,
- 23% received a medical certificate (needed to bring a case to the police),
- 16% filed a criminal complaint (*porte plainte*),
- 7% have a criminal trial,
- 5% of the time, there is a guilty finding. In other words, only 1 in 20 men who rape are found guilty. The UN Committee on the Rights of the Child has called upon the government to take “appropriate measures to prosecute perpetrators of sexual offenses against children.”147

RENATA has two lawyers who assist at the earliest levels to file a complaint, and follow up on cases. GTZ/RENATA has created a rape hotline toll-free phone number (*ligne verte*), SOS viol; victims of rape work the lines. It has been operating since September 2008, and gets around 30 calls per month. The private operation of such a toll-free number is in line with the UN Committee on the Rights of the Child’s recommendation to the Cameroonian government to establish such a number for children in critical situations.148

The 2005 trafficking law has not, as of July 2010, led to any successful prosecutions in the North West region.149 In response to a perceived non-effectiveness of the trafficking law, the Justice and Peace Commission (a project of the Catholic Archdiocese) in the North West Region has worked with some rural communities to establish Vigilante Committees. Vigilante Committees are set up at the village level to identify potential and actually trafficked children and other children moving to urban areas, and provide a method of communication and normalization of process for children that do leave the community. While the author was not able to visit one of these committee meetings or see reports from them, these types of structures have been criticized.150

4.3 Management and Coordination

a. Research, Policy Formulation, Program Development, and Data Capacity

Besides the studies by GTZ and CASPCAN mentioned below, there do not appear to be coordinated research efforts concerning child victims of violence and crimes. Policy formulation on child victims may improve if the Commission on Children’s Rights is created, as this body would follow up on reports of violations of children’s rights, and draw attention to certain types of violations and appropriate government responses.

CASPCAN conducted a study of court cases of sexual assault and abuse cases of child victims from the Yaoundé High Court from 1994-1999 and has another children in conflict with the law study

---

147 United Nations, supra note [Error! Bookmark not defined.], at ¶ 74(b).
148 United Nations, supra note [Error! Bookmark not defined.], at ¶ 78.
149 One Judge in Bamenda noted that two such cases are in the High Court right now.
in the pipeline. GTZ has conducted a situation report on rape and incest in Cameroon as a basis for the Tantine intervention.151

The Government does not systematically collect data concerning the incidence of children being victims of crimes. Courts do note the type of cases that pass through the system, and future research projects could analyze therefore data of cases where children have been victims of crime.152 The author was unable to obtain statistical data from MINAS regarding the number of cases of child victims of crimes for which they had intervened. Data sources were not generally disaggregated by age, sex, location, and socioeconomic background.153

b. Donor Coordination and Partnership

Besides UNICEF’s programs in favor of psychosocial support for children, very few donors work on child victims of crimes. GTZ funds and carries out the above-discussed Aunty (Tantine) program for teenage mothers along with local partner RENATA, and this group has a large overlap with teenage victims of rape and incest. CASPCAN gets funding form the International Society for the Prevention of Child Abuse and Neglect and from Community Action for Poverty Alleviation (CAPA). Overall, however, there are major funding gaps (and service gaps) in regards to child victims of violence and crimes.

V. INFORMAL JUSTICE SYSTEM

5.1 Introduction

Traditional justice mechanisms represent a substantial informal diversion for children in conflict with the law in Cameroon.154 Because of the slow nature of state-run justice processes, the high cost, and the perception of corruption in the state courts, a certain segment of the population prefers to take conflicts to these traditional leaders. Traditional leaders routinely mediate conflicts where children are accused of committing a crime and when children are victims of crimes. If the traditional leaders are not able to resolve the conflict, the parties to the conflict can (and sometimes do) then go to the police, and start a formal criminal action.

Traditional leaders operate on their moral authority, and, at times on authority vested by the State. As noted earlier, Cameroon boasts over 200 distinct ethnic groups, all of whom have some sort of traditional power structure in place, either a group of elders or more centralized in one chief. Some traditional leaders operate rather formal customary courts, while others have less formal processes.

The Cameroonian state recognizes some traditional power holders, and this relationship is managed by the Ministry of Territorial Affairs (MINAT). Further, the government recognizes 227 Customary Courts (Tribunaux Coutumiers).155 Customary courts have the same force of law as the First Instance Courts, though customary courts do not technically have jurisdiction to handle criminal

---

151 This report is available at www.sosviolcameroun.org.
152 The CASPCAN study on child sexual abuse is an example of an earlier research project on this subject, though this study data was from the late 1990s, and was limited only to Yaoundé.
153 See United Nations, supra note Error! Bookmark not defined., at ¶¶ 19-20 (outlining the Committee on the Rights of the Child’s concerns and recommendations about data collection).
154 See infra Section 5.2 for discussion of the appropriateness of the term “children in conflict with the law” in the context of traditional justice mechanisms.
A decision from the Customary Courts can be appealed to Court of Appeals. To further complicate matters, a judge reported that in civil affairs such as marriage and inheritance, Cameroon’s state-run courts recognize customary law if (a) both parties agree to it, and (b) the law does not go against the Constitution.

A distinction may be made between traditional courts generally overseen by village chiefs (chefs du village) in rural areas that are more ethnically homogenous, and neighborhood chiefs (chefs du quartier) in urban areas who are responsible for all the people in the neighborhood, regardless of their ethnic group. Further, some urban areas also have chiefs and associations that cater to people from one ethnic group or region that are living in the city. These chiefs may also mediate conflicts, including those that involve children accused of what would be considered a misdemeanor or felony if handled in the state courts.

