

**INTERNATIONAL STANDARDS ON JUVENILE JUSTICE: IMPLICATIONS OF
THE NEW CRIMINAL PROCEDURE CODE ON THE ADMINISTRATION OF
JUVENILE JUSTICE IN CAMEROON**

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Abstract

On 1 January 2007, a new Criminal Procedure Code became effective in Cameroon. Prior to this date, several pieces of legislations guided the administration of juvenile justice in Cameroon, making the process incoherent and ineffective. The new Criminal Procedure Code is comprehensive in its description of the criminal justice process including the administration of juvenile justice. It also guarantees the protection of human rights recognized under international conventions ratified by Cameroon. This paper explores international standards on juvenile justice and how Cameroon has incorporated these standards into its domestic legislations and practice. While the focus of the paper is the new Cameroon Criminal Procedure Code, a description is provided of the juvenile justice standards in relevant United Nations and African Union treaties, as well as the Cameroon Penal Code.

Keywords: juvenile, justice, international standards, human rights, Cameroon criminal procedure code.

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1. Introduction

Juvenile justice refers to mechanisms; legislative, institutional, and procedural, specifically dealing with juvenile offenders or children in conflict with the law. The terms 'juvenile offenders' and 'children in conflict with the law' refers to persons below the age of 18.¹ Although international law defines a child with respect to age, the definition of juveniles provided for in the UN Standard Minimum for the Administration of Juvenile Justice (The Beijing Rules),² reveal that the term juvenile does not necessarily correspond to the concept of age. Rule 2(2)(a) of the Beijing Rules defines a juvenile as a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult. Hence, it is the way in which the law is applied which dictates whether a young offender is also a juvenile for purposes of the law.³ This is an important criminal justice aspect because in some jurisdictions, a person below age 18 may be tried as an adult for the commission of a grave offense.

1. International Mechanisms on Juvenile Justice

The end of the Second World War saw the establishment of the present international human rights regime with the adoption of the Universal Declaration of Human Rights (UDHR).⁴ The UDHR has been very instrumental as it laid down the framework for specific human rights conventions, addressing different rights interests.⁵ Until the adoption of the International Covenant on Civil and Political Rights (ICCPR)⁶ in 1966, specific provisions regulating the administration of

¹ Convention on the Rights of the Child (CRC), article 1.

² UN Standard Minimum for the Administration of Juvenile Justice (The Beijing Rules) - UN General Assembly resolution 40/33 of 29 November 1985.

³ Geraldine Van Bueren, *The International Law on the Rights of the Child* (1995), p. 169. Netherlands: Martinus Nijhoff Publishers.

⁴ Universal declaration of Human Rights (UDHR), UN General Assembly resolution 217 A (III) of 10 December 1948.

⁵ International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), etc.

⁶ International Covenant on Civil and Political Rights, UN General Assembly resolution 2200A (XXI) of 16 December 1966, and entered into force on 23 March 1976.

juvenile justice had not been enshrined in a global treaty.⁷ In the 1980s however, international law began to develop in a constructive manner which acknowledged that children in conflict with the law could benefit from being separated from adults in the administration of justice.

The Convention on the Rights of the Child (CRC)⁸ was the first international instrument to adopt a coherent child rights approach to the international legal regulation of the deprivation of liberty for children.⁹ It recognised that separation in the justice system for adult and children can only occur if the system of justice to which children are subject observes the safeguards which are incorporated into international human rights law.¹⁰ Interestingly, African States, under the human rights regime established with the adoption of the African Charter on Human and Peoples' Rights (African Charter),¹¹ adopted in 1990, the African Charter on the Rights and Welfare of the Child (African Children Charter).¹² This has complemented and strengthened the international regime of the UN.

2. Standards for the Administration Juvenile Justice under the United Nations Human Rights System

The ICCPR adopted in 1966 incorporated aspects on juvenile justice aimed at providing special protection for young offenders. The ICCPR provides that the death penalty should not be imposed for crimes committed by persons below 18 years of age;¹³ that juveniles accused of criminal offence should be separated

⁷ Juvenile justice did not constitute part of the 1924 or the 1959 Declarations of the Rights of the Child.

⁸ CRC, UN General Assembly resolution 44/25 of 20 November 1989 and entered into force on 2 September 1990.

