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## **Prisoners In-Justice: prisoners' encounters with the criminal justice system in Cameroon**

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# Prisoners in-justice

Prisoners' encounters with the criminal justice system in Cameroon.

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*A nation should not be judged by how it treats its highest citizens, but its lowest ones.*

(Nelson Mandela as quoted in Stern 1998)

*Justice has two transmission belts, one for the rich and one for the poor.  
The low- income transmission belt is easier to ride without falling off  
and gets to prison in shorter order.  
The transmission belt for the affluent is a little slower and it passes  
innumerable stations where exits are temptingly convenient.*  
(Philip, A Hart)

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## **1. Introduction: Socio legal research in prison**

Imprisonment is the ultimate sanction of the state in nearly all countries, and its use in the developing world has risen considerably in recent years. The prison occupies a central place in the politics of crime control and has become a normal social destination for growing numbers of citizens. More than 9.25 million people today are held in penal institutions throughout the world mostly as pre-trial detainees or as sentenced prisoners. Africa now has one of the highest pre-trial detainees comprising of 45 per cent per 100,000. Overcrowding and under resourced are one of Africa's most pressing problems. African states such as Cameroon comprise one of Africa's most overcrowded prisons. Cameroon's prisons face a host of challenges, including deficits of good governance, funding and other resources. Two thirds of the entire prisoners in Cameroon are yet to be tried. The Bamenda Central prison comprises of one of the 72 prisons scattered around the national territory with an average prison population of 575 inmates.

Cameroon is party to a number of International human rights treaties including the Convention against Torture and other cruel, Inhuman and Degrading Treatment or Punishment (CAT). The Cameroonian government has also made considerable efforts recently to promote the rule of law in the country. This includes constitutional and legislative guarantees for fair judicial processes. Nonetheless, upon examination of the Bamenda Central prison, several common themes of human rights abuses emerges including the failure to protect the rights of accused persons, overcrowding and abusive prison conditions, and the unfulfilled mandate of rehabilitation.

Throughout the country, as a result of the social and economic inequities that plagues the Cameroonian society, the difference between the rich and the poor continues to increase. A majority of the population remains unable to have access to the Criminal Justice system. The poor are far more likely than the rich to be arrested, if arrested charged, if charged convicted, and if convicted sentenced to prison. Hence the criminal justice has a model: the rich get richer and the poor get prison.

At the time when it seems essential to comprehend what the prison is and how accused people get there, research into the criminal justice system lacks scholarship dearth. There has been a decline in academic interest, coupled with low levels of government research funding; and the failure to adequately address sensitive issues plaguing the criminal justice system. To date, the majority of research in prison has focused primarily on common areas of enquiry in prison and prison programs notably administration in prison, prison programs and prison welfare services. Prisoners have become less enthusiastic research areas as no study has been addressed relating to inmate's perception of justice.

The central problematic in this research is how the prisoners view their situation in prison and how they see themselves with regard to the justice system in Cameroon. My main aim of this research was to engage in a dialogue with prisoners through interviews to be able to understand their agency in the prison and how that informs their perception of justice. Providing a space for these perspectives and experiences within the criminal justice system positions this thesis within a larger dialogue with human rights discourses, analysis of the prison, relationships of power and informal justice systems. Given these practical and theoretical interests, I discovered that I could only conduct such a study employing qualitative research methods skills. My methodology was guided by principles of partici-

patory action research. In this context, I was actively involved with prisoners and families. I immersed myself in their prison culture and became part of a number of activities carried out by prisoners. I interacted with more than two hundred prisoners, and had extensive interviews with ninety-seven prisoners over an extended period of seven months. I wrote their lives prior to imprisonment, during and after prison. My primary goal was to relay their interviews using their words. I equally carried out a participant observation of the criminal justice agencies. I decided to employ a feedback to the outside community by building a bridge between prisoners to their respective families whom I considered as vital actors in the lives of inmates.

### ***The researcher's position in this research***

I intend to share my social history to my reader so that he can get into my society and better appreciate how my beliefs became embedded into this research. On the other hand I write to highlight the inequality that exist in my society and how these differences impedes progress in one's perception of life. My personal history and engagement have not only influenced the choice of this research topic but it has as well informed the way in which I did the research.

I was born and raised in a very strict Christian conservative home where religion became part of my life. At an early age, I was taught not to associate myself with other kids in the neighborhood whose parents were unbelievers. Coincidentally, I made friends with one of our neighbor's son called Jim whom my parents only approved the relationship on the basis that he would accompany me to church on Sunday's and during the midweek service. My parents realized that Jim became my best friend so they enrolled him into primary school. Jim's father worked seven days a week as a guard in a bank. His salary could hardly sustain his home. Jim's mother had abandoned them and relocated to another city.

As my relationship with Jim grew, I became close to his family and came to realize the misery and poverty that formed part of their existence. I found it difficult to reconcile the wellbeing of my family and the sharp contrast with my best friend's family. Every now and then, I would pose questions to my nanny about the social and economic inequities that plagued our society. The only answer she would give me is that some families didn't work hard enough and that was the reason why they remained poor.

When I turned ten years, I was enrolled to boarding school in a different town further away from where my parents lived. My departure to school brought to an end a relationship I held close to my heart. Whilst in school, Jim and I kept communicating with each other. I felt pain each time I received Jim's letters. His letters reminded me of the poverty and misery that characterized his family. On one occasion during my holiday, I had visited my parents and I was informed that Jim had moved to another town to live with an uncle. My parents realized that was going to be my worst holiday and they sent my older cousin with transport money to ask Jim to visit us. The events that followed that summer vacation changed my outlook of life.

One day, a reckless driver who worked for a senior government official knocked down Jim's father. According to eyewitnesses, the driver after realizing the act he had committed drove off abandoning Jim's father who remained helpless except for the intervention of a passerby who assisted him

to the hospital. He died shortly and the medical doctor later confirmed that he suffered from internal bleeding.

The driver who knocked down Jim's father was later arrested and detained in police custody. His boss promised to compensate Jim's family as a result of the accident. Surprisingly to everybody, the driver was released a fortnight later and he resumed his duty. Jim's family was never compensated with a dime or given any future promises by anybody.

At the age of thirteen, I could easily decipher what was going on. I interpreted the nonchalant attitude of the senior government official and realized that he reacted that way because Jim came from an impoverished family background. I pleaded with my parents to intervene so that the perpetrator could be brought to justice. My parents sympathized with the situation but made me to understand that they don't want to interfere in such matters.

I became so embittered and to this day, I have never forgiven my parents for the injustice they caused to my best friend. He dropped out of school and years later he became a delinquent. In his quest for survival, he engaged in so many illicit activities that transformed him into a jailbird. As my childhood and adolescence progressed, I felt embittered towards the society, my parents and God for permitting social injustice to thrive in our society. Each time I encountered or heard someone who experienced a similar situation like the one of my friend Jim, I would vent my anger and this sometimes led me into difficulties with authorities.

When I went to high school, I was determined to one-day work as a human rights activist. Many of my friends had mixed feelings about my ambitions in life. They tried to coerce me to believe that my dreams as a human rights activist were incompatible with the state of the Cameroonian society where human rights abuse was more or less a common phenomenon.

After high school, I looked forward to my dream of becoming a human rights activist. I had a firm conviction that at the university, I was going to read law. My elder brother had just completed his undergraduate studies in law and was pursuing a Masters in England in international human rights and criminal justice. For this reason, my parents discouraged me to follow a different path from my brother. My elder brother knew that I had a vocation to become a human rights lawyer and so he encouraged me to pursue my dreams.

During my undergraduate studies in law and political sciences, I became interested in the works of authors like Martin Luther King jr, Cornel West, W.E Du Bois and Mahatma Ghandhi. I went further to enrol in a private university where I took courses on human rights and criminal justice. My choice of choosing criminal justice was because it brought me a step closer to the realities that plagued my society.

During the last year of my undergraduate studies in August 2004, I was admitted as a member of the Christian Youth Fellowship of the Presbyterian Church in Cameroon. As part of a fellowship program, the entire members of the church will worship with prisoners once every month as a sign of solidarity and love for prisoners. On one of such visits paid by my church congregation to the Bamenda Central prison, I was part of this joint fellowship program with prisoners. This was a unique opportunity for me to have my very first contact with the reality of prison.

Prisoners had organized a performance to entertain us and in this occasion, I listened to some



of the heart wrenching testimonies made by inmates. They recounted the ordeal they experienced during their encounter with the criminal justice system. I felt devastated not because of these testimonies, but because of the passiveness of the Cameroonian government regarding the plight of the less privileged.

I came home that day and the incident at the prison, coupled with Jim's father's case became my nightmare. I felt I had an obligation to redress the plight of the less fortunate citizens. I felt empathy for them and resolved to dedicate the rest of my life for social justice.

Upon graduation from the university, I was determined to practice law. The vocation I had within me fascinated older lawyers and human rights activist who became surprised on my decision to engage into what some described as a 'fruitless venture'. I worked as a paralegal in several law firms in Bamenda. A majority of the lawyers were uninterested in rendering pro bono to litigants who could not afford legal representation. I realized money was the only source of communication between litigants and these lawyers. After three years working as a paralegal staff, I was assigned to a senior advocate's chamber that was renowned for offering pro bono to litigants. When I started work, my job created a platform on which I was able to understand the dynamics surrounding the plights of the less privileged citizens. I was constantly confronted with cases of litigants whose social and economic backgrounds prevented them from accessing the criminal justice system and obtaining their rights.

I confronted cases of influential citizens taking advantage of their offices and power to suppress ordinary citizens; this reminded me of Jim's father's case. A majority of the litigants whom I confronted suffered from two problems: ignorance of their rights and where to seek redress, and the possibilities of obtaining their rights. One of every three litigant who approached me became skeptical of the formal justice system. They perceived the law as a weapon used to suppress them.

I witnessed several cases of poor litigants ending up in prison because they lacked the financial prowess to afford legal representation or meet up with the financial exigencies of the criminal justice agencies. I soon realised that law enforcement officials exploited the ignorance of most accused persons to trample on their rights. The arrest and detention of most accused persons was unlawful. Their cases were compounded by the poor investigation carried out by law enforcement officials. At the end, the absence of a lawyer to plead their cases left them with no alternative than making prison their new home(s).

Whilst in prison, the position of inmates are worst not because of the law, but as a result of the inadequate application of the law and the deficiencies of the criminal justice system which prevents them from enjoying some of their rights whilst in prison. Some of these prisoners were breadwinners to their respective families. Their absence from the family destabilizes the social structures of most families who were dependent on them. The result is that some of their children became delinquent and joined their parent's in jail.

After working for a number of years, I felt the need to move out from this close knit into another direction. I soon came to realize that more information to the plight of ordinary citizen's confrontation with the law lies within research. My reason for this was because limited scholarship dearth has been invested in this domain. The researches carried out painted a contrary picture of the empirical reality. I saw the need to undertake a study into insider's perspective of the criminal justice

system. I was strongly convicted by the fact that knowledge of prisoners' perspectives of justice could contribute enormously in changing some of the decisions carried out at the institutional level.

When I got admitted to the research Master's program in African studies at the university of Leiden, the interdisciplinary nature of the program enhanced my scope to work towards a research proposal addressing the underlined issues mentioned. A year later, I gained skills in undertaking socio legal research. I went into the field with the underlined research questions.

### ***Research problematic***

General objective of this study

To understand and make known to the outside world how the rule of law is perceived by those who have had an encounter with the criminal justice system. And how this perception is related to their justice trajectory, and their social context in which they live.

Main research Question

How do prisoners' encounters with the criminal justice system and their life in prison shape their perspectives of justice?

Underlying descriptive questions will lead the various chapters:

1. What is a prison?
2. Who are these prisoners?
3. How do the prisoner confront the criminal justice system?
4. How do they cope with life in prison?
5. What is agency of prisoners'?
6. Is human rights discourse applied in prison by NGOs and human rights organizations? Do prisoners' appropriate this language? Do prisoners' know if they have human rights?
7. To what extent has International human rights law provided an emancipatory tool for disadvantaged and vulnerable people during their confrontation with national law?
8. Why do prisoners' maintain relationships with the outside? And how do they do it?

My fervent wish is that this research tears apart the walls of terror and ignorance that occasionally breeds the destabilization of the system and causes perpetrators to justify their actions. The prison does not only breed criminals, but from the outset its composition is criminal and biased. I hope I will not be misunderstood as glorifying the criminal actions of accused persons but contributing to the social construction of knowledge, within academic and non-academic scholars who are determined to address issues of social justice.

## **Prisoners' voices**

Before I explain the main concepts that guided my research, I would like to make the reader acquainted with my informants. Their ideas and concepts have guided my work most of all.