It is worth mentioning that in Cameroon, the term “community justice” may refer to “vigilante” or “mob” justice, wherein a suspected criminal is caught by the community, beaten, or even killed. One informant stated that if there is a child who is not known to the community who steals something at a local level, the community may catch the child and provide corporal punishment, and let him go, rather than take them to either the traditional leaders, or the police. Such a meting out of punishment at the community level does not respect the rights and dignity of the child, though it may arguably be preferable to the potentially lengthy judicial processes and pre-trial detention. Any future diversion programs should be cognizant of the complexity of the term “community justice,” and may prefer the term “mediation.”

### 5.2 Children in Conflict with the Law

Due to Cameroon’s ethnic diversity – with each ethnic group theoretically applying its own remedy to a conflict – this report will not attempt to provide a comprehensive account of the state of traditional laws and conflict resolution mechanisms. Instead, the report will highlight the process and experience of two traditional leaders: a “Block Chief” in an ethnically diverse neighborhood of Yaoundé, and a chief of the more ethnically homogenous town of Bamendjou, in the West Region.

A brief semantic note before describing the work of traditional leaders. The UNICEF Toolkit on Diversion and Alternatives to Detention (2009) defines a “child in conflict with the law” as “any child who comes into contact with law enforcement authorities because he or she has been accused of – or been found responsible for – breaking the criminal law.” This definition would not include a child who is accused by a community member of breaking the law and brought before a traditional leader. Community members often bring children to traditional leaders first, without contacting the police. If a traditional leader does resolve the dispute involving a child, this child is not, technically “in conflict with the law” as there is no contact with the organs of the state. For the remainder of this section discussing traditional leaders, I will refer instead to a “child accused of a crime.”

<table>
<thead>
<tr>
<th>One informant stated that victims are more likely to take their case to a traditional leader if:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- The child accused of a crime is known in the community;</td>
</tr>
<tr>
<td>- The alleged infraction / crime did not involve a gun or other deadly weapon;</td>
</tr>
<tr>
<td>- The traditional leader is well-respected;</td>
</tr>
</tbody>
</table>

---

156 Customary Court Ordinance governs the North West and South West regions and dates before independence in 1960. In Francophone zone, a 1969 law applies, though the author was not able to obtain the law.

157 Even this definition is insufficient, as the term “crime” in French is a term of art, and translates into “felony” in English. I am using this term broadly here, to include children accused of both felonies and misdemeanors.
- Both victim and child accused of the crime are from the same ethnicity (especially in rural areas);
- The parties to the conflict are not engaged with the formal state (i.e. do not have birth certificates, or national identity cards.

Case Study 1: Two Yaoundé Block Chiefs: Belinga Paul Octavien, Chef de Block, Briqueterie Centre 2 and Mougbet Ousseni; Chef de Block Briqueterie Ouest

The Neighborhood Chief (Chefs du Quartier) provides a means of transmission of information between the population and the state (at the level of sous-prefet). Neighborhood chiefs are chosen by a vote in the community, and once voted, are in for life. The role of the chief is to arrange and fix problems at the local level, and, when necessary, to refer to the police. Briqueterie is a cosmopolitan neighborhood and ethnically diverse. They see many social problems such as theft, rape, and drug use, including marijuana and glue sniffing, and alcohol.

The chiefs agree that they see about two to three cases per month of a child having been accused of a crime, usually theft. They have sometimes even received referrals from the police. When a case comes to the chief, they will generally use mediation to resolve the conflict between the victim and the accused, and work out some sort of payment from the perpetrator (or his family) to the victim. The chiefs see job training and education as keys to prevention of child-crime. They appeal to UNICEF and to the Cameroonian government to build more community youth centers including libraries, and places for children to play and study.

The neighborhood chiefs also respond to situations where children are victims of crimes. For example, recently, a woman came to one of the Block Chiefs and complained that her nine-year-old daughter was raped. The block chief went to the hospital to get a medical report, and then went to the police to arrest the suspect. These two chiefs have received training from CEJA, a local NGO, on child rights, how to identify and refer cases of child sexual abuse and potential cases of child slavery. In addition to their role mediating conflicts involving children (and adults), the neighborhood chiefs are truly at the front lines of identifying cases of child victims of exploitation and abuse. Families and neighbors routinely approach the neighborhood chiefs with problems of children being raped and of child slavery. When they learn about it, the chiefs bring the child to MINAS, and bring the adult to the police.

Case Study 2: Chief of Bamendjou, West Region – Fo’o Sokoudjou Tchendjou II

The Fo’o Bamendjou is an extremely powerful man. He has been chief of Bamendjou since 1953. He was jailed as a political prisoner from 1959 and freed upon independence in 1960.

In Bamendjou, there are three levels of traditional justice:

1. Criminal problems start at the neighborhood (quartier) chief level. They will try to resolve the problem. There are 23 quartier chiefs in Bamendjou. If the neighborhood chief reaches no resolution, the case moves to...
2. Moula Toumbo (the equivalent to the “Minister of Justice”). He holds court every market day (every 8 days), and draws from the power of the ancestors and from god to reach a decision. If there is still no resolution, the case moves to...
3. The Fo’o (head chief) himself.

It is believed that caregivers have a key role in raising their children and are essentially responsible for their children’s good and bad behavior. In the case of a child who steals, the caregivers are held responsible. This is also the case for more serious crimes and accidents. For example, there was a case where an eight-year old had accidentally killed another child. The Chief
explained that the community held the caregivers responsible for leaving a weapon (machete, often used in the field) available for a child to access.

If a person is accused of a crime (like theft), the chief does conciliation. In the Bamiléké culture (under which Bamendjou falls), if a person is accused of a crime but claims that he did not do it, the neighborhood chief asks that the accused swear to his innocence on a calabash (or gourd) full of water, and throw the calabash to the ground. If the accused person does this, the chief lets him go free. However, if that person has lied “in the eyes of god,” something bad (a sickness or accident, for example) will befall the accused in the next seven days. The Fo’o explained that this is stronger than the court-level justice, because people can lie in court, but they do not dare lie in front of the traditional court.