⁹ Ralph Krech, "Implementation of the United Nations Juvenile Justice Instrument" in Eugene Verhellen (ed) *Understanding Children's Rights*; (1998), p. 416. Ghent, Belgium: Children's Rights Centre.

¹⁰ Geraldine Van Bueren (note 3 above), p. 169.

¹¹ Adopted by the OAU Assembly of Heads of States and Governments in 17 July 1981, and came into force on 21 October 1986.

¹² Adopted by the OAU Assembly of Heads of States and Governments on 11 July 1990, and it entered into force on 29 November 1999.

¹³ ICCPR, article 6(5).

from adults and tried quickly;¹⁴ that juvenile offenders be accorded treatment appropriate to their age and legal status;¹⁵ and that the trial procedures for juveniles should take account the desirability of promoting their rehabilitation.¹⁶

In 1985, the UN General Assembly adopted the Beijing Rules,¹⁷ which sets out minimum guarantees for the administration of juvenile justice. These Rules are comprehensive and provide guarantees to the juvenile offender at all stages of the of criminal justice process. Most important, the Beijing Rules encourages the use of alternatives to the judicial process and stipulates that detention of juveniles should be used only as a last resort and for the shortest time possible. However, the Beijing Rules did not have the binding force of a convention and there was still a need for a legally binding document to protect juvenile offenders.

The ‘universally’ ratified 1989 CRC¹⁸ provided the much-needed framework for the administration of juvenile justice. Specifically, articles 37 and 40 address the issue of children in conflict with the law. Article 37 of the CRC guarantees the juvenile offender the right to be protected against torture, inhuman or degrading treatment; capital punishment; and life imprisonment.¹⁹ It bars unlawful arrest or arbitrary deprivation of liberty, and that imprisonment of young offenders should only be used as a matter of last resort and for the shortest period of time possible.²⁰ It also lays down conditions for the arrest, detention, and imprisonment of young offenders such as respect for the child’s inherent dignity, separation from adult offenders while in custody, maintaining contact with family,²¹ access to legal assistance, access to court, and a quick trial.²²

¹⁴ ICCPR, article 10(2)(b).

¹⁵ ICCPR, article 10(3).

¹⁶ ICCPR, article 14(3).

¹⁷ See note 2 above.

¹⁸ As of 2008, all members of the UN, but for the US and Somalia had ratified the CRC.

¹⁹ CRC, article 37(a).

²⁰ CRC, article 37(b).

²¹ CRC, article 37(c).

²² CRC, article 37(d).

Article 40 of the CRC incorporates most of the essential principles of the 1985 Beijing Rules, indirectly making the Rules legally binding on all CRC State parties. It also extends a number of legal guarantees mentioned in article 14 to 17 of the ICCPR.²³ Article 40 is very protective of juvenile offenders as it covers treatment from time of allegations through investigation, arrest, charge, trial, and sentencing. It details out a list of minimum guarantees for young offenders among others the obligation on state parties to set a minimum age of criminal responsibility²⁴ and to provide alternative measures for dealing with children who infringe penal laws without necessarily resorting to judicial proceedings.²⁵ States parties are equally required to establish and promote distinctive juvenile justice mechanisms for children with specific emphasis on positive rather than punitive aims, such as institutional care for rehabilitation.²⁶

The above described provisions on juvenile justice (the CCPR, the Beijing Rules, and the CRC) have further been strengthened and complemented by other UN resolutions. In 1990, the UN General Assembly adopted the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).²⁷ It covers all levels and forms of prevention of juvenile delinquency, including social reintegration. It provides an enlightened conceptual framework approach and vision with respect to progressive delinquency prevention policy and promotes desirable action to be pursued by the world community.²⁸ The Guidelines call for a 'child centred' orientation and child developmental perspective to delinquency prevention, as an integral part of juvenile justice

²³ This include the non-applicability of retroactive laws (CRC, art; 40(2)(a)); the presumption of innocence (art; 40(2)(b)(i)); the right to receive prompt information of charge (art; 40(2)(b)(ii)); the right to legal assistance and the right to determination of the matter by a competent, independent and impartial authority or judicial body (art; 40(2)(b)(iii)); not to be compelled to give testimony or confess, the right to examine and have examined adverse witnesses (art; 40(2)(b)(iv)); the right to have the case reviewed by a higher competent, independent and impartial authority or judicial body (art; 40(2)(b)(v)); the right to free interpreter if the child cannot understand or speak the language used (art; 40(2)(b)(vi)); and the right to privacy at all stages of the proceedings (art; 40(2)(b)(vii)).

