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International Law and the Upgrading of the State Juvenile Justice System: the Case of Cameroon

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Contents

I. The Objective of the Study 3

II. The Outcome or Impact of the Study 3

III. Introduction..... 3

IV. The International Aspect of the Juvenile Justice Mechanism 3

V. The Transposition of these International Standards to Cameroon 4

VI. The Challenges to Implementing International Standards 4

VII. The Way Forward 5

Bibliography..... 6

I. The Objective of the Study

The objective of this study is to carry out research on the international and national standards of treatment accorded juveniles who have been deprived of their liberty by the state justice system. The study looks at the specific situation in Cameroon with a focus on the state Borstal Institution in Buea. The knowledge gained through this study and the official training drawn from it are suppose to be used in the building of the capacity of the Borstal Institute’s trainers to be effective in their job of training the juveniles sent to them by the Cameroonian penal justice system.

II. The Outcome or Impact of the Study

Since the trainers are statutorily vested with the difficult task of training juveniles with the final objective of their reformation, their reintegration and rehabilitation into the Cameroonian society, the building of the capacity and knowledge of the trainers to meet the evolutionary and unending challenges faced by the juvenile justice system becomes imperative to guarantee their effectiveness. Specifically, this study will attempt to train trainers in empowering juveniles to be in a position to contribute to the development of their community and to avoid definitively getting into conflict with the Cameroonian penal justice system.

III. Introduction

From birth, children depend on their parents, family members and on other social institutions of support to care for them and to make those vital daily decisions that are so relevant to the life of a human being. It is assumed and rightly so that when children are empowered in the process of their maturity, they can eventually acquire skills that will permit them to make good decisions in society and to avoid getting into conflict with the criminal justice system. By virtue of the Cameroonian Penal Code article 80, the children incapable of getting into conflict with the Cameroonian penal justice system are those below the age of twelve. Children between the ages of twelve and eighteen are considered to be capable of making decisions, which when implemented can seriously conflict with the penal justice system with serious implications for the children, who in the reasoning of the law are considered to be juveniles. This work focuses on the treatment standards accorded this category of persons by the Cameroonian penal justice system. Cameroon is a member of the current international system and the trends since 1945 in international cooperation in governance and specifically that aspect of governance, which deals with juvenile justice has influenced and to continue to influence the practices which obtains within the Cameroonian justice system. This study will scrutinize these standards and look at how they apply within Cameroon vis-à-vis the Borstal institute in Buea and finally make recommendations on how the trainers of the Borstal institute in Buea can promote effectively the reformation, reintegration and rehabilitation of juveniles subjected to their care by the Cameroonian penal justice system.

IV. The International Aspect of the Juvenile Justice Mechanism

This can be seen in a series of obligation to perform by Cameroon by virtue of specific international agreements and treaties that the international community has designed to promote the treatment standards accorded juveniles whose liberty has been deprived that the Cameroonian government has signed and ratified. These agreements or treaties are general and specific in nature. The general treaties or agreements provide a general umbrella within which the treatment standards accorded juveniles in detention can be appreciated. They include general human right documents such as the United Nations Universal Declaration on Human Rights and the African Charter on Human and Peoples Rights. These documents

provide generally for treatment standards accorded juveniles in detention as human beings generally and worthy of human dignity.

The specific treaties or agreements look at the specific situation of juveniles as children generally and specifically as children in conflict with the penal justice system. They include the United Nations Minimum Standard Rules for the Administration of the Juvenile Justice, the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. Cameroon has signed all these documents and is mandated to make its provisions applicable within the juvenile justice system that applies in Cameroon. That is the Borstal institute and its trainers in Buea that is the object of the present study.

V. The Transposition of these International Standards to Cameroon

By virtue of principle 1 of the United Nations Rules for the Protection of Juveniles Deprived of their liberty adopted by General Assembly Resolution 45/113 of the 14th December 1990, *the juvenile justice system should uphold the rights and safety and promote the physical and mental well being of juveniles. Imprisonment should be used as a last resort.*

This provision should be read alongside principle 2 which states that juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these rules and in the United Nations Minimum Standard Rules for the Administration of Juvenile Justice. Deprivation of the Liberty of a juvenile should be a disposition of the last resort and for the minimum necessary period and should be limited to exceptional cases.

It is also advisable at this juncture to include principle 3 which states that, the rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms consistent with human rights and fundamental freedoms and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

Cameroon is privy to all the above indicated international instruments, treaties and agreement advocating better treatment standards for juveniles whose liberty has been deprived. Also, by virtue of the Cameroonian 1996 Constitution, all these documents are applicable within Cameroon and are therefore suppose to determine the treatment standards accorded juveniles within the Borstal Institute in Buea. However, in practice, this is not the case are there are huge difficulties faced by the government in fulfilling its international obligations to provide internationally accepted standards of treatment for juveniles whose liberty has been deprived.

VI. The Challenges to Implementing International Standards

In the year 2007, Cameroon promulgated and adopted a new Criminal Procedure Code that applies to the entire national territory. This document also addresses the issue of the standard treatment accorded juveniles in detention and inculcates the international standards indicated above at part XV. However, Cameroon's penitentiary system and the juvenile justice system as inherited from the colonial masters has never been restructured or improved to accommodate the increasing number of detained persons with increasing criminality within the country. This has created a situation of overpopulation within the state penitentiary system and within the Borstal Institute and other correctional services within the country. This has seriously put pressure on the meager resources allocated to these institutions by the Cameroonian government. The immediate outcome has been a decline in the standards of treatment accorded detained juveniles within the state penitentiary system and within the Borstal Institution. The successive economic crisis and currency devaluation has forced the state to prioritize other pressing social issues to the detriment of the treatment standards

accorded juveniles in detention. For the above named reasons, Cameroon has not been able to meet with its international obligations as contained in the above cited international instruments. In fact, during the 53rd Session of the United Nations Committee on the Rights of the Child which took place in Geneva in 2010, Cameroon was reviewed alongside five other countries with respect to its success at implementing these standards and the Committee put pressure and is continuing to pressurize the government to improve on these standards and to meet up with its international obligations.

VII. The Way Forward

The main finding of this work is that the government does not have adequate resources to finance the acquisition of the treatment standards accorded juveniles in detention which meets its international obligations as contained in the international treaties named above that the government has signed. Therefore in recognizing this problem, and specifically realizing that the government may in the short run not allocate the necessary resources to upgrade this situation, much is therefore left in the hands of the trainers of the Borstal institute to meet up with these treatment standards and the objective of the juvenile justice system without much assistance from the government. That is why with the aid of ICENECDEV, FAAFNET and AUSAID this training workshop has been organized. During the discussions that will follow this written work the trainers of the Borstal Institute will be trained on exactly how to effectively prepare the juveniles in their keep for reformation, reintegration and rehabilitation to contribute meaningfully to their community and the Cameroonian society as a whole.

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