In addition to the Chief’s approach, the community may independently decide that a person has wronged the community, and they may decide to isolate the person. In other words, no one will talk to this person or sell to them in the market, and this treatment forces the person (or family) into banishment. This is the traditional method of sanction, and is quite severe. Only the Fo’o can re-admit this person into the community. This has happened in cases of rape.

Sometimes cases are judged by the traditional authorities, but then one of the parties is unhappy, and the case goes to the police and the “institutions” of justice. If people don’t trust the local power structure, they go straight to the police.

5.3 Child Victims and Witnesses

No formal structures exist to dictate how child victims and witnesses are treated by traditional leaders. Again, great diversity of traditional power structures is reflected by a wide diversity in procedures. In general, traditional leaders try to involve the victim in the mediation and resolution of conflicts. Depending on what offense is being mediated, traditional justice systems generally try to make arrangements, and have cash or in kind payments from the perpetrator (or family) to the victim (or family). In cases of theft, this type of financial payment arranged by a traditional leader can quickly resolve the conflict, and provide a level of restitution to the victim. However, in cases where children are victims of sexual assault or rape, the financial payment negotiated by a traditional leader is problematic for at least two reasons. First, the victim’s psychosocial needs including trauma are not addressed. Second, informal payments from perpetrator to victim (or the victim’s family) can encourage the idea that rape can be ‘bought’ or ‘paid for,’ which does not act as either a direct or indirect deterrent.158

VI. RECOMMENDATIONS

6.1 Recommendations pertinent to entire child protection system (including both children in conflict with the law and child victims)

1. Law and policy development

158 Thank you to Flavien NDONKO of GTZ for discussing this aspect of traditional justice.
a. Encourage passage of the Draft Code on the Protection of the Child, which includes the creation of a juvenile court structure.\textsuperscript{159}

b. Encourage the updating of Law No. 90/054 of 19 Dec. 1990 on the Maintenance of Law and Order that allows for an indefinitely renewable 15-day administrative detention.

c. Continue to encourage birth registration programs, and consider decriminalization of lack of identity card (as this discriminates against those who lack birth registration.

d. Update Penal Code Article 247 to decriminalize “vagabondage.”

e. In line with the UN Committee on the Rights of the Child recommendation,\textsuperscript{160} encourage the government to increase the budgetary allocations to MINAS to ensure adequate financial, human and technical resources to carry out work relating to children.

f. Encourage the government to make the Institut National du Travail Social (INTS) operational, to continue training MINAS social workers. Include specific training in children in conflict with the law and the needs of child victims of crimes.\textsuperscript{161}

2. Knowledge base, data collection, coordination, and partnership

a. In line with the Committee on the Rights of the Child’s recommendations that Cameroon “strengthen its collaboration with civil society,”\textsuperscript{162} integrate the services of NGO and private associations to provide direct services (including paralegal services) where available.

b. Strengthen partnership with international funders and development agencies around child protection. (See below sections for specific recommendations concerning European Union and GTZ.)

c. Identify and pilot a decentralized mechanism for improving coordination between justice and other service providers at the departmental level focusing on child protection (including both children in conflict with the law and child victims). The mechanism should help facilitate collaboration between the police, gendarmes, judges, lawyers, probation officers, prison officials, social workers, and civil society.

3. Police and prosecutors (state counsel):

a. Integrate training on children’s rights upon arrest into the police and gendarme’s schools. The pedagogy here is important, as a purely theoretical insertion of rights framework will not be as useful as a hands-on, example-based, interactive training module that includes child development and age appropriate interventions.

b. Provide improved funding for the social workers to locate families of children in custody and child victims.

4. Communication for Development

a. Develop communication for development strategy for sensitization and behavior change around children in conflict with the law and child victims of violent crimes.

\textsuperscript{159} This recommendation aligns with the January 2010 Committee on the Rights of the Child recommendation to Cameroon based on the second periodic report. See United Nations, Concluding Observations: Cameroon, CRC/C/CMR/CO/2, at ¶¶ 10 and 80.

\textsuperscript{160} See United Nations, \textit{supra} note 12, at ¶ 18(a).

\textsuperscript{161} Such a recommendation is in line with the UN Committee on the Rights of the Child. United Nations, \textit{supra} note 12, at ¶ 50(d).

\textsuperscript{162} United Nations, \textit{supra} note 12, at ¶ 24.
6.2 Recommendations focused on children in conflict with the law

5. Partnerships
   a. Work with the European Union to build on the lessons learned from and PACDET and PACDET II on issues surrounding legal assistance and improvement to the justice system.
   b. Work with NGOs that have paralegal capacity to visit police station on regular basis (ideally, daily, but at least two times per week) to establish what children are entering the system.

6. Police and Prosecutors
   a. Provide training to the MINAS social worker based at the police station to provide legal advice to children in custody, and to monitor children’s treatment by the police.
   b. Work with police and gendarme leaders to make strict rules and consequences for officers that inflict corporal punishment of children (and adults) in their custody.163

7. Diversion
   a. Provide further education and awareness-raising within justice and police communities concerning the concept of diversion, and other successful diversion programs, such as NICRO in South Africa.164
   b. Support further research into piloting a diversion program for non-violent offenses committed by children.
   c. Engage in further study on traditional mediation practices and how children experience community mediation processes. Work with traditional leaders to support more age appropriate, rights based practices.
   d. Work with MINAS social workers based at the police station to make appropriate recommendations to the police to divert children from even entering the justice system, recommending that the police drop the case completely (if appropriate), or refer the case to traditional/community justice structures for mediation/resolution.