²⁴ CRC, article 40(3)(a).

²⁵ CRC, article 40(3)(b).

²⁶ CRC, article 40(4).

²⁷ UN General Assembly Resolution 45/112 of 14 December 1990.

²⁸ Ralph Krech (note 8 above), p. 415.

administration.²⁹ Still in 1990, the General Assembly adopted the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.³⁰ This rules set out standards applicable when juveniles are confined to any facility whether penal, correctional, educational or protective, and when children are simply deemed to be 'at risk' on grounds of conviction or suspicion for an offence. Another complementary resolution of the UN on juvenile justice is the 1997 Guidelines for Action on Children in the Criminal Justice Systems.³¹

3. Standards for the Administration Juvenile Justice under the African Union Human Rights System

3. 1. The African Charter on Human and Peoples' Rights

The African regional human rights regime was established with the adoption of the African Charter on Human and Peoples' Rights (African Charter).³² The African human rights system operates within the institutional framework of the African Union (AU).³³ The African Charter makes only one mention to the child in its provisions. Article 18(3) of the African Charter provides that states parties should ensure the protection of the rights of the child as stipulated in international declarations and covenants. By this therefore, the African Charter effectively endorses internationally adopted principles on children's rights, including all provisions on the administration of juvenile justice.

Although the African Charter makes only one mention to the child, suffice to say that the African Charter itself effectively provides for protection of children. It deals with the rights of 'every individual', 'human beings', 'every citizen', and 'all peoples' under the jurisdiction of states. A plain language interpretation of these

²⁹ Ibid

³⁰ UN General Assembly Resolution 45/113 of 14 December 1990.

³¹ Annexed to Economic and Social Council resolution 1997/30 of 21 July 1997.

³² See note 11 above.

³³ Formerly Organisation of African Unity (OAU). The Constitutive Act of the African Union was adopted at the 36th ordinary session of the Assembly of Heads of State and Government of the OAU held in Lome, Togo on 11 July 2000. The AU became effective on 26 May 2001 when the Constitutive Act entered into force.

phrases would support the logical conclusion that children are also protected both as individuals, as human beings, as citizens, and as members of a group (peoples).³⁴ In this light therefore, the guarantees provided for under the African Charter with respect to the administration of justice equally applies to the administration of juvenile justice. Article 7 of the African Charter guarantees every individual (including juveniles) the right to have his or her case heard by a competent national organ;³⁵ the right to presumption of innocence until proven guilty;³⁶ the right to be defended by a counsel of his or her choice;³⁷ and the right to be tried within a reasonable time by an impartial court.³⁸

3. 2. The African Charter on the Rights and Welfare of the Child

Work on the rights of children in Africa extends as far back as 1979, the International Year of the Child when the OAU passed the Declaration on the Rights and Welfare of the African Child.³⁹ This declaration recognised the need to take all appropriate steps to protect the rights of children. As a declaration however, it had no legal binding force. Barely a year after the CRC was adopted, the African Charter on the Rights and Welfare of the Child (African Children's Charter)⁴⁰ was adopted as an African titivation to the CRC. Politico-legal reasons are often advanced for the adoption of the African Children's Charter.⁴¹

Politically, African patriotism and perceived Eurocentrism in the drafting of the CRC was an influential factor. The OAU reaction stemmed from a perception of exclusion or marginalization of African States in the drafting process of the CRC

³⁴ Frans Viljoen, "The African Charter on the Rights and Welfare of the Child" in C J Davel (ed) *Introduction to Child Law in South Africa*, (2000), p. 216.

³⁵ African Charter, article 7(a).

³⁶ African Charter, article 7(b).

³⁷ African Charter, article 7(c).

³⁸ African Charter, article 7(d).

³⁹ AHG/ST.4 Rev.1 of 20 July 1979; Garton S Kamchedzera, "The Complementarity of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child" in Eugeen Verhellen (ed) *Understanding Children's Rights* (1998), p. 550.

⁴⁰ See note 12 above.

