



CAMEROON

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Stakeholder Report submitted by The Advocates for Human Rights, a non-governmental organization in special consultative status, in collaboration with Droits et Paix, a Cameroon-based member of the World Coalition Against the Death Penalty, and La Ligue Camerounaise des Droits Humains

The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

(cover page)

I. EXECUTIVE SUMMARY

1. This submission addresses Cameroon's compliance with its human rights obligations with regard to its use of the death penalty. This submission concludes that although the President of Cameroon regularly commutes death sentences to life imprisonment, this process has not been formalized and offers no protection to a large number of prisoners in Cameroon who remain under a sentence of death and who could be executed if Cameroon alters its ad-hoc policy. Cameroon has given no indication that it intends to make its de facto moratorium on the death penalty official and has rejected calls to abolish the death penalty altogether.

2. The Cameroonian criminal justice system is riddled with many deficiencies that violate the international and often domestic human rights of persons facing the death penalty, putting potentially innocent persons at risk of facing death. The Advocates for Human Rights and The World Coalition Against the Death Penalty therefore recommend that Cameroon: (a) reconsider instituting an official, de jure moratorium the death penalty rather than leaving life and death decisions to the discretion of the President; (b) continue to allocate more state resources to the prison system to ensure it meets basic international standards; and (c) allocate more state resources to improve the administration of justice and protect the domestic and international rights of persons facing the death penalty, including ensuring that all persons accused of death-eligible crimes have access to defense counsel during interrogations and at all stages of a criminal proceeding.

II. LEGAL FRAMEWORK

A. 2009 UPR Recommendations and Cameroon's Response

3. During Cameroon's first Universal Periodic Review, Slovenia recommended that Cameroon abolish the death penalty.ⁱ Cameroon rejected this recommendation, stating that it was an abolitionist country in practice but retained the death penalty "in the country's legal armoury because of its dissuasive effect and public support for its retention."ⁱⁱ Cameroon added that it has had a de facto moratorium on implementation of the death penalty for over 20 years, but that the country would not "drop" the death penalty without carefully looking at all the parameters involved.

4. Other recommendations relating to prison conditions and treatment of prisoners, including death row inmates, requested that Cameroon:

- continue efforts to ensure the conformity of detention conditions with international standards (Algeria);
- continue to improve conditions of detention in prison (France);
- facilitate full access of international and local humanitarian organizations to prisons; and
- speed up judicial reforms, including the construction of new prisons (Germany).ⁱⁱⁱ

Cameroon accepted all of the foregoing recommendations.^{iv}

B. Domestic Legal Framework

5. Approximately 13 offenses in Cameroon’s penal code carry the death penalty—imposed by hanging or firing squad—including aggravated murder, murder (premeditated), theft committed with violence and leading to death, abduction of a minor less than 21 years old leading to death of the minor, terrorism at an airport or on a plane leading to death, violent theft, assault on a state-employee with intent to kill, plundering by gangs using force during war, and attempt or conspiracy to commit a death-eligible crime.^v The death penalty may also apply to crimes falling under the jurisdiction of the military, as military tribunals may try civilians under certain circumstances such as the prosecution of armed dissident groups or gangs.^{vi} However, specific information on the scope of military jurisdiction and the laws governing military criminal justice in Cameroon are not readily available to the public.^{vii}

6. The imposition of the death penalty in Cameroon does not appear to be mandatory. Under the Cameroon penal code, the death penalty may be commuted to 10 years’ imprisonment if a court finds mitigating circumstances, “except when the acceptance of mitigating circumstances is expressly excluded by law.”^{viii} The most current (2004) statutory language describing Cameroon’s death-eligible crimes does not contain any such exclusions.^{ix} In 1975, the Cameroon Supreme Court struck down mandatory imposition of the death penalty in cases of aggravated theft, allowing the sentencing court to consider mitigating circumstances.^x