8. Adjudicatory Process
   a. In the absence of a separate juvenile court system, the Ministry of Justice can instruct Presidents of Tribunals to channel all children’s cases to one (or two) examining magistrate and judge. Provide extensive training to those magistrates so that they can be true ‘advocates from the inside’ in terms of moving cases quickly and using incarceration as a last resort.
   b. Ensure that the best interests of the child standard is used in practice for all judicial and administrative decisions that have an impact on children in conflict with the law.165
   c. In cases where children allegedly commit a crime along with an adult, encourage separation (disjunction) of the adult and the child, so the child can be judged at the First Instance Court, rather than in the High Court.
   d. Install assessors in the High Courts in cases where there is a child accused of a crime along with an adult.
   e. Sensitize judges and court clerks (greffiers) to CPC Articles 565 (disallowing imprisonment in default of payment for children) and 727 (exempting judgments for children’s cases from stamp duty and registration charges).

163 This recommendation accords with id, at ¶ 36.
165 This accords with id, at ¶ 30 and the Convention of the Rights of the Child, Article 3.
f. Work with bailiffs (huissiers de justice) to speed up the process serving (citation) process for children in pre-trial detention.

g. In response to the general lack of assistance counsel by incarcerated children, consider a three-tiered response for improving legal assistance to children:

i. **Lawyers (avocats):** Work with partner funding organizations to support training and contracts with lawyers to take cases of children in conflict with the law. This could take two forms:

   1. A continuation, of the PACDET II-Style project, with direct contracts with lawyers on a per case basis. Pupil Advocates could have a role in providing legal assistance to children in conflict with the law.

   2. Advocate funding partners to support a small number of lawyers (again, potentially Pupil Advocates) to work on exclusive contracts with NGOs to work full time representing incarcerated children.

ii. **Paralegals (parajuristes):** Training and advocacy to funding partners for support to NGOs to provide paralegal assistance to children in conflict with the law. Ideally, both lawyer and paralegal assistance programs could work together, as some children only need their case pushed forward by a paralegal, while others may need a lawyer.

iii. **Social Workers (Assistant social):** Provide training to MINAS social workers in prisons and/or courts to provide more specific juridical assistance to children in conflict with the law. The social workers can be trained to speak on behalf of children in custody, and to do a best interest assessment, and to provide a more structured recommendation for the child.

9. **Deprivation of Liberty**

   a. Create a “Children’s Section” within the Penitentiary Administration, wherein certain guards and administrators are specially trained in child’s rights, and have primary responsibility over children’s quarters.

   b. Carry out the systematic prison inspections at the national, regional, and departmental levels as mandated by law, and conduct audits of the status of legal cases for those awaiting trial. Inspections would include an assessment of each prison’s attainment (or lack thereof) of international standards by an independent body. Such a prison inspection should also include specific issues facing children, including separation from adults, education, psychosocial support, and child-appropriate disciplinary processes.

   c. Conduct regular internal audits of incarcerated children at the prison level to assure that each child in custody is supposed to be in custody. If a child has been in pre-trial detention for longer than the maximum prison term (if found guilty), coordinate between prison and court to release the child.

   d. Integrate Ministry of Education teachers and schools into more prisons (based on the model at Bamenda).

   e. Encourage and facilitate coordination among NGO and private Associations working in prisons.

---

166 Like the Paralegal Advisory Service in Malawi and Benin.
10. Restorative Justice and Reintegration
   a. Increase funding to post-release services so that officials can visit family members to
      where a child is supposed to return. Develop post-release planning documents for each
      prisoner, both child and adult.
   b. Encourage the full funding of and training for probation officers as created in the CPC.

6.3 Recommendations focused on child victims

11. Knowledge base, data collection, coordination, partnership, and law and policy development
   a. Strengthen partnership with GTZ to build on their work with RENATA concerning child
      victims of crimes (specifically rape victims).
   b. Work in partnership with MINAS to formalize processes (and educate their staff) on
      reacting to child victims of sexual abuse.
   c. Support further research to analyze court data of cases where children have been
      victims of crime.

12. Investigative and Adjudicatory Process
   a. In cases of rape, work with the police, MINAS, and Ministry of Justice to streamline the
      process of obtaining a medical certificate and filing a criminal complaint. Work toward
      making this process proceed at no cost to the victim.
   b. Implement child-friendly investigation and court proceedings that only ask the child
      victim of crime to retell her story once. This recommendation is in line with the UN
      Committee on the Rights of the Child’s 2010 recommendations.167
   c. Provide child victims of violent crime with assistance of social workers, and as necessary,
      psychologists, doctors, and legal counsel (the prosecutor represents the state’s interest,
      which does not always align with the victim).168

VII. CONCLUSION

Cameroon has made important progress in the realm of addressing the specific needs of
children in conflict with the law. However, there exists important room to improve how children in
conflict with the law are treated by the police, by judges, and by prison officials. Child victims of
crimes too often have a difficult time accessing the justice system, and are not consistently treated
with dignity when incarcerated. Children who lack support from caregivers generally move further
and further into the system. There remains much room for improving the child-friendly and justice-
seeking natures of how child victims of crimes access justice in Cameroon.

VIII. ANNEXES

8.A: KEY DOCUMENTS
   - Cameroon Code of Criminal Procedure (2005)
   - Cameroon Penal Code (1967)