The voices in this section are extracted from the excerpts of prisoners letter's to their relatives and friends, interviews, messages inscribed on bags and scarves woven by prisoners' and from inscriptions painted by prisoners on their bedpost and toilet walls. To be able to understand prisoners, one needs to listen to their stories. These messages come from the five different categories of prisoners who provided us with their stories as they travelled across the criminal justice system. A majority of the voices in this section arose during interviews and focus group discussions with prisoners. The voices inform us of the diversity of agency of prisoners in relation to their perceptions of the criminal justice system, the perception of prisoners of each other, and the fact that judicial authorities have failed to comply with the substantive and procedural laws safeguarding the rights of prisoners. These voices are intended to build bridges between the inner world of prisoners' and the outside society. Bimbo is a convicted prisoner sentenced to fifteen years imprisonment for murder. He believes the voices of prisoners' can serve as vehicles for transporting their ideas to a wider audience. These messages can effect change and result in better policies of incarceration.

Bimoh is a 29 years old prisoner serving a five years imprisonment term. He was charged for aggravated theft and sentenced to a seven years imprisonment term. At the time of this interview, he had served three years of his prison term. This interview was conducted on the 22 of January 2011 at the Ndop principal prison.

“Most of us come from the poorest of the poor. Justice has become a commodity that can be afforded only by rich people in the society. I am strongly convinced that the rule of law is based on justice, and without the respect of the rule of law, everything is worthless. The criminal justice system makes us think it is criminal to be poor by creating speed brakes to hinder us from accessing justice.”

This excerpt is extracted from an interview of a deceased prisoner called Che Rene. At the moment of his death, he was a prisoner on remand charged for false pretence. He took ill and died one year after his remand in custody. This interview was conducted on the 22nd of July 2010 at the Bamenda Central prison.

“The Cameroonian public is constantly being deceived by the stakeholders of the Criminal Justice System. Everybody in the public wants us to rot in jail. That will never solve the problem of crime. Let everybody in this country who is sincere to himself examine his conscience and tell me if they don't deserve to take my place in prison.”

Ngoti is a convicted prisoner serving a 7 years imprisonment sentence for a charge of theft. He has served two years of his imprisonment term. He is married and a father of two children. Prior to imprisonment, he worked as a carpenter. He expresses remorse for the crime he committed by constantly sending letters of apology to the victims of the offence. This is an excerpt extracted from an interview with him on the 18th of January 2010.

“How does the state expect citizens to be law abiding when the due process of law is not respected by criminal justice officials? Accused persons are like pupils who emulate the example of their teachers.”

Jamil is a 38 years old convict charged for murder. He has served his imprisonment term in several prisons around the country. He describes the Bamenda Central prison to be his “last bus stop”. He is empathetic about the plight of a majority of prisoners. This excerpt is extracted from one of his interviews on the 23rd of January 2011.

“I have served my imprisonment sentence in different prisons in this country. I always ponder why all the prisons and detention units are full of poor people. Is it that only poor people commit crimes?”

Mimsi is twenty-five years old and a prisoner at the Bamenda Central prison. He was arrested in 2009 and charged with theft. He was later sentenced to three years imprisonment. This excerpt is extracted from one of his interviews on the 9th of November 2010:

“We are all criminals. Everyday we witness cases of injustice in prison. Prisoners charged with heinous crimes walk out of prison without completing their imprisonment sentences. We all understand the rules of the game. They have paid a higher price for their freedom. I am in prison because I don’t have the means, otherwise I will be outside chilling with my friends.”

Koninga is a pre-trial detainee at the Bamenda Central prison. He was charged for theft and remanded into prison custody. He is 26 years old and a father of two children. This section is extracted from one of my interviews with him:

“Everybody in the society believes prisoners are ignorant and stupid. They think we don’t know the budget the state allocates for the management of prisons in this country. Take a look at this prison and tell me if it reflects the intended picture of the government. I will never feed my dog with the kind of food provided to me in this prison. So where does our money go to? Obviously in the pockets of a few who call us criminals.”

Omoba is 34 years old. He was charged with aggravated theft and remanded into prison custody in July 2007. He was sentenced to a seven years imprisonment term in February 2009 and imprisoned at the Bamenda Central prison. This section was extracted from an interview with Omoba on the 22 of January 2011:

“I was remanded into this prison as a petty criminal. I have no regrets walking out of prison as a hardened criminal. This is how the system wants me to confront the society upon my release. Is this justice to me or the society?”

Bankoro is a 37 years old trader. He was charged with aggravated misappropriation and sentenced to (6) six years imprisonment. He is presently serving his imprisonment term at the Bamenda Central prison. This section was extracted from an interview I had with him on the 2nd of December 2010:

“The stakeholders of the criminal justice system probably think justice is their exclusive property. They have been assigned to dispense justice to us. They behave as if we need to worship them before they can perform their duties”.

Perime is 27 years old. He was charged in 2009 for aggravated theft and sentenced to (7) seven years imprisonment. He is married and a father of three children. He is serving his imprisonment term at the Bamenda Central prison. This excerpt was extracted from an interview I had with him on the 3rd of December 2010:

“I don’t deny that there isn’t justice in this country. The problem lies in the fact that the path that leads to justice is very rough for poor people like us. We are tortured, molested and humiliated. What we see at the end is nothing but pain and vengeance. I don’t think there is justice.”

Excerpt extracted from an interview with a pre-trial detainee at the Bamenda Central prison. January 5th 2011:

“On the day of my arrest, there was nobody at home except for my two year old daughter. I stayed in prison for more than a year before information finally got to my family that I was in prison. They thought I was dead. My family says they didn’t receive any of the letters I wrote whilst in prison. They experienced hell during my absence. In spite of my limited education, I know what is justice.”

Tapang is a pre-trial detainee who was charged with aggravated theft and remanded into prison custody in 2008 at the Bamenda Central prison. He is married and a father of three children. The law enforcement officials who arrested him allege it was a case of mistaken identity. This excerpt was extracted from an interview conducted on the 13th of January 2011. I recorded this interview.

“A man cannot be arrested, tried and sentenced without having any idea of what transpired during his trial. The court tried me in a language unfamiliar to me. I understood a lot of things concerning my trial when I was already sentenced. Is this what justice is all about”?

Pemambo is a detainee on remand at the Bamenda Central prison. He is charged with misappropriation. He is the breadwinner to his family. He is (54) fifty-four years old. This excerpt is extracted from an interview I had with him on the 15th of January 2011:

“If there was justice, the judge would have considerations for my family. It is unwise for my entire family to perish because of a minor crime I committed. Accessing the justice system is one of the most expensive adventures. I am still in prison because I am unable to afford the deposit required for bail. It is not my fault that I am poor. How can poor and rich people be subjected to the same conditions? This is injustice.”

Simonji was arrested in 2008 in connection to a case of armed robbery. He is 28 years old and a father of two children. He was arrested alongside his best friend. Simonji alleges that his friend implicated him by concealing a weapon inside his room. The voice presented below is extracted from Simonji’s letter to his fiancée on the 13th of January 2011. His fiancée, Simil, presented this letter to me as a way of corroborating the information she gave me during our interview concerning her husband.

“How can I know the face of justice when I have never been to court? I have spent three years awaiting trial under very difficult conditions. I have no clue concerning the date of my trial. Please Simil don't wait for me. Move on with your life. I hope the God of justice would one day come to rescue me.”

Mosini is (27) twenty-seven years old and a high school graduate. He was arrested and charged with theft by the public security police officials. He alleged that his confessions were allegedly coerced by torture during the preliminary investigation. This excerpt was extracted from an interview with Mosini on the 15th of January 2007. The interview was conducted on a tape recorder.

“The prosecutor told me I had initially accepted the charges that were levied against me at the police station. I told him I accepted because of the torture I received from the police. I showed him the wounds I received during the process of interrogation. Isn't it unfair that the court relied heavily on the evidence tendered by the police? The judge said torture is prohibited in this country; but everyday inmates are remanded into prison custody with broken limbs. Is this justice?”

Gomii is 17 years old and a juvenile prisoner at the Bamenda Central prison. He was charged with armed robbery and subsequently remanded into prison custody in 2009. This excerpt was extracted from two different interviews I conducted with Gomii. The first interview was conducted on the 13th of December 2010 and the second interview was on the 26th of January 2011. Both interviews were conducted by way of tape recording:

“I have been remanded in this prison for more than a year today. I have no file at the record office. The prosecutor who handled my file discharged and acquitted my matter because there was no evidence to incriminate me. The police officer that escorted me from Bafoussam Central Prison asked me if I had transport money to go home; when I refused, he brought me to this prison. I have written so many complaints to the prison administration to no avail. Why should I continue to suffer? This is not justice.”

### ***Main guiding concepts***

Policy makers, researchers and academic scholars have to a certain extent studied and analyzed Criminal justice institutions primarily in terms of their legal rules and procedures. I reject the supposition that anthropological and policy-oriented research are somehow mutually exclusive and contend that rich scholarship on the subject at hand requires more than a rules-based analysis. My hypothesis is that the criminal justice system is biased at the various stages of arrest and pre-trial trial phase, trial, the court sentence and the subsequent imprisonment of accused persons. To be able to arrive at my findings, I intend to employ a socio-legal approach, which apprehends criminal justice systems to be composed of dynamic social institutions that are structured immensely by prisoners' perceptions and actions. In the socio-legal approach, justice institutions cannot be understood exclusively as legal entities but must be situated in the wider social, cultural, and political context (Clark et al. 2005: 6). In addition to this, in the prison community, there exists different kinds prisoners' with different perspectives of justice. According to Clark, there exist three major categories of justice, each involving a separate view on the form that punishment should take and its achievements.

Retributive justice hinges on the fact that perpetrators must be held accountable and seriously



punished. On the other hand, deterrent justice considers punishment as necessary not just because perpetrators “deserve it, but because it may discourage future perpetrators from committing similar crimes,” thus bringing an end to impunity. Restorative justice argues that punishment is necessary but not enough in itself, and so must enable perpetrators and victims to restore relationships.

Deterrent and retributive justice compels perpetrators to serve prison terms or pay financial restitution to the state proportionate to the severity of the crime; while restorative justice considers that sometimes the form or degree of punishment must be altered in order to achieve more reconciliatory ends. The concepts that I have employed in this theoretical framework constitutes of different theories posited by scholars from different academic disciplines. In the socio-legal approach, prisoners’ and the various criminal justice agencies can be better understood when concepts such as agency, justice and fairness, Ideology, Class and Criminal justice, resistance and human rights are examined and analyzed.

### *Agency*

The previous paragraphs have shown how structure can impose on the lives of individuals. We have to acknowledge that individuals have the capacity to make their own choices and impose those choices on the world on a collective basis. I intend to employ the concept of agency to arrive at an understanding of the negotiations between prisoners’ and the structures in which they live. Prisoners’ are deprived of their liberty but their actions behind the walls reveals that they possess an agency that enables them to deal with the various circumstances they encounter. This is revealed in their actions within and outside the structures in which they live. Agency is part of the production of certain social formation and the dynamics of interaction between people and between societies and their predicaments and the environment (Dijk; Bruijn; Gewald et al. 2003: 1).

According to the sociologist Barry Barnes (2004), it is recognized that ‘[for] an individual to possess agency it is for her to possess internal powers and capacities, which through their exercise, make her an active entity constantly intervening in the course of events ongoing around her’ (Barnes et al. 2004: 25). Agency as a fuzzy and slippery concept is used in many different ways and in specific situations. Agency has to do with the dichotomy between actor and structure and tries to make sense of ‘how people deal with their circumstances, however difficult perceptions of creativity, resilience and reflexivity in such conditions may be’ (De Bruijn et al. 2007: 2). The prison cannot be considered a place of confinement if we consider the actions of inmates. It is a structure, which creates room for maneuvers. This is reflected at the empirical reality in situations where prisoners’ negotiate their freedom through bribery and corruption of some judicial actors such as the police, lawyers and judges. Conversely, ‘when people feel that they cannot do much about the main elements of their situation, but simply as a fact of life, they adopt attitudes towards that situation which allows them to have a livable life under its shadow, a life without a constant and pressing sense of the larger situation’ (Hoggart et al. 1954: 18). Similarly, Azarya (1988) claims ‘state actions may push certain groups to the margins of society by restricting those groups cultural accepted opportunities for advancement, damaging their sources of livelihood and self respect or disadvantaging them vis-à-vis rival groups’ (Azarya et al. 1988: 1). This explains the complacency expressed by some victims in the face of

violation of their rights. They construe the system of social domination as inevitable to come out of it. Scott holds that there is a tendency to consider whatever is natural also to be just and legitimate” (Scott, 1985: 54).