⁴¹ Frans Viljoen (note 30 above), p. 218.

since African involvement in the drafting process was limited.⁴² Legally, African critics of the CRC and supporters of the African Children's Charter have pointed to the fact that as a global instrument, numerous compromise had to be made, thus sacrificing regional specificities on the alter of consensus. Hence there was the need for a regional instrument that would take into account the peculiar needs and issues pertinent to the African child.⁴³

The African Children's Charter defines a child as every human being below the age of 18 years.⁴⁴ Of particular importance is article 17 which deals with the administration of juvenile justice. It guarantees special treatment for children accused of or found guilty of crimes, including respect for their inherent dignity and fundamental rights.⁴⁵ State parties have an obligation to ensure that detained or imprisoned children are separated from adults⁴⁶ and not subjected to torture, inhuman and degrading treatment.⁴⁷ Children accused of crimes are also guaranteed the right to presumption of innocence;⁴⁸ to be informed promptly of the charge and be entitled to an interpreter if the child cannot understand the language used;⁴⁹ to be afforded legal and other appropriate assistance in the preparation and presentation of his or her defence;⁵⁰ to be given a speedy trial and be accorded the right to appeal;⁵¹ and prohibits the press and the public from trials involving a child.⁵² Article 17 further provides that the essential aim of the treatment of a child either during the trial or after the child has been found guilty should be his or her reformation and reintegration into the family and social

⁴² Only three Africa States participated in the drafting process for at least five out of the nine years that the working group took to draft a final proposal. However, by 1989, nine African States were participating in the activities of the working group. Frans Viljeon (note 30 above) citing Le Blanc, *The Convention on the Rights of the Child*, p. 30.

⁴³ See preamble, para 3 for some of these specific situations.

⁴⁴ African Children's Charter, article 2. This definition conforms to that provided for in art; 1 of the CRC, although the CRC definition is subjected to national legislations.

⁴⁵ African Children's Charter, article 17(1), and CRC articles 37(c) & 40(1).

⁴⁶ African Children's Charter, article 17(2)(b); CRC article 37(c).

⁴⁷ African Children's Charter, article 17(2)(a); CRC article 37(a).

⁴⁸ African Children's Charter, article 17(2)(c)(i); CRC article 40(2)(b)(i).

⁴⁹ African Children's Charter, article 17(2)(c)(ii); CRC articles 40(2)(b)(ii) & (vi).

⁵⁰ African Children's Charter, article 17(2)(c)(iii); CRC articles 37(d) & 40(2)(b)(ii).

⁵¹ African Children's Charter, article 17(2)(c)(iv); CRC article 40(2)(b)(i).

⁵² African Children's Charter, article 17(2)(d); CRC article 40(2)(b)(vii).

rehabilitation;⁵³ and obliges States to set a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.⁵⁴

4. Administration of Juvenile Justice in Cameroon

Cameroon ratified the CRC on 11 January 1993, the African Charter on 20 June 1989, and the African Children's Charter on 5 September 1997. The 1996 Constitution of Cameroon as amended in 2008 also recognise and guarantee to all, the fundamental human rights provided for in international human rights instruments⁵⁵ (including those on the administration of juvenile justice). In addition, article 45 of the constitution provides that duly approved or ratified treaties shall, following their publication, override national laws. In essence, Cameroon's ratification of the above mentioned conventions requires mandatory adherence to their provisions. Prior to the coming into force of the new Criminal Procedure Code in Cameroon,⁵⁶ an indefinite number of legislations, ordinances, decrees, and circulars guided the administration of juvenile justice in Cameroon.⁵⁷ Apart from for the Penal Code⁵⁸ all formerly applicable laws have been effectively repealed by the new Criminal Procedure Code.⁵⁹

⁵³ African Children's Charter, article 17(3); CRC article 40(1).

⁵⁴ African Children's Charter, article 17(4); CRC article 40(3)(a).

⁵⁵ Preamble to the Cameroon Constitution, Law No. 96-6 of 18 January 1996 to amend the Constitution of 2 June, 1972.

⁵⁶ Cameroon Criminal Procedure Code, Law No. 2005 adopted by the Cameroon National Assembly on 27 July 2005 and became effective on 1 January 2007.