167 United Nations, supra note 12, at ¶ 74(e).
168 See United Nations, supra note 12, at ¶ 80(c).

**8.B: ADDITIONAL TABLES**

**Table 5: State of children in the Central Prison of Ngaoundéré, Adamawa Province as of 30 May 2010**

<table>
<thead>
<tr>
<th>Number - Names Omitted</th>
<th>Date child entered</th>
<th>Days incarcerated to 30 May 2010</th>
<th>Accused/convicted of</th>
<th>Attending trial/convicted</th>
<th>Age</th>
<th>Parents Living</th>
<th>Sex</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>29-Dec-09</td>
<td>152</td>
<td>Theft (vol)</td>
<td>Convicted</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>2</td>
<td>18-Oct-09</td>
<td>224</td>
<td>Fighting</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>3</td>
<td>17-Oct-09</td>
<td>225</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>4</td>
<td>23-Oct-09</td>
<td>219</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>5</td>
<td>10-Nov-09</td>
<td>201</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>18</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>6</td>
<td>2-Aug-09</td>
<td>301</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>18</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>7</td>
<td>20-Dec-09</td>
<td>161</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>18</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>8</td>
<td>13-Mar-09</td>
<td>443</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>16</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>9</td>
<td>30-Mar-10</td>
<td>61</td>
<td>Rape</td>
<td>Attending Trial</td>
<td>16</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>10</td>
<td>28-Feb-10</td>
<td>91</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>11</td>
<td>25-Dec-09</td>
<td>156</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>15</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>12</td>
<td>18-Sep-09</td>
<td>254</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>14</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>13</td>
<td>18-Oct-09</td>
<td>224</td>
<td>Rape</td>
<td>Convicted</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>14</td>
<td>17-Mar-09</td>
<td>439</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>16</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>15</td>
<td>28-Sep-09</td>
<td>244</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>16</td>
<td>11-Oct-09</td>
<td>231</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>17</td>
<td>1-Feb-09</td>
<td>483</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>18</td>
<td>28-Sep-09</td>
<td>244</td>
<td>Abuse of Confidence</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>19</td>
<td>13-Oct-09</td>
<td>229</td>
<td>Abuse of Confidence</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>20</td>
<td>9-Dec-09</td>
<td>172</td>
<td>Agg. Theft</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>21</td>
<td>5-Oct-09</td>
<td>237</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>22</td>
<td>15-Mar-10</td>
<td>76</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>23</td>
<td>22-Sep-09</td>
<td>250</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>24</td>
<td>25-Nov-09</td>
<td>186</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>15</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>25</td>
<td>15-Aug-09</td>
<td>288</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>15</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>26</td>
<td>24-Nov-09</td>
<td>187</td>
<td>Theft (vol)</td>
<td>Freed</td>
<td>17</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>27</td>
<td>2-Dec-09</td>
<td>180</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>16</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>28</td>
<td>22-Sep-09</td>
<td>250</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>16</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>29</td>
<td>21-Oct-09</td>
<td>221</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>16</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>30</td>
<td>6-Oct-08</td>
<td>601</td>
<td>Agg. Theft</td>
<td>Freed</td>
<td>17</td>
<td>Yes</td>
<td>male</td>
</tr>
<tr>
<td>31</td>
<td>16-Nov-09</td>
<td>195</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
<tr>
<td>32</td>
<td>21-Nov-09</td>
<td>190</td>
<td>Theft (vol)</td>
<td>Attending Trial</td>
<td>17</td>
<td>No</td>
<td>male</td>
</tr>
</tbody>
</table>
8.C: JUVENILE JUSTICE TRAINING AND ASSESSMENT OBJECTIVES

Background:
The situation of children in conflict with the law in West and Central Africa is grim. Most countries do not have a specialized juvenile justice system, and legal professionals and support staff are rarely trained to handle children’s cases in a developmentally appropriate manner. Exact numbers of children in detention are unknown, as is knowledge about who comes in contact with the law, for what purposes and the time they spend in pre-sentence detention. It is widely accepted that detention conditions are deplorable: Thousands of children linger in overcrowded prisons with adults, with inadequate access to basic health care and education; sexual and physical abuse is rampant; and reintegration and rehabilitation service missing. Legal representation is also absent, leaving children invisible, defenseless and prone to abuse.

Although there are a number of justice initiatives underway in the region, few countries have placed sufficient emphasis on diversion and alternative measures to prevent unnecessary confinement. Mechanisms to screen out non-offenders and refer children to appropriate social services are also urgently needed. More can also be done to reinforce community level justice mechanisms or to put in place restorative justice programs at the local level.

As a first step to improving programming, policy and advocacy efforts on behalf of children in conflict with the law, more data is needed. Few countries in the region have conducted a comprehensive justice for children assessment and national data is limited. Base line data is needed to ensure that children’s basic rights are respected and appropriate justice responses are supported.

Objective: Conduct an assessment on the national juvenile justice system, with a special emphasis on documenting detention practices, diversion possibilities, alternative measures and access to justice for child victims of serious crime.

Tasks and Responsibilities

<table>
<thead>
<tr>
<th></th>
<th>Date</th>
<th>Number</th>
<th>Crime</th>
<th>Status</th>
<th>Age</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>33</td>
<td>26-Oct-09</td>
<td>216</td>
<td>Rape</td>
<td>Waiting Trial</td>
<td>17</td>
<td>Yes</td>
</tr>
<tr>
<td>34</td>
<td>8-Dec-09</td>
<td>173</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>17</td>
<td>No</td>
</tr>
<tr>
<td>35</td>
<td>2-Feb-07</td>
<td>1213</td>
<td>Agg. Theft</td>
<td>Waiting Trial</td>
<td>17</td>
<td>No</td>
</tr>
<tr>
<td>36</td>
<td>31-Dec-09</td>
<td>150</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>17</td>
<td>No</td>
</tr>
<tr>
<td>37</td>
<td>19-Mar-10</td>
<td>72</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>17</td>
<td>No</td>
</tr>
<tr>
<td>38</td>
<td>1-Feb-10</td>
<td>118</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>16</td>
<td>No</td>
</tr>
<tr>
<td>39</td>
<td>1-Mar-10</td>
<td>90</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>18</td>
<td>Yes</td>
</tr>
<tr>
<td>40</td>
<td>25-Nov-09</td>
<td>186</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>18</td>
<td>No</td>
</tr>
<tr>
<td>41</td>
<td>14-Oct-09</td>
<td>228</td>
<td>Theft (vol)</td>
<td>Waiting Trial</td>
<td>12</td>
<td>No</td>
</tr>
</tbody>
</table>

**Average days among children awaiting trial:**

- Average age: 16.6 years
- % awaiting trial: 90%
- % accused or guilty of theft or aggravated theft: 85%
- % orphan: 61%
- % male: 100%

Totals and Averages: 240 days
The assessment will be conducted by a 2 person team made up of a national expert on justice and a legal intern. Together they will:

1) Prepare a detailed assessment plan of action to be reviewed and approved by the UNICEF country office 2-3 weeks prior to the field visit. This plan should include, at minimum, the following elements: a list of field sites to be visited; a list of sources of information and persons to be interviewed; a detailed protocol and logistically plan; clear delineation of who is responsible for what tasks in carrying out the assessment; and a detailed calendar. The plan should include both pre and post country work (to submission of the final report).