### *Justice*

My formulations towards this research bear a debt to the conceptions of justice and morality developed by John Rawls, (2004) ‘A Theory of Justice’, Kurt Baier, ‘The Moral Point of View’ and Jeffrey Reiman on ‘Police Autonomy vs. Police Authority’. The demand and supply of justice is the primary concern of the various actors involved in this study. Justice is a slippery concept that means different things to different people at different intervals. My hypothesis is that the administration of justice is generally ineffective and this breeds miscarriages of justice. Judicial officials charged with implementing justice fail to ensure that justice dispensed ‘must be seen to be done’. It is in consideration of this that Lord Hewitt in 1923 (in *Rev V. Sussex Justices Ex parte McCarthy* [1923] All ER 233), admonished that justice ‘should manifestly and undoubtedly be seen to be done’. Prisoners’ who become victims of miscarriages of justice languish in prison because justice has not ‘been seen to be done’ in their respective cases. Prisoners’ perspectives of justice vary according to their experiences with the criminal justice system. Justice is usually understood to mean what is fair, just and appropriate. Similarly, throughout the world, people equate justice with vengeance, even consciously or unconsciously. According to Clark (2005) there exist three major categories of justice, each involving a separate view on the form that punishment should take and its achievements.

Justice is one of the main great moral virtues which involves rendering to, and preserving for, everyman those rights which are his due (Taylor et al. 1970: 5). The moral guilt for breaking law does not arise in a vacuum (Reimann et al. 1984: 5). It shows therefore that one’s moral guilt for breaking the law is only as great as one’s moral obligation. If we conceive of the obligation to obey the laws as each individual’s obligation to do his or her part in the social contract, then quite clearly one’s obligation is only strong to the extent that one’s own contribution to the contract is matched with contributions by the others which are commensurate in value. This indicates that one can become engaged to the terms of the contract if they are fair and if everyone is keeping part of their bargain. John Rawls concedes “the duty to comply is problematic for permanent minorities that have suffered from injustice for many years” (Rawls et al. 1971: 355). In a similar manner, Philip H. Scribner argues, “just as we are not obligated to acquiesce in the denial of our basic liberties, we are not required to cooperate in our own exploitation” (Scribner et al. 1966: 46).

The rule of law is therefore grounded on principles of justice. Justice is therefore sacred and ‘backed by divine order’. The principle that every individual, no matter how insignificant he may be, has certain inalienable rights is enshrined in the constitution and the law. Justice therefore requires that those who are accused of crimes must be brought to court as soon as possible; they must be charged and tried by the due process of the law. Equality of justice stems from the fact that people are to be treated fairly and given fair chances irrespective of their societal statuses and position. Justice therefore has to be non-discriminatory. Every state is supposed to fulfill its obligations to its citizens, and in the event of infringements, citizens should have the means and capacities to enforce their



rights. Wakai (2009) however describes access to the criminal justice system in Cameroon to ‘big flies that break through the cobweb of justice and the small flies are caught by its web’ (Wakai et al. 2009: 69). The empirical reality in Cameroon shows that the rich and mighty are the big flies that are less likely to face justice than the small flies (poor) who form a majority of our prisoners’ in prison.

According to Rawls (1958) in his concept of justice as fairness, he considers justice as a virtue of social institutions. He also claims the principles of justice are regarded as formulating restrictions as to how practices may define positions and offices, and also assign thereto powers and liabilities, rights and duties. He believes each person holds inviolability founded on justice that even the welfare of society as a whole couldn’t override. Society is well ordered when it is not only designed to advance the good of its members but when it is also effectively regulated by a public conception of justice. In this light, it is a society in which; the basic social institutions generally satisfy and are generally known to satisfy these principles, and everyone accepts and knows that the others accept the same principles of justice (Rawls et al. 1958: 4-5). Alban (1999) shares a similar idea when he contends, “A judge’s first concern must be for fairness. He must always be mindful of the need for a fair application of the norm and must eschew arrogating to himself the power to ignore or modify the norm” (Alban, 1999: 8). Justice in this thesis is situated at the wider social, cultural and political context (Clark et al. 2005: 6).

### *Ideology, Class and Criminal Justice*

Reimann (1982) argues that the failure of the criminal justice system to protect citizens is not haphazard. It has a pattern. He contends that the criminal justice system devotes the lion’s share of its crime-fighting resources to fighting against crime that are characteristically committed by the poor in our society. And although our prisons are filled with poor criminals, little dent is made in the overall volume of their crimes (Reimann et al. 1982: 7). There is reason to believe that prisons serve more as training grounds for ‘criminality than for good citizenship.’ The difficulties of achieving the rehabilitation of offenders within the confines of the prison was advanced by Norval Morris (1974), who questioned the means by which the reform of individuals was being attempted in different prisons. But this failure of the system to stem the crimes of the poor must be perceived in the context of another; the failure to fight vigorously, moreover often the failure to even treat as criminal, the dangerous acts of the wealthy and powerful.

Reimann (1982) argues that we have a system ‘shaped by economic bias from the start’ (Reimann et al. 1982: 8). The dangerous acts and crimes unique to the wealthy are either ignored or treated lightly, while the so-called common crimes of the poor are far more likely than the well off to be considered seriously. In cases of the poor, if arrested, charged, if charged convicted, and if convicted sentenced to prison. Consequently, the criminal justice system has a method: the rich get richer and the poor get prison. But as we have seen, the criminal justice system in Cameroon is a ‘carnival mirror’ that presents a distorted image of what threatens us. The poor and less privileged are presented as those responsible for committing the majority of the crimes in the society. When we look in our prisons to see who really threatens us, all we see are poor people. This means that the criminal justice system functions from start to finish in a way that makes certain that “the offender at the end of

the road in prison is likely to be a member of the lowest social and economic group in the country.” Because of the social and economic inequalities, people are sent to prison because of crimes committed to survive (Mumola et al. 2007: 5). It is in due consideration of this that “social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged; and also they should be attached to offices and positions opened to all under conditions of fair equality of opportunity” (Rawls et al. 1955: 6).

However, the interaction between the stakeholders of the criminal justice agencies and accused persons is limited and further defined by aspects of class and inequality. Gramsci (1977) contends “The ideas of the ruling class are in every epoch the ruling ideas; the class which is the ruling material force of society, is at the same time its ruling intellectual force” (Gramsci et al. 1977: 8). In a similar vein, hegemony may be used to refer to the entire complex of social domination since the ‘Elitist class’ controls over the material forces of production which is replicated, at the level of ideas, in its control over the ideological ‘sectors’ of society, culture, education, administrative and the media in a way that allows it to disseminate those values that reinforces its position” (Gramsci et al. 1977: 26). Scott claims, “the concrete action of workers who defend their material interest may, for example, suggest a radical consciousness but, at the level of ideas, the level of which hegemony operates that level of incipient radical consciousness is undermined by the substratum of values and perceptions socially determined from above” (Scott et al. 1985: 15). In this case, the concept reinforces the position of the state institutions and its actors over that of accused persons. Thus by claiming that “the critical implication of hegemony is that class rule is affected not so much by sanctions and coercion as by the consent and passive compliance of subordinate classes”(Scott et al. 1985: 11).

### *Resistance*

There are no relations of power without resistances (Foucault et al. 1972: 142)

Foucault’s exploration of the prison, and Goffman’s discourse of the total institution fits perfectly into this study. However, it is not their exploration of the control over, and the creation of the inmate that furnishes us with a framework for exploration. Resistance is of vital importance as well. Foucault maintains that the mechanisms of resistance are strung out from the mechanisms of power and control. As a consequence, the two were intimately connected. Power in Foucault’s reasoning, does not operate in a top down manner-it is both horizontal and vertical in application, thus contributing pressure and control through inmates as well authorities. In a similar vein, resistance would have to attract all levels of power and would require individuals to confront the very process of conformity in both social institutions and interactions.

On the other hand Goffman highlights a more positive outlook of resistance. He pays remarkable attention to the processes of secondary adjustments made by individuals in institutions amidst the institutionalized ‘self’ and their prior sense of identity. One of the important areas of identity highlighted by Goffmann is the progress of “free places:” physical areas within the institution with limited surveillance, areas in which an individual could be “his own man” (Goffmann et al. 1961: 231). Diverse forms of “deviance” take place within these places, including smoking, drinking and gambling etc; either without the knowledge of staffs, or with staff merely respecting their limits. In

such cases, the ability to diminish the mechanisms of control and surveillance also contributes to the development of the “self” within the institution—the control over the body and the self is not absolute.

Goffman recognizes the “under life” of the institution as an indispensable arena for resistance, a space in which both inmate and agents of authority engage in actions geared towards reaffirming the acknowledged power structure and routinely undermining it by “working the system” (Goffman et al. 1961: 6).

By way of resistance, social bonds within the institution are created and recreated between inmates, staff and individuals outside. Goffmann highlights the social exchanges in institutions focusing on the limited resources available for economic and personal relations; coercion often appears alongside “buddy” relations (Goffman et al. 1961: 262-302). Accordingly, resistance within these institutions is often distinguished by both individual acts aimed at physical or mental removal from the system, and interaction and group activities outlined to establish different social relations within and in regard to the larger institution. Acts of resistance, when effectively carried out, indicates, “that he [inmate] has some selfhood and personal autonomy beyond the grasp of the organization” (Goffman et al. 1961: 314).

In light of the perceptions of resistance posited by these theorists, it is obvious that the ability to resist within the walls of the institution is possible, but demanding unless the individual is able to gain access to “free spaces,” engage in minor acts of deviance, and retain a sense of “self” independent of the constraints of peers and authorities. Considering the level of surveillance by fellow inmates, staff, and technology, actively resisting is difficult. Thus, resistance cannot be viewed merely as actions effectively taken against a person or system of power. In similar fashion to Weitz (2001), I contend that the process of individual and group resistance functions as a mechanism to alienate themselves from a system of subordination, advance unity among those resisting, and challenge the ideologies that support such subordination (Weitz et al. 2001: 670). In this light, “trivial” acts of resistance that provide individuals with small moments of self-empowerment, or merely provide a cushion of autonomy from a repressive system should be viewed as no less important than large scale organized resistance movements (Weitz et al. 2001: 8).

When viewed in this manner, successful resistance can take place within a larger social context, or in the smaller realm of interaction and self-identity. This definition of resistance fits well within the frameworks of Goffman and Foucault, as Weitz focuses on the “accommodation – resistance” process, emphasizing how mechanisms of resistance operate within an acknowledged power structure according to the established rules and boundaries of that structure. In this light, discussion of resistance in this thesis will engage in control/resistance dialectic to demonstrate the processes within these programs.

### *Human rights*

In conceptualizing human rights, it can be defined in different ways. There is virtual agreement that human rights are the ‘rights one has simply because one is a human being’ (Donnelly et al. 1989: 9). A similar description is given by Cranston, who says that a human right by definition is a universal

moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived to have without a grave affront to justice, something which is owing to every human being simply because he is human (Cranston et al. 1973: 36). Definitions like this express universality, meaning that people share a common humanness and therefore everyone is equal and entitled to the same treatment (Goodale et al. 2009:15). Despite criticism, the notion of human rights universality has become hegemonic at international levels. The question if other cultures have a concept of human rights, and if they do, whether or not it resembles that of the universal declaration of Human Rights or any other human rights instruments.

Conventional human rights discourse lacks the theoretical and analytical tools to become part of such movements. It solicits the same abstract recipe across the board, 'hoping that the nature of alternative ideologies or symbolic universes will be reduced to local specificities with no impact on the universal canon of human rights. The belief in the universality of human rights is combined with the notion that human rights needs to be translated and vernacularised (Merry) by donors, human rights activist and NGOs to fit the empirical reality. Translation refers to the process of adjusting the language and structure of the norms, programs and interventions to local circumstances (Merry et al. 2006: 135). Several scholars, argue that looking at how human rights are perceived at national and local levels, and how both the state and citizens behave towards them, indicates the extent to which human rights are accepted or rejected, consequently giving information about the realization of human rights. Including national and local circumstances is crucial to understanding human rights, as it is primarily on these levels that human rights are violated and upheld (Donnelly et al. 1989: 250; Douzinas et al. 2007:14; Gallagher et al. 2000: 201; Tomuschat et al. 2003: 270). Hart, claims the reluctance of theorists to acknowledge the existence of rights corresponding to duties held by others may stem from the fear that to do so would cheapen rights language by a proliferation of less significant rights (Hart et al. 1979: 5) But the problem does not lie in the correlation; it rest in the absence of some mechanism for justifying the assertion of particular rights/duties. Rights and duties are in fact flip sides of the same coin. Brandt argues that the difference between a right and a duty is similar to the difference between the active and the passive voice. Thus to assert that prisoners' have a right here is distinct from claiming that others have a duty to leave him free from interference. One can with very good sense, assert that the state has a right to punish prisoners' for doing that to which he has a moral right. Dindale, argues that the purpose of convicting and sending someone to prison, is to prevent, deter and reform a criminal (Dindale et al. 2000: 5).