⁵⁷ The Decree of 30 November 1928 establishing special courts and the probation system for minors; The Decree of 30 October 1935 on the protection of children; Juveniles Courts Rules, CAP 32 of the 1958 Laws of the Federation of Nigeria; Ordinance of 23 December 1958 on the protection of children and young people at risk; Circular No. 9062/DJAS of 15 July 1967 on pre-trial detention of minors; Circular No. 300018/DJAS/of 8 July 1968 on juvenile delinquents and runaway children; Circular No. 66/5435/PYG of 30 June 1969 on juvenile delinquency and placement in the Cameroonian Juvenile Institute in Betamba; Decree No. 73/115 of 22 March 1973 on the organization and operation of the Buea Borstal Institute; Decree No. 73/333 of 25 June 1973 on the organization and operation of the Cameroon Juvenile Institute (ICE) in Betamba; Circular No. 9062/MINJUSTICE/DAJS of 18 October 1989 providing for the reduction of pre-trial detention for minors to a minimum; Decree No. 90/524 of 23 March 1990 establishing the National Commission to Protect Children at Risk, Juvenile Delinquents and Abandoned Children; Decree No. 92/052 of 27 March 1992 on the prison system in Cameroon. Circular No. 0007/7128/DAJS of 27 January 1995 on pre-trial detention of minors.

⁵⁸ The Penal Code: Acts of 12 November 1965 and 12 June 1967, as subsequently amended.

⁵⁹ Criminal Procedure Code, Part XVII, Section 746.

4.1. The Cameroon Penal Code

The Penal Code provides different treatments to children depending on whether they are below 10 years of age, between 10-14 years, or between 14-18 years. Minors below the age of 10 are considered *doli incapax*, that is, totally without criminal responsibility and can never be brought before a judge for sentencing. Their parents alone can be sentenced to provide compensation for the harm caused to the victim pursuant to the rules relating to civil liability. A child between 10-14 years of age is considered criminally responsible but only one of the special measures provided for by the law can be imposed on him if found guilty. These measures include returning the child to his or her family; putting the child on probation; or placing the child, for a period not extending beyond the attainment of his civil majority, in the home of a trustworthy person or in an appropriate boarding school or charitable institution. The Penal Code provides that children between the ages of 14-18 years can be subject to the lenient measures provided for those between 10-14, but also provides for their possible sentencing. The measures and the sentence can run consecutively.

The different classifications provided in the Penal Code are aimed at excluding children from prosecution or sentencing. The Penal Code also provides that being a minor is an automatic ground for mitigation in favour of any minor liable to a sentence.⁶⁰ The effect of this provision is to substantially reduce the penalty provided for by law and to avoid, as much as possible, imprisoning children. The impact of mitigation for minors is again evident in article 87, which stipulates that when the law provides for mitigation, the penalties are reduced as follows: (a) if the death penalty or life imprisonment has been incurred, the penalty is reduced to loss of liberty of from 2 to 10 years; (b) if a period of imprisonment has been incurred in the case of a felony, the penalty is reduced to loss of liberty of from 1 to 5 years; (c) in the case of a misdemeanour, the maximum loss of liberty or

⁶⁰ Cameroon Penal Code, article 80.

maximum fine is reduced by half and the minimum is brought down to five days or a fine of one franc.⁶¹

4. 2. The Cameroon Criminal Procedure Code

The Cameroon Criminal Procedure is a revolutionary document and without doubt, one of the most important pieces of legislation passed by the Cameroon Parliament within the last decade. It overhauls the criminal justice system by harmonizing in one law, many different legislations governing the administration of criminal justice in Cameroon. It also lays down clear procedures and protects the rights of suspects and detainees. On a broader basis, the new law lays down conditions governing arrest detention, and bail; the investigation of offences; the search and identification of offenders; the method of adducing evidence; the powers of prosecutors; the organization, composition, and jurisdiction of courts; verdict; sentencing; the setting aside of judgements in default and appeals; the methods of executing sentences, the administration of juvenile justice; and the rights of suspects and convicted person including communication, visitation, medical care, legal representation, appeal, and review procedure.

The administration of juvenile justice is extensively covered under Book IV, Part XV of the Criminal Procedure Code.⁶² The Code recognizes that a minor or juvenile is any person aged less than eighteen (18) years.⁶³ In Cameroon, the Court of First Instance has jurisdiction to try all felonies, misdemeanours, and simple offences committed by minors aged more than ten (10) years but less

⁶¹ Cameroon Penal Code, article 87.