2) Using the adapted UNODC juvenile justice assessment tool, conduct a comprehensive assessment on the juvenile justice system, with a focus on diversion, alternative measures and access to justice for child victims of serious crimes.

3) Work together to analyze assessment findings, outline key recommendation.

4) Debrief and discuss with UNICEF and other key stakeholders on preliminary findings of the assessment

5) Prepare a draft and final assessment report.

In addition to group tasks, each team member is assigned specific responsibilities.

The national counterpart will act as the team leader for the assessment while in country, and will:

1) Identify and collect relevant documents to support desk review (ideally shared with the student prior to arrival in country).

2) Assist UNICEF country office in arranging field visits – including protocol measures.

3) Support the student intern in writing the report. Specific writing tasks will be decided jointly by the team members.

4) Review and comment on the zero draft of the assessment report prior to sharing with others for review.

5) Support the student intern in finalizing the report.

The student will act as the lead writer for the assessment report, and will:

1) Conduct a preliminary desk review on Juvenile Justice in the assigned country, with a specific focus on detention, diversion, alternative measures, community justice and child victims of crime.

2) Prepare a first draft of the assessment report for review and comments by the UNICEF country office & regional office, key national counterparts and NU/LU faculty for comments.

3) Incorporate feedback and finalize the assessment report – to be submitted to the UNICEF office no later than end September 2010.

Outputs:

- Detailed Assessment Plan of Action
- Pre-visit Desk Review
- Draft Assessment report
- Final Assessment report

8.D: FIELD CALENDAR
25 June 2010 – Yaoundé
8.E: KEY SECTIONS OF PENAL AND CRIMINAL PROCEDURE CODES

The Cameroon Penal Code was adopted in 1967.

<table>
<thead>
<tr>
<th>Category</th>
<th>Section</th>
<th>Penal Code Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infancy</td>
<td>80</td>
<td>(1) No criminal responsibility shall arise from the act or omission of a person aged less than ten years. (2) An offence committed by a person aged more than ten years and less than fourteen years may attract only such special measure as may by law be provided. (3) For an offence committed by a person aged over fourteen and under eighteen years responsibility shall be diminished. (4) A person aged eighteen years or over shall be responsible as an adult. (5) The age relevant to this section shall be that attained at the date of commission.</td>
</tr>
</tbody>
</table>

Commentaries: A child under ten years is totally irresponsible and may not even be tried for what he does. He may be the subject of special measures of care and protection, but not of punishment nor of the preventive measures applicable to other children.

A child over 10 and under 14 may be tried, but may not be sentenced to a penalty nor to a preventive measure provided by the criminal law for adults: he may be the subject only of such measures as are specially provided by the laws on juvenile delinquency (Criminal procedure).

A young person under 18 may be sentenced even to a penalty, but always reduced by a partial defense, without reference to his knowledge of good and evil. It is of course preferable to avoid so far as at all possible a sentence which would go contrary to what is desired (reformation, re-education and so on). If for practical reasons probation might seem not to be the answer, the special measures provided by the law on juvenile delinquency are always available.
### Effect of Diminished Responsibility

87

(1) Wherever responsibility is by law diminished, the penalty provided for the offence shall be reduced as follows:

(a) The penalty of death or of loss of liberty for life shall be reduced to loss of liberty from two to ten years;
(b) Any other penalty for felony shall be reduced to loss of liberty for from one to five years;
(c) The maximum penalty for misdemeanour, whether of loss of liberty or of fine, shall be reduced by half, and the minimum to that provided by section 92 (1) of this code;

(2) Where responsibility is reduced for more than one reason or where there are in addition mitigating circumstances, the minimum shall be that provided by section 92 (1).

**Commentaries:** Section 87 sets forth the effect of a partial defence on the penalty, which may be inflicted. The existence of a partial defence reduces considerably the maximum incurred, while the minimum is only token, subject to special provisions for cases of felony. In the case dealt with by subsection (2) - coexistence of several defences, or a defence with mitigating circumstances, there is a token minimum even for felony, although the maximum is not further reduced.

### Mitigation

90

The benefit of mitigating circumstances may be given, for reason to be record in the judgment, save where they are by law expressly excluded.

### Mitigation In Case Of Felony

91

(1) Upon a finding of mitigating circumstances in favor of any person convicted of felony, the sentence may be reduced to not less than ten years' loss of liberty if the offence be punishable with death, to not less than five years if it be punishable with loss of liberty for life, and to not less than one year in any other case.

(2) Where the penalty is reduced under the last subsection to ten years or less, the court may add a fine of up to two million francs.

### Mitigation In Other Cases

92

(1) Upon a finding of mitigating circumstances after conviction of misdemeanour or a simple offence, the court may reduce to five days any sentence of loss of liberty, and any sentence of fine to one franc, and may pass sentence of one such penalty only.

(2) Where the offence is by law punishable with loss of liberty only, the court may substitute a fine of up to one million francs for misdemeanour or up to twenty-five thousand francs for a simple offence.