Human rights theory establishes that the general justification of punishment is indeed crime reduction, that punishment for its own sake is unjustified; and also that some limits to punishment are guaranteed by human rights, and that these limits cannot be set aside for any crime reduction or talionic purpose (Hudson et al. 2003: 6).

### ***Chapter Overview***

The second chapter on Methodology situates the research within the methodological principles postulated by different scholars. A socio-legal approach was employed and methods such as Situational Inquiry, Participant observation and participation action research were devised as means of obtaining

data that will be used to analyze the questions raised in this study. The author needed several strategies to arrive at prisoners' perspectives of justice. The author's involvement with the various stakeholders of the criminal justice system, permitted him to conduct interviews with them including prison staff who had worked for a considerable length of time at the Bamenda Central prison. I interacted with well over two hundred and fifty prisoners at the Ndop and Bamenda Central prison, but chose to write my interactions with some ninety prisoners. I have equally chosen to use pseudonyms to protect the names of participants involved in this study. In the last section of this chapter, I briefly introduce the reader to some of the events that took place outside the prison community and how these incidents informed my research. This chapter creates a platform for the subsequent chapter on the history of the legal system in Cameroon as it introduces the reader to the criminal justice agencies. Finally the chapter empowers and at the same time challenges the reader to acknowledge the plight of those living behind the walls of the prison.

The third chapter introduces the history of the legal system in Cameroon. I situate Cameroon's legal system in the context of the historical background that defines Cameroon's dual legal system of laws. I enquire to know the reasons behind the country's good laws, bad implementation and ugly results. I equally explore the complexities and intricacies involved during the evolution of the criminal laws that led to the subsequent harmonization of the criminal procedure code in 2007. I argued that in spite of the effective implementation of the Criminal Procedure Code in the two regions, it has failed to redress the plight of accused persons in their various confrontations with the criminal justice system. In the subsequent sections of the chapter, I presented the various criminal justice agencies, their interactions and the legal position of accused persons within the realm of the criminal justice system. The rights of accused persons such as their right to a fair and speedy trial, right to counsel and the right to be presumed innocent until proven guilty all guaranteed in the constitution and Cameroonian law. The section on the discretionary powers wielded by judicial officials highlights not only the enormous power wielded by judicial officials in positions of authority in the criminal justice system, but the paradoxes of judicial power in relation to the protection of rights of accused persons before the law. Bail is introduced in the administration of Criminal Justice and the cases of prisoners involved in this debacle in the next chapter exemplifies the cases of a majority of prisoners' who are unable to fulfill the standard requirements necessary for the application of bail. In a subsequent chapter that deals with business in prison, we will be introduced to the various ways prisoners' raise money in prison to meet these demands.

In the fourth chapter, the author begins by tracing the historical background of the prison and finally ends with the modern day prison in Cameroon. This chapter informs us how accused persons become prisoners'. This is situated within the context of two prisons in Cameroon: the Bamenda Central prison and the Ndop principal prison. The Bamenda Central prison is described in this chapter as the last bus stop. The section on friendship and social relations at the Bamenda Central prison tells the story of the importance of social relations in prison. The writings of pioneer prison researchers such as Donald Clemmer's 'The Prison Community' (1958), Antoni Gramsci's "Selection from the prison notebooks" (1971), Ben Crew's 'The Prisoner Society' (2009), Roger Matthews's *Doing Time*



(1999) and Michel Foucault's *Discipline and Punish* (1977) greatly informed this chapter and my study. Through their works, I explained the processes through which accused persons become 'prisoners' and how the system moulds and transforms them. At this stage of the thesis, it is clear that the prison has failed as a correction institution. The subsequent chapters of this thesis inform us of those responsible for grounding the machinery of justice.

In the fifth chapter, we are introduced to the importance of money in the lives of prisoners at the Bamenda Central prison. The chapter informs us why prisoners are in dire need of money. In the previous chapters, we are informed of prisoners' experiences of the criminal justice system. We are informed in the previous chapters of this study that the socio-economic conditions of prisoners prevented them from accessing the criminal justice system. Prisoners' determination to engage in all kinds of businesses in prison shows their ability to cope with the exigencies of imprisonment. It is as a result of the craving for money that many of them got involved in the illicit trade on drugs. Prisoners use their sufferings to justify their involvement in this illicit trade. According to prisoners, they need money to secure and cement their friendship ties with fellow prisoners and prison guards. Because of the thriving nature of this business in prison, it attracts the attention of other actors. Prisoners exploit the involvement of external actors in this business to increase their agency.

In the sixth chapter, we see how prisoners tried to resolve their frustration with the criminal justice system by resorting to the creation of a prisoners court at the Bamenda Central prison. This court is administered by a group of influential prisoners known as the 'intelligentsia'. These prisoners set up a mock court in prison that helps prisoners with the necessary tactics they will use during their trials in the formal court of justice. The case of Mokambo is an example of one of the cases tried at the prisoners' court at the Bamenda Central prison.

The seventh chapter discusses hope and despair- the plight of families of prisoners. The earlier chapters disclosed the dominant position occupied by families of prisoners in the lives of their relatives in prison. A majority of these families who hail from impoverished backgrounds sympathize with their relatives in prison. They make enormous sacrifices for them to secure the liberty of prisoners. Families of prisoners played a pivotal role in the 8th chapter that discussed the selected cases of prisoners. They are the voices of prisoners. The case of Isatu presented in this chapter represents the untold hardship experienced by families of prisoners. Families of prisoners are indispensable to the life of a prisoner. Without their support, imprisonment becomes an ordeal to prisoners. Most of the prisoners who end up as recidivists are without families.

The eighth chapter discusses selected cases of prisoners at the Bamenda Central prison. This chapter is one of the chapters that hear directly from prisoners themselves. These prisoners represent the three categories of prisoners at the Bamenda Central prison. The chapter describes the experiences of prisoners as they travel through the various stages of arrest and pre-trial, trial, court sentence and prison. The cases of these prisoners exemplify the cases of a majority of prisoners at the Bamenda Central prison. The subsequent section of this chapter discusses prison control and the much-heralded visit of the president to Bamenda town. Prison controls are surprised visits carried out by judicial officials such as the State counsel to detention units and the prison to ensure that the rights of the accused is not violated. On one of his visits to the Bamenda Central prison, the reaction of prisoners informs

us of the extent to which the justice system has been undermined. A concluding section illustrates the degree of injustice experienced by a majority of prisoners as drawn from the selected cases of the prisoners in this chapter who journeyed through the criminal justice system.

The ninth chapter introduces the series of strike actions orchestrated by prisoners at the Bamenda Central prison. The strike actions from prisoners, is the apex of their frustration with the criminal justice system. The chapter begins with the death of a prisoner whom according to prisoners, died as a result of the deplorable conditions in prison. This strike attracts the attention of important government officials including the secretary of state of the Ministry of Justice in charge of Penitentiary administration. The prisoners are determined to bury one of theirs in prison as a way to vent their anger on the administration. Shortly after this strike, prisoners organize a second strike following the decision of the prison administrator to transfer a prisoner named Kanima. His transfer is perceived by his fellows as a strategy employed by the prison administration to destabilize the stronghold of the prisoners government instituted at the Bamenda Central prison. This second strike leads to the dismissal of the prison administrator of the Bamenda Central prison.

In chapter ten, is the concluding chapter that has been divided into three different sections. The author needed all the chapters in this thesis to be able to arrive at this last stage where prisoners perspectives of justice is gotten from the voices of the different kinds of prisoners in this study. The voices in this chapter consist of excerpts extracted from letters, interviews and biblical quotations of prisoners at the Ndop and Bamenda Central prison. This chapter introduces us to the good, bad, ugly, invisible and unfortunate prisoner. According to prisoners, these are their typologies of prisoners. These prisoners are individuals with different experiences, strengths, weaknesses and different perceptions of justice. However, in spite of these differences, they share some common characteristics that make them vulnerable to the acts of injustices brought against them by judicial officials. Two of such characteristics are poverty and participation in criminal activity. Each of the different kinds of prisoners is represented in the different chapters of this study. The different chapters disclose that prisoners' perspectives of justice are largely informed by their experiences of the criminal justice system. At the end, the numerous provisions spelt out in the Cameroonian constitution and the law that safeguards the rights of accused persons is questionable. The empirical reality is different from what obtains in principle. As a result, the justice system is greatly undermined because of its ineffectiveness. Justice becomes an exclusive commodity that is afforded only by the rich and influential.





## **2. Methodology: How to know the prisoner**

In this section, I will situate this ethnographic research through its situated inquiry and objectives; a listing of methods, ethics and limitations. I have equally chosen to introduce to the reader the research community and the writer's own life story.

### ***2.1 Situating the research/study***

*“Knowledge and the creation of history in any field is  
Selectively based on who has the power to get themselves heard.”*

(Thompson et al. 1998: 15)

Historically, the knowledge passed down about the prison in Cameroon has been largely based on one perspective, and that is the perspective of those who exercise control of each prison in Cameroon. What this “prison authority” presents to society is “posed as the true representation of prison society, prison experience and thus prison knowledge” (McCamish et al. 2004: 8). But different people with different perspectives experience the prison in diverse ways. A majority of the prison guards, prisoners, counselors, social workers and volunteers that have access behind the walls own different perspectives. The worrying fact is that only one perspective has been largely presented, while the majority has been relegated to the background.

My intention is to add to the one perspective that has dominated for so long. By contributing to the growing body of literature that strives to change the course of the dominant perspective surrounding the prison institution in Cameroon. Thus this study strives at challenging the image of the conventionalized “prisoner” that has been propagated by politicians and the media to the general public. I employ the terms “prisoner” “inmate” “convicts” “pre-trial detainee” and “fellows” as adjectives to describe imprisoned men and women, but it is my wish to release the human behind the category through their voices and experiences.

### ***2.2. Research Objectives***

My methodology objective was to look for an avenue where I could have a detailed interview with prisoners without the interference of anybody. From past experiences, I knew that the Bamenda central prison is a busy environment and prisoners might not be willing to allocate the required time to invest in this study. I decided to seek “alternative” forms of knowledge production that were already present within the prison walls and inmates participating as part of the program. Being a member of the Cameroon Lawyer's for human Rights, I easily affiliated myself with several NGOs and Christian organizations that ran programs with prisoners. Within this framework, I easily immersed myself into their culture and became part of some of their programs within prison. My intention was to write ethnography of the lives of prisoners prior to incarceration, during incarceration and after incarceration, and this could only be realized if I included families of prisoners. They played a very important role in the lives of inmates at the Bamenda Central prison.

According to Barbie, exploration is one of the best approaches when a researcher examines a new interest or when the subject of study is relatively new. He goes further to add that one of the reasons for an exploratory research could be the yearning of the researcher to satisfy his/her curiosity and desire for deeper understanding of a phenomenon. Both apply to my research. As mentioned in chapter 1, nothing at the moment has been written on prisoners perceptions of justice in Cameroon. Although exploratory research has been critiqued for its lack of representativeness considering the purpose of discernment and understanding, exploratory research is apt as it serves as a basis for more detailed research.

The research strategy that I employed mainly exists out of qualitative research. According to Patton, qualitative research exists out of three kinds of qualitative data, being interviews, observations and documents. I employed all three of them. With interviewing, I sometimes conducted tape-recorded interviews that varied from thirty minutes to three hours in length. In such cases I was able to obtain direct quotations from prisoners about their experiences, knowledge and feelings. Observation was realized by fieldwork and used to describe, interpret behaviors and opinions of the actors involved in the research field. I did this through direct data collection. Documents analyzed include prison records, reports, newspaper publications, letters, photographs and surveys.

According to Hart, there exist four methodological principles that are of importance within field research, namely, context and holism, triangulation and direct observation. Context implies that the object of research cannot be secluded from the vicinity in which the event takes place. Most chapters include contextual descriptions of the topic of study. The term holism refers to the Greek word *holos*, which means whole. The holistic approach is therefore formulated in the belief that the whole is not only greater than the sum of the parts, but that the parts are related in such a way that their functioning is conditioned by their relationship to each other. In this light anything in the context of the topic studied is important and could be given due attention. In the course of my research, I found holistic theory to be very useful, but at the same time confusing. At times I found it difficult to take a decision on adding new parts since new parts would make the whole scattered at the end.

Employing direct observation means that the data collection is done directly in the field, without the interference of constructed measure and registration instruments. Through observations, I tried to get to know the actors' perspective. Prisoners are cautious personalities. In the presence of a stranger they can become very keen and sensitive. Because they knew that they are being watched, there is always a possibility for them not to speak the truth. But I was sure that even the most feigned behavior is difficult to maintain over time, and because of this, my observational lens could on the long term catch a glimpse of their natural behavior. During my fieldwork period, I was physically present. And because studies on prisoners need a constant day-to-day interaction, I visited the prison on a daily basis to maintain a smooth relationship with my informants. The observations I did were mainly during everyday prison life.