⁶² Book IV, Part XV of the Criminal Procedure Code is entitled Prosecution and Trial of Juveniles. Chapter I deals with institution of prosecution; Chapter II deals with temporary detention of juveniles; Chapter III deals with composition of the Court of First Instance sitting in cases of juvenile delinquency; Chapter IV deals with jurisdiction of the Court of First Instance; Chapter V deals with trial of juvenile; Chapter VI deals with application measures and penalties; Chapter VII deals with simple offences; Chapter VIII deals with probation of the juvenile; Chapter IX deals with review of probation measures; Chapter X deals with setting aside of judgments in default and appeals; Chapter XI deals with the Court of Appeal sitting on cases of juvenile delinquency; Chapter XII deals with criminal record in respect of juveniles; Chapter XIII deals with the costs arising from measures for the protection of juveniles.

⁶³ Criminal Procedure Code, section 700(1).

than eighteen (18) years of age.⁶⁴ If a minor's accomplice or co-offender is an adult, then the case is subject to the jurisdiction of the ordinary law courts.⁶⁵ Meanwhile, a State Counsel or an Examining Magistrate may only bring legal actions against a juvenile by informing the juvenile's parents, guardian, or custodian of the proceedings.⁶⁶ However, if the case against a juvenile is a simple offence then a juvenile proceeding may be initiated by direct summons.⁶⁷

In compliance with internationally recognized principles, the Cameroon Criminal Procedure Code makes imprisonment for minor as a last resort. In this regard, Examining Magistrates are empowered to involve the social welfare services or request medical and psychiatric evaluations of a minor so as to adequately consider the best interest of the juvenile offender in temporary detention, custody, and sentencing.⁶⁸ Regarding temporary confinement measures, imprisonment of persons between 12-14 years is prohibited, except in cases of capital murder or of assault that leads to death.⁶⁹ Juveniles between 14-18 years may only be imprisoned if imprisonment is considered indispensable.⁷⁰ Where detention of juveniles is necessary, such must be in Borstal institutions; a special section of the prison meant for the detention of minors; or separate from adults in situation where there is no Borstal institution or special section of a prison.⁷¹

Where a guilty verdict is entered against a juvenile aged 14 years or less, the court has the authority to reprimand the juvenile offender before ordering one of several measures including entrusting the minor offender to the custody of his parents, guardian, custodian, or to any trustworthy person; placing the minor on probation; in a vocational or health centre; in a specialised institution; or requiring

⁶⁴ This provision of the Criminal procedure Code is in line with the Penal Code which recognizes that minors below the age of 10 cannot be held criminal responsibility.

⁶⁵ Criminal Procedure Code, section 713.

⁶⁶ Criminal Procedure Code, section 700(4).

⁶⁷ Criminal Procedure Code, section 700(3).

⁶⁸ Criminal Procedure Code, sections 701, 702, 724.

⁶⁹ Criminal Procedure Code, sections 704.

⁷⁰ Criminal Procedure Code, sections 705.

⁷¹ Criminal Procedure Code, sections 706.

the minor to enter into a preventive recognizance.⁷² Persons between 14-18 years found guilty of an offence may at the discretion of the court be subject to the above measures provided for person aged 14 years or less; be placed on probation; or sentenced according to articles 80 (3) and 87 of the Penal Code.⁷³

The principle of fair hearing is also adequately protected in the new Cameroon Criminal Procedure Code. The law provides that children charged with offenses have the right to legal representation, and if the child cannot afford counsel representation, then the court shall assign a counsel to the minor.⁷⁴ To protect the identity of a juvenile offender, the only persons entitled to attend the trial is limited to the juvenile's parents, custodian, guardian, witnesses, counsel, probation officers, and the representatives of services or institutions dealing with problems relating to children.⁷⁵ Meanwhile, where the judgement against a minor is publicly published, no mention of the minor's name, initials, personal or family particulars may be disclosed.⁷⁶

5. Weaknesses of the Cameroon Juvenile Justice Mechanism

Although Cameroon has an obligation to observe all the international standards on juvenile justice examined above,⁷⁷ implementation of these principles in the domestic legal system reveal serious deficiencies. It is clear that the applicable national laws guarantee to juvenile offenders the right to fair hearing, protection of identity, equality before the law, non-retroactive criminal law, the presumption of innocence, right to interpreter, right to appeal, and the right to legal representation. In practice however, juveniles are yet to experience some of these rights. Key issues such as the deprivation of liberty as a measure of last resort; diversion of juvenile offenders from the criminal justice system; the right of

⁷² Criminal Procedure Code, sections 724.