7. Persons convicted in the High Court have the right of appeal to the Court of Appeals and finally, the Supreme Court.^{xi} After final judgment, convicted persons may still file an application for review by the Supreme Court if there is new evidence casting doubt on the person’s guilt.^{xii} An admissible petition will result in an automatic stay of execution.^{xiii} A final death sentence automatically triggers a right to submit a clemency or mercy petition to the President of Cameroon, but it is unclear how many convicted persons are aware of this right. There is no jury system in Cameroon and case reporting is erratic. Legal representation is likely inadequate, due to a lack of trained lawyers, scarce court resources, and other deficiencies (see paragraphs 13–17 below).^{xiv}

8. The Cameroonian Constitution states: “Everyone has the right to life and physical and moral integrity” and “must be treated humanely in all circumstances” and without being subject to torture, cruel, inhuman or degrading treatment.^{xv} Abolitionists in the country argue that the continued imposition of the death penalty violates the constitutional guarantee of the right to life.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Recent developments

9. Cameroon is a de facto abolitionist country. It has not officially executed anyone since 1997 and the country has an unofficial policy of commuting death sentences by

Presidential decree, although not in a regular or predictable fashion.^{xvi} As noted above, **Cameroon has rejected calls to abolish the death penalty de jure and continues to sentence people to death, one as recently as May 2012.** Additionally, not all death sentences are commuted, nor is it clear that prisoners are actually informed when their sentences are commuted.^{xvii}

10. The most common crimes that result in death sentences are aggravated robbery and murder, and persons convicted of those offenses are generally excluded from presidential pardons.^{xviii} These people therefore remain under a sentence of death. Given these exclusions, **it is unclear whether and to what extent Presidential pardons actually reduce the number of prisoners on death row in Cameroon.** The Cameroonian government does not provide transparent data or statistics on the application of the death penalty, including the number of people sentenced to death and the number of individuals currently remaining on death row, as required by ECOSOC Resolution 1989/64. Unofficially, as of February 2012, there are **77 persons on death row** in Cameroon.^{xix}

11. More disturbing, even though the government of Cameroon does not officially execute prisoners, the state reportedly allows extra-judicial killings by the police and security forces to occur, often with impunity and in clear violation of both domestic and international law.^{xx}

B. Cameroon’s criminal justice system lacks essential safeguards for persons facing the death penalty and is characterized by corruption, abuse, torture, and inadequate assistance of counsel, in violation of international human rights standards.

12. United Nations ECOSOC Resolution 1984/50 states that a death sentence “may only be carried out . . . after legal process which gives *all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights*, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings,” and the right not to confess guilt.^{xxi} Article 6 of the ICCPR prohibits sentencing a person to death without a fair trial, or after a trial based upon a confession secured through abuse or torture, or after a trial based upon a confession obtained when the accused did not have access to counsel.^{xxii} Article 9 of the ICCPR requires that a detainee be “promptly” brought before a judge or other reviewing officer and that he or she “shall be entitled to trial within a reasonable time or to release.”

13. Cameroon’s criminal justice system fails to provide these death penalty safeguards. Under Section 417 of Cameroon’s Criminal Procedure Code, if a person prosecuted before the High Court is charged with a crime that is eligible for the death penalty and has no counsel, “the Presiding Judge ‘shall of his own motion assign one to him’.”^{xxiii} However, according to human rights workers in Cameroon, **many people prosecuted for death-eligible offenses have their preliminary hearings at police and gendarmerie stations, where they do not have access to counsel.**^{xxiv} To achieve this, human rights workers report, police officers use a pre-established oral process of obtaining consent by

which suspects explicitly waive their right to be assisted by counsel during their interrogations. This process has resulted in reports of torture and abuse during preliminary investigations and interrogations, and the results of the process are coerced confessions later used as the basis to convict and to sentence people to death.^{xxv}