---

**Criminal Procedure Code**

### Chapter I: Institution of Prosecution

##### Age and procedure

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
</table>
| 700     | (1) A preliminary inquiry shall be compulsory for a felony or a misdemeanor committed by minors aged less than eighteen (18) years.  
(2) Where a minor aged less than eighteen (18) years is accused of committing a felony or misdemeanor, preliminary inquiry shall be carried out in accordance with the rules of the ordinary law subject to the provisions of this part.  
(3) Except in the case of a simple offense, an infant shall not be prosecuted by direct summons. |

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
</table>
| 703     | (1) In the absence of a birth certificate of the infant, his age shall be determined by a medical officer who shall issue a medical certificate of apparent age.  
(2) Where only the year of birth of a person is known, he shall be presumed to have been born on the 31st day of December of that year. |

##### Information

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>700</td>
<td>(4) The State Counsel or the Examining Magistrate shall inform the parents, guardian or custodian of the infant that proceedings have been instituted against the minor.</td>
</tr>
</tbody>
</table>

##### Investigation and medical examination

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
</table>
| 701     | (1) The Examining Magistrate shall carry out all measures of investigation necessary to reveal the personality of the minor.  
(2)(a) He may, in particular, order a social investigation into the material and moral situation of the family of the minor, his character and antecedents, his attendance at school and general behavior, and the conditions of his upbringing.  
(Note: Section 717: The court shall be cognizance of the social welfare report drawn up in accordance with section 701(2) only after the infant has been found guilty.)  
(b) He shall entrust the investigation to the social welfare service or failing this, to any other qualified person.  
(3) The Examining Magistrate may order a medical examination and any psychiatric tests, if need be.  
(4) He may, by a reasoned ruling, decide to place the minor in a welfare centre or in an observation centre. |

##### Custody and placement

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
</table>
| 702     | (1) The examining Magistrate may entrust the custody of a minor to:  
(a) His parents, guardian, custodian or any other trustworthy person;  
(b) A welfare centre or an observation home;  
(c) Any specialized institution;  
(d) A vocational training or health centre.  
(2) Any order to place a minor in one of the institutions mentioned in subsection 1 shall always state the reasons for the custody and shall specify the duration thereof not to exceed the date when judgment is delivered.  
(3) Measures of custody of a minor shall be taken in the best interest of the minor, and may be cancelled or changed at any time. |

### Chapter II: Temporary Detention of Juveniles

##### Age

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>704</td>
<td>A minor of twelve (12) to fourteen (14) years of age shall not be remanded in custody, except when he is accused of capital murder, murder or of assault occasioning death.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>705</td>
<td>A minor aged between fourteen (14) and eighteen (18) may be remanded in custody only if this measure is considered indispensable.</td>
</tr>
</tbody>
</table>

##### Detention

<table>
<thead>
<tr>
<th>Section</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>706</td>
<td>(1) Infants shall be detained only in:</td>
</tr>
<tr>
<td>Transfer</td>
<td>707</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
| Release on bail | 708 | When an infant is released on bail, the Examining Magistrate or the court may require:  
- A written undertaking binding him over to be of good behavior and to appear at any time when he is required to do so;  
- A recognizance entered into by his father, mother, guardian or custodian to guarantee his appearance in court when so required;  
- An oral engagement by any person worthy of trust, guaranteeing the minor’s appearance in Court. |

### Chapter III: Composition of the Court of First Instance Sitting in Cases of Juvenile Delinquency

| Assessors | 709 | (1) The court of First Instance sitting in cases of juvenile delinquency shall comprise:  
- a magistrate of the bench, President;  
- two Assessors, members;  
- a Representative of Legal Department;  
- a Registrar. |

| 711 | Where the assessors who are duly summoned fail to be present, the President shall, after ascertaining their absence, sit alone and mention of this fact shall be made in the judgment. |

### Chapter IV: Jurisdiction

| Involvement of adults | 713 | The Court of First Instance sitting in cases of juvenile delinquency shall have jurisdiction to try all felonies, misdemeanors and simple offences committed by minors aged more than ten (10) years but less than eighteen (18) years of age. However, where there are accomplices or co-offenders who are adults, only the ordinary law courts shall have jurisdiction to hear the case. |

| 716 | Where an infant is involved in the same case as one or more adults, the preliminary inquiry shall be carried out in conformity with the rules of ordinary law, subject to the provisions of section 701 and following of this code. |

| Procedure | 719 | (1) The Court of First Instance sitting in cases of juvenile delinquency shall apply the procedure applicable in ordinary court subject to the provisions of sections 721 and following. |

| In camera | 720 | (1) Under penalty of judgment being declared a nullity, the hearing of any matter in which a juvenile is implicated shall be in camera. |

| In absentia | 723 | (1) Where a minor has absconded or disappeared, the court may order any measures which it deems to ensure the appearance of the infant in court. It may in particular, by a reasoned decision, order that the infant be brought or detained in a prison subject to the conditions provided for in this section.  
(2) The minor shall appear at the earliest possible date before the court, which made the decision referred to in sub-section (1).  
(3) Where the minor cannot be found and the interest of third parties
| Minor aged 14 or less | 724 | If a minor aged fourteen (14) years or less is found guilty, the court shall admonish him before ordering one of the following measures: (a) entrusting the infant to the custody of his parents, guardian, custodian or to any trustworthy person; (b) placing him on probation; (c) placing him in a vocational or health center; (d) placements in a specialized institution; (e) requiring him to enter into a preventive recognizance.

| Minor between 14 and 18 | 725 | (1) Where a minor aged more than fourteen (14) years but less than eighteen (18) years is found guilty, the court shall, by a reasoned decision: (a) Pass a sentence in accordance with the provisions of sections 80 (3) and 87 of the Penal Code; (b) order one of the measures provided under section 724 above; (2) In the case of non-suspended term of imprisonment, only probation may be ordered in addition. (b) The probation ordered shall take effect after the term of imprisonment has been served.

| Duration | 726 | (1) When one of the measures provided for in sections 724 and 725 has been decided upon, the judgment delivered shall place the infant in custody for such a period as is necessary for his education, until he attains civil majority. (2) Any minor placed in an authorized institution or granted leave of absence by the director thereof, shall be deemed to be in state of legal detention. If he escapes or does not go back to the institution, and arrest warrant is issued against him and he is taken back to the institution. (3) The court may, before a decision on the merits, order provisional probation for a particular length of time as an observation period.

| Expenditure | 728 | The modalities for the reimbursement of costs of maintenance, re-education and supervision of minors entrusted to persons, institutions or services shall be laid down by statutory instruments.