### **2.3. Observation**

Karangwa wrote the following about participant observation:

“Le meilleur moyen de comprendre les usages d’une langue est l’observation de la communauté qui

y fait recours ou est susceptible d'en faire usage.”

Participant observation takes place when the researcher is in a greater or lesser extent immersed in the day-to-day activities of the people studied. I have been participating in virtually all the activities that involved prisoners. I never concealed my reasons for doing this research to anyone. I accompanied prisoners to court twice every week and witnessed their respective trials. Because I previously worked as a lawyer, I easily made contacts with prisoners who were the clients of my former colleagues (lawyers). These lawyers gave me the contacts of some of their clients in prison and they expressed concern that someone had dedicated his time to undertake a study within prisoners. According to them, limited scholarship attention was directed to prison study. Many of them considered this study as an opportunity for them to obtain valuable information pertaining to prisoners. I took advantage of the lengthy court sessions to familiarize myself more with prisoners and in the course of this; I had lengthy interviews with them. But sometimes prisoners seemed lost in doubts as they tried to reconcile the characteristic lawyer who is always formally dressed and the researcher who presented himself as an inmate. Sometimes I found it difficult going to court and meeting former colleagues as well as prisoners.

It was not always easy to reconcile, both for me and the prisoners and lawyers. One day I left prison and hurried to the High court to witness the judgment of a certain informant. I was afraid that I would be late because the taxi that carried me kept on stopping at various destinations for passengers to alight. But fortunately for me, when I eventually arrived, I was told that the matter had been adjourned for some reasons. As I approached some lawyers who were in a group discussing, I could hear prisoners shouting my name. The lawyers were outraged that I associated myself with ‘those things’. On the other hand the prisoners kept on shouting saying that ‘he belongs to us’. When I eventually approached the prisoners, I realized that most of them were clients to the lawyers whom I had previously discussed with. The prisoners told me that the lawyers were only interested in the ‘color of their money’ and not in them. That is the reason why they always separated themselves from them in public gatherings.

Ritchie, (2004) is of the opinion that while doing research, ‘hanging out’ builds trust, and this trust results in ordinary conversations and ordinary presence of a researcher. Once the researcher knows, from hanging out, exactly what he/she wants to know more about, and once the people in the field trust that the researcher will not betray their confidence, the researcher can ask more direct questions. I tried to participate as much as I could by going to the prison every day. I accompanied prisoners to the market to sell items and to their work places outside the prison. We had conversations on our way to the farm. I began attending church service at the prison chapel every Sunday morning at 9:30 am. It was a great pleasure and an opportunity for me to fellowship with the prisoners at the Bamenda Central prison. These services informed my research as I could better observe these prisoners and immerse myself into their culture. This also created background information for my research. However I had not realized that some of these prisoners had mistaken me to be one of theirs. Once I heard a juvenile prisoner asking his mate the cause of my imprisonment. Because he had not seen me for a while, he probably thought I was one of the recidivists. As I earlier mentioned, it was impos-

sible for prisoners to conceal their attitudes over time. Some of the prisoners whom I had interviewed during the first block of my study changed their behaviors and opened up to me. One of the prisoners who initially had avoided a discussion with me by telling me that he understood and could only communicate in the French language suddenly forgot that he once had an interview with me. He asked me if I could assist him to write a letter in French to the State Counsel. This time I realized that he couldn't even communicate a word in the language he professed to have known. Research with prisoners needs time, patience, and trust. I always make short notes on any event I witnessed in prison. I later realized that some unimportant events turned out to inform my research.

#### **2.4. Interviews**

Field research sometimes involves more active inquiry next to circulating questionnaires. One of such options is qualitative interviewing. Barbie clarifies; a qualitative interview is an interaction between the interviewer and his or her respondents. As such it is not a neutral tool of gathering. In qualitative interviewing, the interviewer always has a general plan of inquiry, including the topics to be covered, but his questions are always flexible, continuous and iterative. The art of conducting the best qualitative interview is to ensure that the answers elicited by your initial questions form your subsequent ones, in order to improve your questions and to be able to go immersed into your subject.

While doing my study inside the Bamenda Central prison, the interviews I conducted could be distinguished into two forms: one is the official interview, and the other is the unofficial interview. I must admit that most of the data that was gathered, was through informal conversations. When conducting research in prison, it is difficult to have a formal interview with prisoners'. I realized that prisoners became uncomfortable when it comes to formalities. Initially I would make appointments with prisoners for an interview; they will put on their best clothes in preparation for the appointment. A majority of the interviews I conducted with prisoners at the Bamenda Central prison arose from informal conversations with them. I conducted interviews with prisoners in and out of the prison. Sometimes familiar and unfamiliar faces of prisoners outside prison approached me. They will call my name and reminded me of our encounter in prison. I sometimes pretended as if I actually recognized them. This was always an opportunity for us to discuss whilst having lunch together. Each day I visited the Bamenda Central prison, I tried to conduct one or two interviews with prisoners. I brought my tape recorder. I conducted tape-recorded interviews that lasted from thirty minutes to three hours. I always made sure that I handed over my tape recorder to my interviewee in the course of our interview. Prisoners became more comfortable as they admired the instrument and sometimes wondered how it functioned. In total I interacted with over two hundred and fifty prisoners but at the end, I recorded my interactions with only ninety prisoners. During my interviews with them, I always made sure that I kept to four open-ended questions to allow prisoners to have control and become part of the interview: 1) What was your life like prior to coming to prison? 2) What are your experiences with the criminal justice system? 3) What has life been for you in prison? 4) How and why do you maintain contacts with the outside world (family). These questions opened many broadways of conversation and unexpectedly prisoners spoke openly about their crimes. I never asked them about their crimes. This is a question prisoner's dislike to answer. They like to hear questions like: What kind of offence

did 'they' accuse you of committing? In this way, they felt that the person posing the question is not offensive. A majority of the prisoners disliked being interrupted by other fellows during interviews. At some points they will ask if I don't mind to have a walk with them. I always carried a notebook with me to jot down important events that occurred during our interview. When I conducted a second interview with a certain prisoner, other prisoners I had interviewed would feel cheated. In spite of this, the relationship between the interviewees and myself gradually evolved after every interview. These were the prisoners' on whose request I had contacted their families. At the end of an interview with any prisoner, they felt that was our last meeting and pressured for a next appointment. I realized that prisoners felt relieved each time they shared their experiences with me. They would thank me for investing time to discuss their lives with them. A majority of the prisoners I interviewed thanked me at the end and expressed the desire to be heard by us on the outside. At the Bamenda Central prison, besides interviewing prisoners, I conducted formal interviews with judges, lawyers, prison authorities, volunteers, chaplains, prison guards and teachers. Their interviews provided me with much documentation and further informed my research.

### ***2.5. Research Ethics***

As claimed by William M.K. Trochim, there are some key principles of ethics that must be taken into consideration when doing social research. The principles vary from various sources, but at least comprise the following:

1. Voluntary participation: People should not be coerced into participating in research and should thus participate voluntarily.
2. Informed consent: Prospective research participants must be fully informed about the procedures and risks involved in research and must give their consent to participate
3. Safety: Researchers should not put participants in a situation where they might be at risk of harm as a result of their participation
4. Confidentiality: Confidentiality should be guaranteed. Participants should be assured that identifying information would not be made available to anyone who is not directly involved in the study.

In my research, I have tried to adhere strictly to these principles. In some cases, it is plausible whether I have adhered to them correctly. If we look for example at the first issue, voluntary participation, I have to admit that I have sometimes to a certain extent tried to convince prisoners to collaborate with me when they initially expressed signs of skepticism. But this doesn't imply that I made any attempt to coerce or bribe them, I just made it clear that it was important for them to help me convey their voices to a wider audience. In my conviction, this is coercion to some extent.

The second principle, informed consent, before I started doing research at the Bamenda Central prison and Ndop principal prison, I wrote a two-page application to the delegate in charge of the Penitentiary Administration for the North West region, explaining to him my research project concerning the Bamenda Central prison and Ndop principal prison. He expressed his concern to read

my thesis. As for the prisoners, I introduced to them my research project, and asked if they would have any objections if I referred to their names. A majority of them readily accepted and told me they would be proud if I quoted them. I finally decided to use pseudonyms for reasons discussed later in this thesis. The third principle, safety, is protected if the second principle is adhered to strictly, which I did. In spite of this I believe the subject of this thesis in no way poses as a threat to anybody. Prisoners in- justice is an expression of their desire to be heard. I am strongly convicted the safety of my informants is in check. The fourth principle, confidentiality, was adhered to strictly. When I interviewed prisoners or prison staff that shared different perspectives, I never quoted the names of others who differed from their opinion.



### **3. The History of the Legal System in Cameroon**

This chapter dwells on the historical background of the legal system in Cameroon with particular emphasis on the unique and exceptional setting Cameroon enjoys on the African continent as the only country with a French and English heritage. Furthermore, the subsequent sections of this chapter are very important to this thesis as it introduces the reader to two distinct aspects within the framework of the legal system in Cameroon. It is in this chapter that the reader understands how the distinct agencies of the criminal justice system operate together. Furthermore, the subsequent sections of this chapter discuss the rights of accused persons, bail in the administration of justice and the discretionary powers wielded by judicial officials. In tracing the gradual evolution of the two laws to what obtains in present day Cameroon, I have argued that the coming into force of the Criminal Procedure Code on January 1, 2007 has led to the eclipse of the two laws and has laid down the rules safeguarding the constitutional and legal rights of accused persons before the law. Kamto (2006) posits, “The new Criminal Procedure Code is very unique because it is the first time Cameroonians have succeeded to merge the criminal laws in one single system, the Anglo- Saxon and Germanic rules of law. The new code will go a long way to strengthen the unity of our country during the execution of our laws... The new Criminal Code entails that the citizen’s right as a human being must be protected no matter the crime the citizen has committed” (Kamto et al. 2006: 12).

The various Cameroonian laws which contains numerous provisions which aim to protect the accused against the violation of his rights indicates that Cameroonian laws are innovative, comprehensive and are structured towards an effective administration of justice. However, the subsequent chapter that follows indicates that no matter promising the laws in the books are, the situation is different from what obtains in practice at the empirical level.

#### ***3.1 The historical background of the legal system in Cameroon***

The Portuguese were the first to arrive at the coast of Cameroon in the 1850s. The country’s name was derived from “Camaroes” meaning shrimps. The Portuguese explorer Fernando Po who named the River Wouri named it “Rio dos Camaroes” (Shrimp River) after he found many shrimps in it. However, it was at the Berlin conference in 1884 that all what is now termed Cameroon and parts of several of its neighbours became the German colony of “Kamerun” (Fombad et al. 2002: 24).

The German presence in Cameroon was short lived as the combined expeditionary forces of the Anglo French defeated them at the end of the First World War in 1916. The German colony was later shared between England and France. Based on the League of Nations agreement with France and England, its article 19 gave them full powers of administration and legislation. Fombad (2002) posits, “the two powers were authorized to administer Cameroon in accordance with their laws and as an integral part of their territory”...(Fombad et al. 2002: 23). In this stream of events, both powers administered parts of Cameroon; of which the French part was considerably larger-under the mandate (later trusteeship) power of the League of Nations (later United Nations) (Bringer, 1981).

The legal systems of the vast majority of the Black African countries can either be reckoned among the common-law family of English origin or the civil law family in its French version. Like

most countries that experienced colonialism, the basic nature of the Cameroonian law stems from foreign influence. The legal system is a relic of the colonial past. In their respective territories, France and England implanted their own laws with peculiarities of colonial legislation and administration. Britain introduced the English common law in her own territory (British Cameroons). English laws applies in Anglophone Cameroon by virtue of Section 11 and 15 of the Southern Cameroons High Court Law (SCHCL) 1955. On the other hand, France, as far back as the 1928, had set up the Civil Law system in her own part of the territory. The British administered their portion as part of their neighboring colony of Nigeria while the French made theirs as part of their colony of French Equatorial Africa. By the time the two colonies gained independence, both legal systems had obtained a firm footing in the respective colonies.

On 1 September 1961 the Southern Cameroons and the Republic of Cameroon became the federal republic of Cameroon under a constitution that envisaged complete unification. This merger of the two Federated State of Cameroon gave birth to the Unitary Constitution of June 2, 1972. The dual systems of law in Cameroon make the country unique among other African countries. Since independence attempts have been made to codify and unify many areas of the law. Akame (1976) holds, "Legal unification and the creation of a uniform law ranks first among legislative goals in Cameroon" (Akame et al. 1976: 12). Based on the disparity in form, approach and substance in many issues between the English Common Law and the French Civil Law and also the predominant influence they have had, and will continue to have on the development of a unique Cameroonian Law, the temptation to choose the easy and convenient option of the majority dictating to the minority has too often been irresistible." As time went on, determining the extent to which English common law and French civil law could be combined with customary law to formulate uniform national laws has not been easy". With the existence of close to 250 different ethnic groups, all with their distinctive languages, customs and usages, proved a daunting task for the Cameroonian lawmakers.