⁷³ Criminal Procedure Code, sections 724. See contents referenced in notes 57 and 58 above for a description of sentencing measures for minor in Cameroon.

⁷⁴ Criminal Procedure Code, sections 719.

⁷⁵ Criminal Procedure Code, sections 720(2).

⁷⁶ Criminal Procedure Code, sections 721(2).

⁷⁷ CCPR (Cameroon on 27 June 1984); CRC (Cameroon on 11 January 1993); African Charter (Cameroon on 20 June 1989); African Children Charter (Cameroon on 05 September 1997).

convicted children to be separated from adults; and the protection of the identity of juvenile offenders have been completely neglected.

There is an administrative unit under the auspices of the Ministry of Social Affairs to tackle cases of social maladjustment. It acts to prevent behavioural problems and provide for the rehabilitation of juvenile delinquents and children at risk. However, this structure has been ineffectual because it has actually done very little measurable work. Most of the work being done to cater for juvenile delinquents continues to be the initiative of non-governmental organisations. The penitentiary system as a whole has serious shortcomings. There is overcrowding in prisons, shortage of social and educational support for children in prisons, and the absence of special quarters for juveniles in most prisons. Even where juvenile sections exist in prisons, the conditions are no better from those of their adult counterparts. For instance, incarcerated juvenile offenders usually take part in compulsory no-pay prison labour, a routine for most adult prisoners. Overall, the Cameroon penitentiary system currently does not have the capacity to satisfactorily discharging its mission to protect children, rehabilitate them, and return young delinquents to society as provided for by the current laws in force.

The new Criminal Procedure Code lays down a comprehensive normative framework in the administration of juvenile justice in Cameroon. It provides definitions which to a greater degree satisfy the requirements of international standards on juvenile justice. It also spells out in great details the implementation mechanisms geared towards encouraging and promoting the well being of children who break the law. It requires that accused or convicted children are treated in a manner consistent with the promotion of their sense of dignity and respect for their rights. Such treatments should take into account the child's age and the desirability of promoting their rehabilitation, reintegration, and their assumption of a constructive role in society.⁷⁸ While the legislative framework on the administration of juvenile justice may currently be adequate, implementation

⁷⁸ See in this regard arts; 40 (1) CRC & 14 (4) CCPR.

requires the existence of the necessary structures and awareness of the laws in place by law enforce, judicial, and social welfare officials. Since the new Criminal Procedure Code recently became effective, its provisions are still largely unfamiliar with stakeholders, charged with its execution.

6. Conclusion

The international community has an important role to play in setting out widely accepted guidelines. Once general principles are set out in international treaties, the responsibility for realising human rights rests with national governments.⁷⁹ When States undertake obligations to honour particular human right conventions by becoming ratifying international conventions, they are expected to elaborate their understanding of those obligations by spelling them out in their own national law.⁸⁰ The implementation of that national law then becomes the primary mechanism through which human rights are realised.⁸¹

The new Cameroon Criminal Procedure Code is an admirable exemplification of this obligation on state parties to international treaties. It clearly sets out the legal framework and implementation mechanisms. However, its enforcement, especially with regards to juvenile justice faces serious limitations. Not only are its provisions largely unknown to those charged with its enforcement, the lack of the prescribed juvenile justice structures continues to be a serious challenge facing the administration of juvenile justice in Cameroon. Therefore Cameroon should rapidly embark on establishing the structures provided for in the Criminal Procedure Code and provide officials with the requisite specialized training to acquaint them with the necessary skills for dealing with juvenile offenders, and ensure efficiency in the enforcement of juvenile justice in the country so as to overcome the current weakness that the system is experiencing.

⁷⁹ George Kent, "Realising International Children's Rights Through Implementation of National Law" *The International Journal of Children's Rights*, vol. 5 (1997), p. 439.

⁸⁰ *Ibid*, 439.

⁸¹ *Ibid*, 440.