**Chapter VII: Simple Offences**

| Simple offense and repeat offense | 729 | (1) Where a minor aged fourteen (14) to eighteen (18) years is found guilty of simple offence, the court shall reprimand the minor as well as his parents, guardian or custodian and shall warn them of the consequences of a repeat offense. This reprimand is entered into a special register. (2) Where the minor fails to appear in court, the reprimand, which is addressed to him, shall be served on his parents, guardian or custodian, as the case may be, by registered letter. The letter shall also contain a warning of the consequences of a repeat offense. (3) In case of a repeat offense, the measures and penalties provided for under sections 725 and 726 shall be applicable for the minor. (4) If the court deems it necessary to order a measure of judicial supervision, it shall order that the infant be placed on probation.

**Chapter VIII: Probation of The Juvenile**

| Definition | 730 | The probation of a juvenile shall be a measure whereby an infant is entrusted to his parents, guardian or custodian and is supervised by specially trained persons known as probation officers. Probation shall
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Probation officers</strong></td>
<td>731</td>
</tr>
<tr>
<td>732</td>
<td>The parents, guardian or custodian of an infant placed on probation shall be bound to: (a) supervise, protect, educate and support the minor; (b) abstain from any act whatsoever likely to impede the work of the probation officer; (c) present the minor to the President of the court according to the calendar fixed in the judgment or order. In the event of death, serious illness, change of address or unauthorized absence of the minor, his parents, guardian or custodian shall inform the probation officer without delay. (1) In the event of infringement of one of the obligations provided for under section 733, the President of the court may, after receiving the opinion of the Legal Department, impose on the parents, guardian or custodian of the infant, a bond with, if necessary, solvent guarantors, to pay, if there are further violations, an amount of money. The said amount shall be fixed taking into consideration the financial situation of the parent, guardian, custodian or guarantors. (2) The sum thus fixed shall be paid to the Registrar-in-Chief of the Court of First Instance.</td>
</tr>
<tr>
<td><strong>Responsibility of parents, guardian or custodian</strong></td>
<td>733</td>
</tr>
<tr>
<td>734</td>
<td>The provisions of sections 557 and following, of this code relating to imprisonment in default of payment shall not apply to infants.</td>
</tr>
<tr>
<td>735</td>
<td>Chapter IX: Review of Probation Measures</td>
</tr>
<tr>
<td><strong>Procedure</strong></td>
<td>736</td>
</tr>
<tr>
<td>737</td>
<td>(1) All measures taken against juveniles by virtue of the provisions of section 724 may be reviewed at any time at the request of the Legal Department, the infant himself, his parents, guardian, custodian or the probation officer. (2) The following shall have jurisdiction to entertain an application for review: (a) the court which pronounced the initial decision; (b) the court of the place where the parents, or guardian or the probation officer or custodian reside.</td>
</tr>
</tbody>
</table>
| **Imprisonment in default of payment** | 738 | (1) A judgment of the Court of First Instance sitting in cases of juvenile delinquency is subject to an application to set aside, or to an appeal to the Court of Appeal or to the Supreme Court in the manner and within the time limits provided in this Code. However, these appeals shall not stay the execution of any measures pronounced against the minor. (2) Ordinary law procedure in respect of applications to set aside and of appeals shall be applicable to judgment passed against minors. (3) Appeals may be lodged by the parents, the guardian, custodian, counsel
or probation officer without any power of attorney.

### Chapter XI: Court of Appeal Sitting in Cases of Juvenile Delinquency

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>739</th>
<th>Appeals against judgments of the Court of First Instance shall be brought before the Court of Appeal sitting in cases of juvenile delinquency.</th>
</tr>
</thead>
</table>

### Composition of the Court of Appeal

| 740 | (1) The Court of Appeal sitting in cases of juvenile delinquency shall be composed of:  
|     |     | - a President, who shall be a magistrate of the bench;  
|     |     | - two Assessors, members;  
|     |     | - a representative of the Legal Department; and  
|     |     | - a registrar.  
|     | (2) The provisions of sections 710 to 712 shall be applicable before the Court of Appeal. |

### Chapter XII: Criminal Record in Respect of Juveniles

| Criminal records of juveniles | 741 | (1) All judgments delivered against minors pursuant to sections 725 and 726 shall be entered in the criminal record.  
|                               |     | (2) The provisions of sections 573 to 583 shall be applicable. However, mention of the judgment passed against minors shall be made only on extracts of criminal record issued to magistrates and public services.  
|                               |     | (NB: the provisions of sections 573 to 583 are relating to the criminal record cards (fiches du casier judiciaire) and to the criminal record bulletins (bulletins du casier judiciaire). |

### Chapter XIII: Cost Arising From Measures of Protection of Juveniles

| Probation officers and counsels | 742 | (1) The travelling expenses incurred by regular and voluntary probation officers in the course of their assignment shall be refunded in accordance with the general rules and regulations for the reimbursement of expenses incurred in criminal matters.  
|                                |     | (2) The fees of counsel assigned by the court of its own motion shall be paid as expenses incurred in criminal matters. |
| Contribution from the family    | 743 | Whenever a minor has been entrusted to the permanent or temporary custody of a person other than his father, mother, guardian or a person to whose custody he had been previously entrusted, or to some institution, the decision shall specify a portion of the monthly maintenance and travelling expenses to be charged to the family. Such expenses shall be recovered as court fees in criminal matters for payment into the Public Treasury. |