The early history of the independent and re-unified Cameroon indicates not merely strides towards complete political unification but also national legal unification (Fombad, 1990. p.6). In fact by 1964, barely two and a half years after reunification, two federal law reform commissions had been set up- the Federal Commission for Penal Legislation and the Federal Commission for Civil and Customary legislation. The former was charged with drawing up a Penal and Criminal Procedure Code, and the latter, a Civil Code, a Code of Civil and Commercial Obligations, and a Civil Procedure Code. This arrangement immediately led to the unification of the varied substantive criminal law with the promulgation of the Cameroon Penal Code.

Several constitutional changes have been made, the most significant being in February 1984, when the United Republic of Cameroon henceforth became known as the Republic of Cameroon, being administratively divided into 10 provinces, two of which are herein after referred to as 'Anglophone' (the former British Southern Cameroons, later West Cameroon), and the rest as 'francophone' (French Cameroons, later East Cameroon). Subsequently, the following areas of the law were unified: the Judicial system, Land Tenure, and some aspects of Family law, Labor Law and Business Law through the OHADA Uniform Acts. But on the other hand, the Criminal and Civil Procedure Codes continued/continue to be long awaited and overdue, making them looks like "Sisyphean un-



dertakings”.

After the 1964 federal law commissions had outlived their usefulness, three other commissions were set up in 1973, 1976 and 1994 all of which failed to realize their objectives. Fombad (1991) contends that “the pace and effectiveness of the Cameroonian drive towards a modern unified national legal system suffers from two drawbacks. First of all, the present laws are not always apt to be uniformly interpreted and applied. Secondly, there is neither a well planned policy nor an efficient machinery for initiating legal reforms as an integral feature of developmental options” (Fombad et al. 1991: 6).

It was only in the year 2000 that works on the uniformity of criminal procedure intensified, following the signing of Decree No. 2000/322 of 7 November 2000. This decree was meant to set up and lay down the composition of Judicial Law Reform Commissions. This decree further instituted two Judicial Law Reform Commissions, namely the Civil Law Commission and the Criminal Law Commission. The latter was responsible for preparing preliminary draft legislation on the Criminal Procedure Code, examining all bills relating to criminal matters and punishing the criminal offences provided for under Article 5 of the Treaty on the Harmonization of the Business Law in Africa (OHADA).

The Criminal Law Commission, like the Civil Law Commission, was given the latitude to seek the advice of experts of its choice who submit a report to this effect and attend meetings in an advisory capacity as and when necessary. The resulting piece of unified national law contains elaborate provisions regarding the substantive criminal law applicable throughout Cameroon. It is seen in many respects as the best achievement of the reform process initiated after re-unification. The success behind this innovation can be explained by the fact that the Criminal Law Commission sought the expert advice of experts, including the Cameroonian Bar Council and some international jurists of proven mettle. Andrew (2005), posits “the work of this commission, which was very open to constructive criticisms, marked a laudable concession to bring Cameroon’s criminal procedure very much away from the Napoleonic Code towards the Common Law” (Andrew et al. 2005: 9). The fact remains that it was substantially and predominantly influenced by the ill-fated French penal code (Fombad et al. 1991: 19).

The first commission to draft the Criminal Procedure Code was set up in 1964; it took the country until 2006 to enact the Criminal Procedure Code. This was because after political independence and re-unification, differences continued to exist in the administration of justice in Cameroon as there were no immediately available federal laws and also because of the carrying forward of ideas, values and priorities established under the different colonial administrations (Zahary et al. 1987: 292). Law reforms meant more than just reprinting, amending or unifying laws; there was the need for a comprehensive and profound revision of the laws. “The laws had to be remolded to keep pace with modern trends while also reflecting the mores and cultures of the people” (Ewodo et al. 2005: 19).

Given the obvious disparity between the two legal systems, the State nevertheless went ahead to set up a commission for the Harmonization of the Criminal Procedure Code in Cameroon in 1973. The snail pace of the process of harmonization and unification of Cameroon’s laws can be partly blamed by the fact that “the general tendency has been to East Cameroonianise the West Cameroon Law”

(Bringer et al. 1981: 9). For example, the Civil Status Registration Ordinance No. 81/02 of 29 June 1981, where the portion of the law dealing with property rights is nothing but a summary of French Civil Law. In addition to this, Anyangwe (1981) argues, “it has not been a sane proposition to abandon laws of colonial heritage” (Anyangwe et al. 1981: 9). In a similar vein, Tabe (1989) concedes that “the making of new laws to cover the whole field of human and social relations is not a light affair to be accomplished in one great sweep, for it takes time and decades, and this means holding on to colonial laws so as to fill gaps left or areas not covered by local enactments” (Tabé 1989: p.218). It is for this reason that successive Cameroonian constitutions have always provided that all existing laws shall remain in force until expressly or impliedly repealed by local legislation. The practical effect of this has been the preservation of a substantial body of laws received from England and France.

Notwithstanding the number of years that the Criminal Procedure Code has taken to see the light of day, Cameroonian lawmakers finally succeeded after several decades of work dedicated to this course. In the words of the former British High Commissioner, “The harmonization of the two systems of criminal procedure in Cameroon was a very complicated job, which lasted for a very long time. But we ended up having a system, which draws the best from the two systems to make a revised Cameroonian system. In my opinion, this is something very positive for Cameroon” (Wildash et al. 2006: 16). Having been drafted by national and foreign experts, the bill on criminal procedure for the whole country was tabled for scrutiny before the National Assembly on June 17, 2005. The draft bill was exhaustively debated upon at the Constitutional Laws Committee and at the Plenary of the National Assembly, after which the latter adopted it on Tuesday, July 12, 2005. It was finally promulgated into law by the president of the Republic on 27 July 2005.

The new Criminal Procedure Code “provides a machinery for implementing the criminal law and also helps to protect the individual from unjust prosecution and unjustified punishment” (Monkaree et al. 2006: 199). The Code d’Instruction Criminelle and the Criminal Procedure Ordinance used in the French and English speaking regions in Cameroon will cease to apply. The Code is bilingual and also deals with the trial rights of an accused person in Cameroon criminal proceedings. Some of the features that makes the code remarkable among others are the fact that the code reviews the rules of criminal procedure over the whole territory, it equally seeks to guarantee human rights at all stages of criminal proceedings, to curb judicial delays, to speed up the execution of judgments and to recover fines as soon as judgment is delivered.

### ***3.2. Prison Administration and Regulations in Cameroon***

The earliest prison regulations were laid down during the Franco British rule in Cameroon. The subsequent orders of 8 July 1933 and 15 September 1951 had regulations that discriminated the whites and indigenous people in the French speaking areas. On the other hand, in Anglophone Cameroon, prison administration was according to chapter 159 of the 1958 revised laws of Nigeria. The prisons in Anglophone Cameroon were structured and administered by trained and competent staffs compared to their counterpart in French Cameroon. This regulation remained in force until the postcolonial era, which began in 1972.

Firstly, the 1973 reform aimed at harmonizing the Cameroon prison system following the uni-

fication of East Cameroon and west Cameroon. This paved the way for the setting up of the National Training Centre for prison officers and the putting in place of prison regulations. Secondly the 1992 reform signed by the president of the republic included seven new instruments reorganizing prison administration in Cameroon.

There exist three main category of prisons in Cameroon: Central prisons, which are located in the capital city of the regions; principal prisons which are linked to magistrate courts accommodating all categories of prisoners including pre-trial prisoners and lastly secondary prisons that only accommodate sentenced prisoners and are spread across the country. As of date, the administration of prisons in Cameroon is under the tutelage of the Ministry of Justice, assisted by a secretary of state in charge of prisons. This was due to the pronouncement of the decree of 8 December 2004 transferring the administration of prisons from the Ministry of Territorial Administration and Decentralization to the Ministry of Justice in Cameroon. Central prisons are headed by a prison administrator who is answerable to the regional delegation of penitentiary administration in every region. The prison administration is defined as a public administrative service responsible for implementing the prison policy of the government, executing court decisions through a central administration and managing the National School of Penitentiary Administration (NSPA) and prisons.

The new histories of incarceration tend to be critical about the old social control system. At the time the colonialist administered Cameroon, the view of penal administration had already shifted from punitive to reform regimes. Proponents of penal administration posit there was a shift from barbarism to civilization. After close to a century, the history of the prisons in Cameroon still remains a topic of heated debate. The prisons are still in bad shape, and are at an advanced stage of dilapidation. That notwithstanding, both the Cameroonian government and local/international organizations have taken adequate measures to redress some of the issues that for a long time has plagued the prison institution in Cameroon. The Cameroonian government took the first step with the pronouncement of the decree of 8 December 2004 transferring the administration of prisons from the tutelage of the Ministry of Territorial Administration and Decentralization under the control of the Ministry of justice. The Cameroonian government and the European Union have equally established a financing agreement to improve detention conditions and respect for human rights in prisons all over the country. However, how these measures yield results remains to be seen. The conditions of prisons all over the country still remains harsh and life threatening. In the case of the Bamenda Central prison, it is overcrowded, unsanitary and inadequate. The poor conditions of the Bamenda Central prison cannot solely be blamed on the absence of financial or material resources, but also because of the deliberate policies and serious neglect on the part of the relevant authorities.

Considering the deliberations held between the UN Special Rapporteur and the Cameroonian government on prisons, it is quite evident that prison reform is not one of government's priorities. According to the authorities, the Cameroonian government experienced a multitude of problems. Sarkin (2008) has expressed this concern when he says, "Not many governments are interested in investing on prisoners" Sarkin, 2008: 32). This issue is further compounded by the general public that raises questions on the importance and relevance of prison institutions in Cameroon.



*World Day of prayer for Prison Ministry organized by the International Prison Chaplain's Association on the 25th of August 2010 at the Bamenda Central Prison.*

### **3.3. The Criminal Justice System in Cameroon**

The Criminal justice system is often described with reference to three main types of institutions. This consists of law enforcement (police, gendarmes); adjudication (courts) and corrections (jails, prisons). These distinct agencies operate together both under the rule of law and as the principle means of maintaining the rule of law within the Cameroonian society. These bodies and officers relate to and interact with each other in many diverse ways. In the event of a mistake during the operations of any of these agencies, there is a possibility of a breakdown of the machinery of justice. Each of these agencies compliments one another. Similarly, the justice system in Cameroon is made up of two major departments; the bench and the legal department (commonly known as the criminal department). The legal department takes care of all criminal matters. Judges and Magistrates interchangeably work within these departments. At the level of the criminal department, there is a State Counsel's chamber, which is at the level of the courts of First Instance and High Courts, and the office of the Attorney General is at the levels of the Appeal Courts and Supreme Courts with the minister of Justice as the hierarchical and supervisory authority. This department supervises, controls and directs all investigations, and prosecutes and directs it at all levels (Ike et al. 2011: 8).

The newly promulgated Criminal Procedure Code regulates all investigations in Cameroon. Investigations are placed under the tutelage of the magistrate acting as State Counsel who in turn is answerable to the Attorney General at the level of the Court of Appeal. With their capacity as auxiliaries of justice, the judicial police are concerned essentially with criminal investigation, collecting evidence and bringing them before the Legal Department. It is provided in the Code that the State Coun-

sel may stop any judicial police officer from continuing with investigation and reassign the matter to another officer. They also receive complaints and reports against persons and carry out investigations on the matter at hand. Investigations can be commenced by way of written or oral information, a written or oral complaint or a written complaint sent to the State Counsel. Also the State Counsel can be seised of his or her own motion.

During the course of an investigation, the suspect can be arrested and placed under police custody for under a period of (48) forty-eight hours renewable once. The investigator tries to question anyone whose testimony can lead to the discovery of the truth. Preliminary investigation is obligatory in all felonies. It is conducted by an examining magistrate at the request of a State Counsel by way of a judicial act in writing known as a holding charge. The State Counsel may at anytime of the preliminary investigation, by an additional holding charge, request the examining magistrate to perform any acts, which he/she deems necessary for the discovery of the truth.

The force of the criminal justice system in Cameroon resides in the principles and concepts underlying the administration of justice, the institutions, which justice is administered, and the way the legal rule, regulations and judgments are enforced. In the administration of justice in Cameroon, the ultimate goal has been to safeguard the interest of citizens in their several confrontations with the justice system. In conducting their respective duties, their focus is not on crime, but the individual who is suspected of crime and who, in the final determination, may or may not be a criminal (Bushra et al. 1997: 9). The intention of the lawmaker therefore is not on the extinction of crime from society, but the apprehension and punishment of the guilty from the innocent. The various agencies in the criminal justice system in Cameroon are by no means independent of each other since what each one does and how it does it affects the work of each other. The implementation of criminal proceedings has been mapped out by the promulgation of the Cameroon Criminal Procedure Code.