14. Consistent with these reports, the Human Rights Committee in its concluding remarks to the 2010 review of Cameroon's compliance with the ICCPR expressed concern that "torture remains widespread in the State party" and that "confessions obtained under torture are still taken into consideration during court hearings, notwithstanding the explicit provision on the inadmissibility of confessions obtained under duress under the Criminal Procedure Code."^{xxvi}

15. Additionally, it has been reported that the fees paid to court-appointed lawyers are quite low and discourage participation by experienced lawyers. As a result, many capital cases are taken on by lawyers who "lack the requisite experience to handle serious offenses like capital murder."^{xxvii} Human rights workers in Cameroon echo this concern, noting that Cameroonian judges seeking to "liquidate an affair" tend to assign cases on the spot to counsel who have no time to read a case file but are immediately responsible for the defense of the accused at the hearing during which they are appointed.^{xxviii}

16. According to Death Penalty Worldwide: "It is reported that the legal system is 'fraught with many delays, such that it [was] not effective in assisting poor citizens to access justice.' Also, lawyers are scarce in Cameroon and almost all of them are based in urban areas."^{xxix}

17. Widespread corruption in the judiciary and police, arbitrary arrests, and prolonged detentions also hamper access to justice and a fair trial, with particular implications for persons facing the death penalty.^{xxx} For example, Ndema Ron Raymond and five others were arrested for murder and held in custody at the Central Police Station in Nkongsamba for almost four months, during which time it is alleged they were tortured.^{xxxi} The police prohibited visits to the men and denied them access to counsel. They were convicted and sentenced to death by the Tribunal de Grande Instance Nkongsamba, on 9 May 2012.^{xxxii}

C. Cameroon's treatment of death row and other prisoners constitutes inhuman treatment.

18. The Human Rights Committee has called on member states to improve death row conditions as required under Article 7 and 10(1) of the ICCPR. ECOSOC has also urged UN member states "to effectively apply the [UN] Standard Minimum Rules for the Treatment of Prisoners, in order to keep to a minimum the suffering of prisoners under sentence of death and to avoid any exacerbation of such suffering." Despite assurances during its first Universal Periodic Review, Cameroon has failed to meet these standards.

19. The conditions of detention for death row and other inmates in Cameroon continue to violate international obligations with respect to the humane treatment of persons deprived of their liberty as well as its obligations under the Convention Against Torture. Numerous

reports document the appalling conditions in Cameroon prisons. Although such reports generally do not distinguish between death row inmates and the general prison population, overall prison conditions in this case may generally be imputed to any type of prisoner. Moreover, some reports establish that conditions are particularly harsh for death row inmates, who are kept separate from other prisoners and sometimes chained.^{xxxiii}

20. The Human Rights Committee has expressed concern “about the continuing problem of severe overcrowding and grossly inadequate conditions in prisons. In addition to concerns about inadequate hygiene and health conditions, inadequate rations and quality of food, and inadequate access to health care, the Committee [noted] that the rights of women to be separated from men, of minors to be separated from adults, and of persons in pretrial detention to be separated from convicts are often not guaranteed.”^{xxxiv}

21. In general, death-sentenced prisoners are held in the pretrial detention facilities at Bamenda Central Prison, and “might be held in other prisons that lack devoted death row facilities.”^{xxxv}

Prisons are overcrowded and unsanitary

22. Despite some recent attempts by the Cameroonian Government to improve prison conditions,^{xxxvi} most prisons remain dilapidated relics of the colonial era that are severely overcrowded, some as much as 400% over their intended capacity.^{xxxvii} This problem is made worse by the fact that upwards of 60% of inmates housed in Cameroon’s prisons are pre-trial detainees. These detainees languish in prison due to corruption, deficiencies in tracking detainees, and inefficiencies in the judicial system itself.^{xxxviii} As of November 2011, the country’s 74 prisons, with a capacity of 16,995 inmates, housed 23,196 prisoners and pre-trial detainees.^{xxxix} One of the most overcrowded facilities is Kondengui prison in the capital. It was built for 700 inmates, but held 3,852 prisoners in August of 2011.^{xl}

