

## DEATH PENALTY CRIMES IN CAMEROON

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A felony as defined in section 21 of the Cameroon Penal Code (penal code) is "an offence punishable with death or loss of liberty for a maximum of more than ten years". Offences punishable with death as provided in the penal code are classified into three categories; those against the External Security of the State (Treason and Espionage); those against the Internal Security of the State (Secession and Civil War); and those against Private Interest (Capital Murder and Aggravated Theft resulting in death.)

### **External Security of the State**

Section 102 of the penal code states that:

- (a) "Any citizen taking part in hostilities against the Republic shall be guilty of treason and punishable with death".
- (b) "Any citizen assisting or offering to assist the said hostilities shall also be guilty of treason and punishable with death".

The provisions dealing with Espionage are contained in section 103 (a-c) of the penal code which states that whoever:

- a) Instigate a foreign power to undertake hostilities against the Republic; or
- b) Surrenders or offers to surrender to a foreign power or to its agents any troops, territory, installations or equipment employed in the defence of the nation, or any defence secret, or who in whatever manner acquires such secret with intent to surrender it to a foreign power; or
- c) With intent to injure the defence of the nation, damages any construction, installations or equipment, or commits any malpractice liable to prevent their normal working or lead to an accident;

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Shall, if a citizen, be guilty of Treason and if a foreigner, be guilty of Espionage and shall in either case be punished with death.

### **Internal Security (Secession and Civil War)**

The Black's law dictionary 7th Edition loosely defines secession as, "the process or act of withdrawing from a religious or political association". However, section 111 (2) of the penal code states that:

Whoever, undertakes in whatever manner to infringe the territorial integrity of the Republic, in time of war, or in a state of emergency or siege, shall be punished with death.

Same punishment shall apply under section 112 to whoever provokes civil war by arming the people or by inciting them to take arms against each other.

The above notwithstanding, the penalties provided for above may be reduced to imprisonment for persons found guilty under section 102 and 103 (penalties under ordinary law) and same for those convicted pursuant to section 111(2) and 112 (political penalties) of the penal code.

### **Offences Against Private Interest (Intentional killing)**

Capital murder as opposed to murder is punishable under section 276 of the penal code. It is committed in the following instances:

- a) After premeditation; or
- b) By poisoning; or
- c) In the preparation, facilitation, or commission of a felony or misdemeanour, or to enable the escape or procure the impunity of the offender or an accessory to such felony or misdemeanour shall be punished with death.

Murder shall be deemed premeditated notwithstanding the identity of the victim or that the enterprise depends on the fulfillment of a condition.

The dichotomy between simple and aggravated theft lies in the mode of commission. It is aggravated theft when it is committed pursuant to the provisions of section 320(1) of the penal code by the use of the following:

- a) With the use force; or
- b) Bearing weapons; or
- c) By breaking in, by climbing in, or by the use of false key; or
- d) With a motor vehicle.

Section 320 (2) states that whoever commits a theft by the use of force causing the death of another or grievous harms as provided for section 277 and 279 of the penal code shall be punished with death. The death penalty either by shooting or hanging as shall be prescribed by the trial judge in his judgment in the worst scenario. However, the trial judge may passed a less severe sentence for convicts found guilty of the offences referred to above to a term of imprisonment only upon finding of mitigating circumstances.

In cases of felonies punishable with death, the penal code states in section 91(1) that upon a finding of mitigating circumstance in favour of any person convicted of a felony punishable with death, the sentence may be reduced to not less than ten years loss of liberty. Most importantly the Head of State reserves the rights to grant Presidential Pardon and Amnesty to convicts to principal penalties pursuant to the provisions of section 66 and 73 of the penal code.

It should be noted that Cameroon is yet to ratify Second Optional Protocol to the International Covenant on Civil and Political Rights, on the abolition of the death penalty (General Assembly resolution 44/128 of 15 December 1989). The above notwithstanding, there has been no public execution for the past decade though the Courts continue to sentence persons to death as per the provisions of the penal code.