### ***3.4. The Rights of Accused Persons in Cameroon***

This section identifies the rights of accused persons during criminal proceedings in Cameroon. The rights of the accused is a set of civil and political rights that apply to a person accused of a crime, from when he is arrested and charged till when he is either convicted or acquitted. The chambers universal learners' dictionary defines "right" as something a person has or ought to be allowed to have or do. Rights are legitimate claims made by an individual to be treated in a particular manner. They include the rights to be allowed to do things and rights to be given certain things (Akula et al. 1997: 31). Therefore," trial rights are the things an accused person has or ought to be allowed to have or do from the time of his arraignment before a criminal court up to the time the case is heard to an end and sentence, if any passed" (Monkaree et al. 2006: 202).

Rights of the accused are generally based on the maxim of 'innocent until proven guilty' and are embodied in due process. It goes therefore that the major rights of an accused person under the Cameroonian Criminal Proceedings are the right to presumption of innocence, right of fair hearing, right of the defendant to be aware of the accusation against him, prohibition against retrospective legislation, right to the nature of the hearing and nature of the offence, the right to defend himself, the right to an interpreter, the right to the immunity against self-incrimination and the right against double



jeopardy.

The Cameroonian Criminal Procedure Code and the Constitution of the Republic of Cameroon are the two sources that lay down the rights of accused persons in Cameroon. The preamble of the 1996 Cameroon Constitution provides that “the law may not have a retrospective effect. No person may be judged and punished, except by virtue of the law enacted and published before the offence is committed”. Secondly the Constitution provides that the “law shall ensure the right of every person before a fair hearing before the courts” and lastly every accused person is presumed innocent until found guilty during a hearing conducted in strict compliance with the rights of the defendant”.

The guiding philosophy in the newly enacted Criminal Procedure Code in Cameroon is the protection and the safeguard of the human rights of the suspect and eventually of an accused person standing trial for a criminal offence (Chrysanthus et al. 2006: 13). In the light of the above, both sources “provide a machinery for implementing the criminal law and also helps to protect the individual from unjust prosecution and unjustified punishment” (Monkaree et al. 2006: 174). Though the rights of the accused sometimes come into conflict with the promotion of the victim’s right, nevertheless the accused enjoy several constitutional safeguards during the course of criminal proceedings in Cameroon.

The constitution is the supreme law and it highlights the sum total of the core provisions of the Criminal Procedure Code in Cameroon. No law or legal instrument supersedes it except for treaties and international agreements duly signed and ratified by the Cameroonian government. The preamble of the constitution highlights the sum total of the core provisions of the Criminal Procedure Code in Cameroon. Though the rights of the accused sometimes come into conflict with the promotion of the victim’s right, nevertheless the accused enjoy several constitutional safeguards during the course of criminal proceedings in Cameroon.

### ***3.5. The Presumption of Innocence until Proven Guilty***

Blackstone maintains, “the law holds that it is better for ten guilty men to escape than for one innocent man to suffer” (Blackstone et al. 1765: 358). The principle of the presumption of innocence requires the state to prove the guilt of an accused and relieve him of the ordeal of proving his innocence. The presumption of innocence helps explain why criminal defendants are granted bail prior to their respective trials. This is because the accused is presumed to be innocent until proven guilty. The burden lies in the hands of the prosecution to prove to establish the guilt of the accused person beyond all reasonable doubt.

The 1996 Constitution as well as the Code guarantees the presumption of innocence of the defendant in a criminal proceeding. “This presumption of innocence forms a cloak protecting the person against the accusations of the state” (Chrysanthus et al. 2006: 141). It is therefore considered as a fortress, which guards and protects the accused person from the charges proffered against him/her.

The principle that a person should be presumed innocent unless and until proven guilty is a fundamental principle of procedural fairness in criminal law” (Ndifembeu et al. 2006: 12). Its justification is evident based on the fact that the state has the immense power and resources compared to the meagre resources and position of accused persons. In practical terms, the presumption of innocence

means that the accused person needs not reply to the charge or indictment. And his failure to make a statement or answer the questions addressed to him, should not be used against him at the trial. In a similar vein,” no adverse inferences may be drawn by the prosecutor or the court from the silence of the accused person” Chrysanthus 2006: 141).

### **3.6. *The Right to a Fair Hearing***

At the beginning and conclusion of criminal proceedings instituted against an accused, the courts must exercise a certain degree of fairness, impartiality and independence. The right to a fair hearing is supported in the preamble of the 1996 Cameroon Constitution which is to the effect that, “the law shall ensure the right of every person to a fair hearing before the court”. The source of this constitutional provision emanates from the rule of natural justice, which is considered as the twin pillars of justice namely, *Audi Alterem Partem* and *Nemo Judex in Causa Sua*. The former means that a man’s defense must always be fairly heard while the latter means that a man cannot be a judge in his own case. These two maxims are established rules against bias. In other words, the judge adjudicating on a case has to follow only the law and his conscience when dispensing justice. If a complainant or anyone having an interest in the outcome of a case is made a judge in the matter, this creates an atmosphere of fear and suspicion in the mind of the accused as to the fair hearing of the matter.

Independence and impartiality of the adjudicating authority is considered necessary in criminal cases as oppose to civil matters. Anyangwe (1987) holds, “The judges integrity and sense of fairness and impartiality must never be compromised” (Anyangwe et al. 1987: 23). Section 591 of the new Criminal Procedure Code provides “Any Magistrate of the bench or judge may be challenged for any of the following reasons:

- (a) Where he or his spouse is a relative, guardian or relative by marriage up to the degree of uncle, nephew, first cousin, or the child of the first cousin of one of the parties.
- (b) Where he or his spouse is employer, employee, next of kin, donee, creditor, debtor, companion of one of the parties, or director of enterprise or the company involved in the case;
- (c) Where he has previously taken part in the proceedings or if he has been arbitrator or counsel or witness;
- (d) Where he or his spouse in a party in a case which shall be tried by one of the parties;
- (e) Where he or his spouse is involved in any incident tending to show friendship or hatred toward any of the parties is likely to cast a doubt on his impartiality.

The underlying reason behind this provision is aimed at ensuring the respect and compliance with the rights of natural justice (i.e. the right to a fair hearing of an accused in a criminal trial) and also to ensure that the requirements of impartiality and independence of the adjudicating authority are met in the trial of the accused.

Fair hearing is therefore said to be an indispensable principle in our criminal proceedings (Monkaree 2006:210). In a similar vein, Nnamani J.S.C holds, “The right to be heard is so fundamental a principle of our adjudicatory process that it cannot be compromised”. Some of the underlying

attributes of the principle of fair hearing indicate that the court shall not only hear both sides in the case, but also on the material issues within the case which at the end would be prejudicial to any of the parties in the matter. In a similar manner, Section 387 (1) of the Code provides that “in respect of each of the parties, a judgment shall either be considered as having been delivered after full hearing or in default”. This implies that for the court to arrive at any decision, there must be a full hearing, (including the presentation of witnesses as the case may be) equal treatment, and consideration to all concerned.

### ***3.7. The Right of the Defendant to be informed of the accusation against him***

An important and fundamental aspect in criminal trials is the right for an accused to know the case brought against him and to prepare his case for trial. From the moment an accused person is arrested, detained and arraigned before an examining magistrate, he/she must inform him of the facts alleged and the criminal offence he or she has allegedly committed. In such circumstances, this is known as the charging of the defendant. Accused persons have the right to be aware of the reason(s) why they are before judicial officials to answer charges brought against them for the alleged commission of offences. The judicial officer who is assigned to present the accused before the competent judicial officials shall inform the defendant during his first appearance that he is now before an Examining Magistrate and may not thereafter be heard by the police or the gendarmerie on the same facts except by rogatory commission and that if the inquiry confirms the charge preferred against him, he shall be committed for trial before the competent court.

Section 170 (2) of the new Code states that the Examining Magistrate must in addition inform the defendant that he has the choice to prepare his defense either without counsel, or with the assistance of one or more counsels. It is equally the duty of the Examining Magistrate to inform the accused person of the necessary steps and measures involved during the litigation process. The accused person must be knowledgeable of vital issues pertaining to his case. In the event of a trial, he should be aware of when his matter would be heard in court and also the eventual outcome of the matter.

### ***3.8. The Right to Counsel***

Every accused person who appears before an Examining Magistrate or judicial police officer must be informed of the advantages of having a lawyer to represent him/her. Previously in Cameroon, accused persons had no right of access to a lawyer during preliminary inquiry. Based on the assumption that most litigants are ignorant of due process, there has been an innovation in the new Criminal Procedure Code, as “defendants must be notified of the right to legal advice when they appear before an Examining Magistrate” (Tabé et al. 2006: 66). In such cases, there is ample space for both the accused person, and his/her legal representative to prepare his/her case during the preliminary inquiry. Under Section 172 (1) of the Code, Counsel for the defendant shall have the right to defend his client whenever he appears before the Examining Magistrate. In addition to this, he shall be informed of the matter at least (48) forty-eight hours before the preliminary inquiry, in case he resides within the seat of the court; where he resides outside the seat of the court he must be informed at least (72) seventy-two hours.



In such circumstances, the case file of the inquiry shall be placed at the disposal of the counsel (lawyer) at the chambers of the inquiry (24) twenty-four hours before each interrogation or confrontation. The right of confidentiality between a lawyer and his client is guaranteed during preliminary inquiry. Also the accused person has a right to expressly refuse to be heard except in the presence of his counsel. If a counsel who has been summoned does not appear, the inquiry shall continue and his absence would be mentioned in the report.

### ***3.9. The Right to an Interpreter***

The official language of communication used in the Cameroonian courts is English and French. A defendant who is unable to understand French or English has the right, when appearing before an Examining Magistrate, to an interpreter paid for, out of public funds. The interpreter must be able to interpret clearly and correctly everything said by the Examining Magistrate to the accused person in the language he understands well. Simultaneously, the Examining Magistrate should be able to understand everything said by the accused person. According to the provisions of Section 183 (1) (b) of the new Code, the interpreter should not be less than (21) twenty-one years old. Henceforth the interpreter shall take oath to give a true interpretation of the statement of any person who speaks in a different language or dialect. The fact of his having taken oath shall be mentioned in the record of the proceedings.

### ***3.10 The Right to Life***

One of the constitutional provisions safeguarding fair trials in Cameroon is enshrined in the preamble to the 1996 constitution that is to the effect that “every person has a right to physical and moral integrity and to humane treatment in all circumstances. Under no circumstances shall any person be subjected to torture, to cruel, inhumane or degrading treatment. This section in the constitution helps to check the excesses of law enforcement officials during the exercise of their duty. More so, the Cameroonian government took cognizance of the fact that prior to the promulgation of this section, there was systematic torture and harassment meted out to suspects and accused persons by the law enforcement.

Therefore with such a fundamental law (constitution) and the Criminal Procedure Code in place, most people agree that things will never be the same in Cameroon. It is indeed, a landmark law certainly to revolutionize our criminal justice system (Ndifembeu et al. 2006: 21). In spite of the charges levied on accused persons, they have the firm conviction that the government’s interest is to safeguard the fundamental human rights of its citizens irrespective of their position as defendants or victims during the course of criminal proceedings.

In the same vein, several other rights are included in the preamble of the 1996 constitution. These rights include among others, equal rights and obligations of all citizens irrespective of religion, race or sex. The constitution recognizes the fact that its priority is to safeguard the rights of citizens through the enforcement of criminal laws that criminalizes the excessive actions of the powers that be. The preamble to the Constitution concludes by reiterating the duty of the state to ensure the constitutional safeguards for all Cameroonian citizens.

### ***3.11. Discretionary Justice***

Irrespective of the substantive and procedural laws that guides and informs every aspect of the Cameroon Criminal Justice System, the entire criminal proceedings is determined to a large extent by the exercise of informal discretionary justice of stakeholders at the various levels of the criminal justice system. These discretionary decisions often result in the development of behaviors, attitudes and policies, which are not subject to formal review through the traditional channels of the legal system (Banks, 1979. p12). The Cameroon procedural law leaves room for a lot of discretion to be exercised by the stakeholders of the justice system. Orman (1979) holds, discretion exists “whenever the effective limits on power leaves one free to make a choice among the possible courses of action and inaction” (Orman et al. 1979: 16). The discretionary power exercised by the stakeholders of the criminal justice system is permissive and not binding and leaves them with freedom to act or make decisions based on their judgment. The rationale behind this is because they possess experience and specialization in their respective sectors. In these circumstances, they can adapt their rules and policies to the demands of changing circumstances.