23. Reports have documented extreme unsanitary and life-threatening conditions, including “poorly maintained and unsound facilities with leaking roofs, insufficient toilets and beds, lack of water and electricity, scarcity of pharmaceuticals, lack of appropriate kitchens, absence of drainage, and lack of disinfectants.”^{xli} Prisoners are malnourished, and medical care and food are not provided or are inadequate and must be supplemented by family. Prisons are under-staffed by poorly trained and often corrupt guards; escapes and attempted escapes are common. According to Death Penalty Worldwide and Amnesty International: “New Bell (Doula) prison contains seven water taps for 2,813 prisoners, contributing to poor hygiene, illness, and death. Prisoners are reported to have died in Maroua prison because of the scorching heat, and in Ngaoundere prison [as] a result of cholera.”^{xlii}

Prisoners are routinely tortured and abused, and many are killed attempting to escape harsh prison conditions

24. Harsh treatment of prisoners is reported to be common in Cameroon’s prisons. This includes “extreme punishments such as chaining, stripping, use of leg irons, confinement in tiny cells, flogging, and denial of access to food and to sanitation facilities.”^{xliii}

Prisoners have reportedly been beaten to obtain confessions.^{xliv} Men and women are sometimes held together, and children with adults. Rapes are often reported among inmates.

25. Due to the harsh conditions, escapes and escape attempts are common. Prison guards and policemen routinely shoot (and often kill) those who try to flee, even though the prisoners are unarmed.^{xlv}

IV. RECOMMENDATIONS

26. Cameroon should:

- reconsider instituting an official, de jure moratorium the death penalty to replace its unofficial, ad hoc policy of commuting death sentences;
- allocate more state resources to the prison system to ensure it meets basic international standards, including:
 - (a) providing adequate medical treatment to all prisoners;
 - (b) providing adequate nourishment;
 - (c) alleviating overcrowding and unsanitary conditions with respect to death row, pre-trial detainees, and all other prisoners; and
 - (d) providing adequate training of prison staff and ensuring accountability, to reduce abuse and torture of prisoners, including killing of unarmed prisoners attempting to escape harsh prison conditions.
- allocate more state resources to improve the administration of justice and further the domestic and international rights of persons facing the death penalty, including:
 - (a) ensuring that persons facing the death penalty have full access to trained defense counsel at all stages of criminal proceedings, including during interrogations, to guard against torture and forced confessions;
 - (b) ensuring that counsel have adequate time to prepare a defense of the accused person facing the death penalty; and
 - (c) ensuring all persons under a final sentence of death are informed of all of their rights, including the right to petition for clemency.

ⁱ United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Cameroon, U.N. Doc. A/HRC/11/21, 12 Oct. 2009, para. 77(5).

ⁱⁱ United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Cameroon, Addendum 1, U.N. Doc. A/HRC/11/21/Add.1, 9 June 2009, p. 5.

ⁱⁱⁱ Report of the Working Group, Cameroon, n. i, at para. 76(21), (23), (24).

^{iv} Report of the Working Group, Cameroon, Addendum 1, n. ii, at p. 4.

^v Death Penalty Worldwide, Death Penalty Database, Cameroon, <http://www.deathpenaltyworldwide.org/countrySearchPost.cfm?3=&4=&5=&8=&9=&10=&11=&12=&13=&14=&15=&16=&17=&18=&19=&20=&21=&22=&23=&24=&25=&26=&27=&28=&29=&30=&31=&32=&33=&34=&35=&36=&37=&38=&39=&40=&41=&42=&43=&44=&45=&46=&47=&48=&49=&50=&51=&52=&53=&54=&55=&56=&57=&58=&59=&60=&61=&62=&63=&64=&65=&66=&67=&68=&69=&70=&71=&72=&73=&74=&75=&5min=&5max=&6min=&6max=&7min=&7max=&8min=&8max=&9min=&9max=&10min=&10max=&11min=&11max=&12min=&12max=&13min=&13max=&simple=yes&shortForm=yes&keyword=&chk1=1&1=Cameroon&chk2=1&2=&chk7=1&7=&x=76&y=20#46-1> (citing 2004 Penal Code of Cameroon) (last visited 8 October 2012).

^{vi} Id.

^{vii} Id (citing GeED et al., Cameroon: NGO report on the implementation of the ICCPR (Replies to the List of Issues CCPR/C/CMR/Q4), at pp. 25-26, http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf, Jun. 2011.)

^{viii} Id. (citing Penal Code of Cameroon, arts. 90-91, Laws No. 65-LF-24 of Nov. 12, 1965 and No. 67-LF-1 of Jun. 12, 1967, as amended through to Jun. 10, 2004, published in Samuel Ngue, Code Pénal, Minos, 3rd ed., 2004.)

^{ix} Id.

^x Id.

^{xi} Id. (citing Criminal Procedure Code of Cameroon, secs. 407, 427, 436, 472). The Cameroon legal system is reportedly highly decentralized, incorporating a mixture of English common law and French civil law, and sometimes traditional tribal or Sharia law. Only the Cameroon Supreme Court has jurisdiction over all laws and areas of the country. See Charles Manga Fombad, Researching Cameroonian Law, GlobalLex, New York University Law School (February 2011), <http://www.nyulawglobal.com/globalex/Cameroon1.htm>.

^{xii} Id.

^{xiii} Id (secs. 538, 541)

^{xiv} Id.

^{xv} Id. (citing Preamble to the Constitution of Cameroon). In French: “Toute personne a droit à la vie et à l’intégrité physique et morale. Elle doit être traitée en toute circonstance avec humanité. En aucun cas, elle ne peut être soumise à la torture, à des peines ou traitements cruels, inhumains ou dégradants.”

^{xvi} Death Penalty Worldwide, n. v. Commutation decrees were issued in 2005, 2005, 2008, 2010 and 2011. Id.

^{xvii} Amnesty International, Annual Report, Cameroon (2011),

<http://www.amnestyusa.org/research/reports/annual-report-cameroon-2011?page=show>

^{xviii} Amnesty International Report 2012, The State of the World’s Human Rights, p. 97 (2012), available at: http://files.amnesty.org/air12/air_2012_full_en.pdf

^{xix} Death Penatly Worldwide, n. v.

^{xx} See Ligue Camerounaise des Droits Humains/Cameroon Human Rights League, Rapport d’activite 2011, Les Defaillances Lamentables du Gouvernement Camerounaise Caracterise par des Violations Graves des Humains, pp. 12-13, LCDH/06A/31 /12/2011

(2011); and United States Department of State, *2011 Country Reports on Human Rights Practices - Cameroon*, 24 May 2012, available at:

<http://www.unhcr.org/refworld/docid/4fc75ab1c.html> (accessed 4 October 2012).

^{xxi} UN Economic and Social Council (ECOSOC), “Safeguards guaranteeing protection of the rights of those facing the death penalty”, Resolution 1984/50, 25 May 1984. The UN Secretary-General stated in 2010 that the 1984 ECOSOC safeguards “should be considered the general law applicable on the subject of capital punishment.”

^{xxii} International Covenant on Civil and Political Rights (entered into force 1976). Available at <http://www2.ohchr.org/english/law/ccpr.htm>.

^{xxiii} *Death Penalty Worldwide*, n. v.

^{xxiv} Maître Nestor Toko Monkam, *l'association Droits et Paix, Cameroun rapport alternatif* (2012).

^{xxv} *Id.* According to this report, in July 2009, Aboubakar Aoudou alias Hassan and others were prosecuted before the Tribunal de Grande Instance in Douala Wouri for acts of robbery and murder. At the preliminary hearing, it is alleged the Judicial Police of Douala used acts of torture to obtain confessions, and that the accused were not informed of their rights to be assisted by counsel. Despite their protests at the hearing, the minutes of the preliminary investigation indicated that they had waived this right. Confessions thus obtained were the basis for the judgment No. 385/CRIM October 19, 2010, which found them guilty of the offenses with which they were charged and was sentenced to death by firing squad.

^{xxvi} U.N. ICCPR Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Cameroon, para. 17, U.N. Doc. CCPR/C/CMR/CO/4, Aug. 4, 2010.

^{xxvii} *Death Penalty Worldwide*, n. v.

^{xxviii} *Cameroun rapport alternatif*, n. xxiv.

^{xxix} *Death Penalty Worldwide*, n. v (citing Nchunu Justice Sama, *Providing Legal Aid in Criminal Justice in Cameroon: the Role of Lawyers*, in *Penal Reform Intl. & Bluhm Legal Clinic of the Northwestern University School of Law, Access to Justice in Africa and Beyond, Making the Rule of Law a Reality*, p. 157, Penal Reform International, 2007).

^{xxx} U.S. Department of State, *Cameroon*, n. xx.

^{xxxi} *Cameroun rapport alternatif*, n. xxiv.

^{xxxii} *Id.*

^{xxxiii} *Cameroun rapport alternatif*, n. xxiv.

^{xxxiv} *Death Penalty Worldwide*, n. v (citing U.N. ICCPR Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Cameroon, para. 21, U.N. Doc. CCPR/C/CMR/CO/4, Aug. 4, 2010.)

^{xxxv} *Death Penalty Worldwide*, n. v.

^{xxxvi} U.S. Department of State, *Cameroon*, 2011, n. xx.

^{xxxvii} According to one commentator in Cameroon:

“In terms of material, infrastructural, financial, regulatory and human problems the Prison Department faces the following difficulties:

- Scanty budget as compared to the number of missions;

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- Meagre allocations for the reinforcement of the functioning of prisons;
 - Insufficient budget for the purchase of uniforms and packs;
 - Insufficient investment budget for adjustments, new buildings, mass acquisition of rolling stock and security equipment;
 - poor health plan;
 - endemic overcrowding of prisons;
 - old and obsolete infrastructure and equipment inherited, for the most part, from the colonial era;
 - shortage of food;
 - Claustrophobic detention cells;
 - near absence of rehabilitation and probation facilities;
 - Serious shortage in personnel and too much work for the existing personnel;
 - Outdated laws governing prison administration.”

Helen Namondo Linonge, *The Dynamics of Prison Administration and Prison Reform in Cameroon*, Cameroon Journal on Democracy and Human Rights, p. 42, 45 (June 2010).

^{xxxviii} Death Penalty Worldwide, n. v. The HRC has also noted long pretrial detention periods and “the high number of persons held in pretrial detention, accounting for 61 per cent of the total prison population.” U.N. ICCPR Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Cameroon, para. 20, U.N. Doc. CCPR/C/CMR/CO/4, Aug. 4, 2010.

^{xxxix} U.S. Department of State, Cameroon, 2011, n. xx.

^{xl} Amnesty International, Annual Report, Cameroon, n. xvii. “In one wing, known as Kosovo, there was not enough room for prisoners to sleep lying down. Another wing held mentally ill detainees who did not receive any psychiatric care.” Id. Although not sentenced to death, in April 2010, Germain Cyrille Ngota Ngota, a journalist, died in Kondengui prison from “abandonment, improper care” and the authorities’ “failure to render assistance,” according to a prison doctor’s initial death certificate. Committee to Protect Journalists, <http://cpj.org/killed/2010/germain-cyrille-ngota-ngota.php>.

^{xli} U.S. Department of State, Cameroon, 2011, n. xx. (citing a 2010 report by the Cameroon penitentiary administration).

^{xlii} Death Penalty Worldwide, n. v.

^{xliii} Id. (citing multiple sources including U.S. Department of State and Amnesty International).

^{xliv} U.S. Department of State, Cameroon, 2011, n. xx.

^{xlv} Cameroun rapport alternatif, n. xxiv.