Discretionary power must be exercised reasonably, impartially and avoiding excessive force in the course of duty. Discretionary decision made by the law enforcement officials determines who will be arrested and detained. Discretionary decisions made by the prosecutor determine who will be charged with an offence and what the charges will be. Lastly, the judge in exercising discretionary power in respect to sentencing determines how long a person will stay in prison.

### ***3.12. Discretion exercised by the Law Enforcement officials***

The first ‘gatekeepers’ in the criminal justice system are judicial police officials. In section 82 of the Cameroon Criminal Procedure Code, it spells out the duties of judicial police officers. They are responsible for the investigation of offences, collecting evidence; identifying offenders and accomplices, executing rogatory commissions of judicial authorities; serving court processes; executing warrants and court decisions; and lastly receiving complaints and reports against citizens. Section 93 (1) of the Code states that “Searches and seizures shall be carried out by judicial police officers that possess search warrants” and it further states in Section 97 that “When a judicial police officer conducts a search, he alone shall have the right to examine the contents of the documents found in the place before they are seized. He shall be bound by professional secrecy”. Some of the discretionary powers involve the decision to arrest or not arrest, to do a proper investigation or not, the admission and non-admission of bail of accused persons, and also the submission of the files of accused persons to the State Counsel.

The State Counsel therefore relies on the files submitted by the judicial police based on their investigation for him to be able to conduct a preliminary investigation.

### ***3.13 The Prosecutor’s discretion (The State Counsel and The Examining Magistrate)***

Most citizens believe that criminal law operates almost mechanically in that the formal judicial system is constant and impervious to influences and changes (Banks et al. 1986: 8). Many Cameroonians don’t realize the overwhelming discretion exercised by prosecutors such as the State Counsel

and the Examining Magistrate in deciding to prosecute or drop criminal charges against an alleged offender. The State Counsel and the Examining Magistrate are considered as the “final gatekeepers” in the Criminal Justice network. In many instances, the prosecutor is not obliged by law to prosecute individuals against whom there is sufficient evidence of criminal conduct. The decision he takes in most cases is his personal judgment based on the matter before him.

The prosecutor’s attitude towards an accused person can be shaped by many factors such as the accuser’s economic background, the nature of the offence, the public’s sentiment towards the case, the strength of the evidence against the accused, the criminal record of the accused (recidivist) or the workload of the prosecutor’s office. When an accused person appears before an Examining Magistrate, he might be easily influenced by very simple factors such as his dress, speech and manners of an offender. Davis (1969) holds, “A certain manner of dressing, speech, common in another culture might be perceived as a sign of moral unworthiness (Davis et al. 1969: 12). A prosecutor on the other hand may believe that a smartly dressed and humble accused person might be a victim of circumstances. The Examining Magistrate may visit the *Locus in quo* to carry out searches and seizures. He can also hear witnesses; get expert opinion, remand in custody and grant bail. Both the Examining Magistrate and the State Counsel can decide to discontinue the criminal prosecution stating that the facts of the case cannot legally sustain a prosecution, or that the facts do not legally constitute a criminal offence. In such cases, the Examining Magistrate can make an order refusing to carry out the inquiry based on the above reasons.

In addition to this, the Code in Section 128 (1) provides that the “Legal Department shall be a principal party in a criminal trial before the court and shall always be represented at such trials under pain of rendering the entire proceedings and the decision null and void”. During prosecution, he is in a position to build a “water tight” case for the prosecution. It is equally his discretion to make the case lighter for the defence counsel. In cases relating to the application of bail, it is at the discretion of the prosecution to oppose or yield to the demands of the defence counsel.

Honorable Justice Paul Ayah submits, “Because the law does not spell out how much money a court has to demand as a deposit. Because it is at the discretion of the court, the magistrate could demand any sum of money depending on where he situates himself” (Ayah, 2005).

There exists little doubt therefore that the discretionary decisions made by the prosecutor determines who will be charged with an offence and what the charges will be.

### ***3.14 The judge’s discretion***

The last level of the criminal justice network is the judge’s discretion. Most countries in the world and Cameroon in particular guarantee freedom of discretion to its judges. Irrespective of the courts, jurisdiction or case, judges are imbued with the authority to make decisions using their own authority. Ndifembeu (2006) holds that “some judges are in positions that permit considerable discretionary activity. Some are more lenient than others in admitting certain types of evidence. Some have reputations for being ‘maximum sentence’ judges; some are more trusting of judicial police testimony and less inclined to pay strict attention to the ‘strict technicalities of law’ than others” (Ndifembeu et al. 2006: 79-80).

Judicial discretion enables the justice system to function well because it allows the judges to listen to all sides of the story, weigh the different opinions, facts and evidence that will enable them to make a better, more logical, and hopefully more just ruling by the end of the case (Madoff et al. 2007: 7). The judge makes the decision based on facts of law and justice. They cannot use this power arbitrarily since he on his own cannot create a rule but uses his freedom of discretion to take into account several things such as the offender's previous convictions, the social background of the offender, age and the consequences of his sentence.

Without their discretion, judges are relegated back to the days of antiquity when laws that echoed 'eye for an eye and tooth for a tooth' reigned supreme. Some poor soul would break the law for a good or bad reason and they will end up being sentenced in the same manner as the worst of the worst. That may be proportional but it isn't right. That is why discretion is good, and not only good but also necessary (Neubauer et al. 2008: 9).

It is worth noting that the criminal justice system cannot operate effectively without the exercise of discretion from the stakeholders. We should not forget the fact that this discretionary power should be exercised in conformity with the law and it should be void of personal feelings and thoughts. The exercise of discretion creates flexibility amongst stakeholders as they chose the best course of action for all parties involved based on the circumstances they are confronted with.

### ***3.15 Bail in the administration of Criminal Justice in Cameroon***

An accused person is said at common law to be admitted to bail when he is released from the custody of officers of the law and is entrusted to the custody of persons known as his sureties who are bound to produce him to answer, at a specified time and place, the charge against him and who in default of so doing are liable to forfeit such sum as is specified when bail is granted. Bails are sureties taken or amount of money deposited by a person duly authorized, for the appearance of an accused person at a certain day and place to answer and be justified by law. The quest for bail is a quest for liberty and freedom. Liberty is priceless to humankind and it is next only to an individual's right to life. Not all offences are bailable under the Cameroonian law. The detained person who is granted bail is called the bailee, while the person who enters into a recognizance to ensure the appearance of the accused is known as the surety. A recognizance is a bond by which a person undertakes before a court to observe some conditions. It is simply an obligation of record entered before the court of its officials and binds the person making it so that if the conditions are not observed that person becomes an absolute debtor to the state for the sum stated in the recognizance.

The right to bail is one of the rights of the accused guaranteed by the 1996 Cameroon Constitution. The release of an accused person from incarceration by way of granting bail is one means of giving teeth to the Constitutional presumption of innocence (Mugalula et al. 2009: 371). The law however makes it possible for the detained person to be temporarily released, and for him to enter appearance when and where demanded so as to give evidence on the matter he is being accused of (Andrew, 2007: 180). However the constitutional right to bail seems to be a misunderstood concept as many question whether it is in fact an automatic right to bail. Magalula posits, "It has been found that the right to bail is not an automatic right but depends on the unfettered discretion of the courts

exercised judicially (Mugalula, 2009: 371).

Bail in Cameroon today seems to be a controversial issue not only in terms of the legal scope or application but also in aspects relating to its administration. The majority of prisoners who are unable to afford bail in the Bamenda Central prison are enormous.

Bail in Anglophone Cameroon has so far been governed by Sections 118-143 of the Criminal Procedure Ordinance (CPO) and by Law No. 89/19 of 29/12/1989, amending ordinance No. 72/04 of 26/08/1972 and Ordinance No. 72/21 of 19/10/1972. Before the coming into force of Ordinance No. 72/21 of 19/10/1972, the power to grant bail was the preserve of the judiciary.

Under the new Criminal Procedure Code (CPC) application for bail may be made, as the case may be, to the judicial police officer, the State Counsel, to the Examining Magistrate, or to the court seized of the matter. Bail can be unconditional (self bail) or conditional. Unconditional bail is a situation where the Examining Magistrate, at any time before the close of the preliminary inquiry (P.I) and of his own motion withdraws the remand warrants and grants bail. The Code on the other hand provides for the granting of conditional bail to the defendant. Conditional bail therefore is a situation where a person lawfully remanded is granted bail because he fulfils one of the conditions outlined in section 246 (g) of the CPC.

Bail may be granted for persons awaiting trial and persons convicted but who have gone on appeal. A person charged with a felony punishable with death or life imprisonment shall not be admitted to bail. In admitting a person to bail in Anglophone Cameroon, the courts have to consider the nature of the charge, the severity of the punishment and the character of the evidence. In the landmark case of Retired Justice Nyoh Wakai & 172 Others Versus The People, the High Court of Bamenda said, inter alia: "In exercising its discretion to grant bail, the court has to consider among other things, the gravity of the offence, the possibility of the applicant jumping bail, the likelihood of the offence being repeated and the gravity of the sentence". Against this backdrop it is very difficult to lay down rules as to when bail should or should not be granted.

### ***3.16 Conclusion***

Cameroon's dual legal heritage is considered a blessing as well as a curse based on the problems faced by lawmakers and the citizens. In spite of the herculean efforts made by the Cameroonian legislator to reform, revise, modernize and harmonize the existing laws, the empirical reality in Cameroon leaves much to be desired. The harmonization of the two criminal laws that existed in both regions into a meaningful Criminal Procedure Code hasn't been quite successful. The implementation of the provisions of the Code still remains a daunting task to judicial officials. This can be explained by the fact that the legislator in borrowing ideas and concepts from other foreign legal systems failed to take into account the rules, practices and cultures of Cameroon's diverse groups. In addition to this, jurists of both legal cultures involved in the law reform commissions tried to project their respective legal cultures as the best (Tamko et al. 2007:12).

Good laws can be enacted but if those who administer these laws lack moral virtue, an injustice may result from their actions. The failure to implement the laws to meet the demands of justice has been met with mistrust on the part of citizens. They perceive the law as a repressive tool used against

them. In spite of the constitutional provisions safeguarding the rights of citizens from arbitrary and abusive use of government power, the accused continues to suffer from violation of his/her fundamental rights. This is evidenced by the plight of the accused in matters relating to the deficiencies of the justice system.

The Cameroon procedural law leaves room for a lot of discretion. Discretion can be very dangerous as it creates room for maneuvers. Those with discretionary powers are seen to exercise it to suit their interest. No attention is paid to community's discretion as one of the 'gatekeepers' of the criminal justice system. The participation of citizens is undermined as no one considers if the criminal justice system operates in their favor and their perceptions towards the working of the law based on their encounter with the criminal justice system. Without the community's discretion as eyewitnesses or victims, many crimes can go unreported to the law enforcement officials or the prosecutor. They can equally choose to conceal a great deal of information from reaching the doorsteps of judicial officials.



## 4. The Prison and our present times

This chapter considers the historical background of the prison in Cameroon situated within the context of the Bamenda Central prison and Ndop principal prison. The author seeks to understand what is a prison by tracing the evolution of the prison from the traditional and colonial era to the modern day prison. He maintains that despite the changes that have taken place, the main forms of punishment still remains the same. The chapter considers the usefulness of ‘friendship and social relations’ established at the Bamenda Central prison in understanding life in the prison community. Three case studies illustrates why relationships are initiated in prison, dynamics and prisoners’ agency, demonstrating how prisoners’ negotiate livelihoods by establishing social relations to be able to cope with the exigencies of the criminal justice process and life in prison. However, while the author recognizes that the inherited colonial infrastructures of the Bamenda Central prison has not been conducive for prisoners’ to undertake an effective rehabilitation, he argues that the absence of facilities to accommodate and separate petty criminals from hardened criminals is a determine factor in criminality at the Bamenda Central prison.



*The prison from within. This wall separates prisoners from the outside society. The European Union and the Cameroonian government jointly constructed this wall.*

### **4.1. The Historical background of the Prison in Cameroon**

Generally, the prisons have existed in most societies around the world for the ages. No one has been able to situate a precise date or time on which the prison emerged. But we know from the stories and literatures relating to the prisons of ancient medieval societies that the prison is an old institution.



In Africa, one of the most fascinating accounts of prisons is in ancient Egypt. In the Holy Bible, a passage in the book of Genesis (39:20-40:5) describes the confinement of the Hebrew slave Joseph by the Egyptian royal official Potiphar. The bible tells us that Joseph remained in prison for as long as twelve years. Joseph's prison was the "Great Prison", the hnr at Thebes, present day Luxor, whose existence is unrecorded before the period in the Middle Kingdom. But what is a prison and what does it represent to us in present day society. Emperor Justinian regarded a prison as a place of detention and not for punishment in his Digest (AD 533). What this translates to us is that traditionally prisons were places where individuals underwent some form of punishment for crimes committed. This was not very different from the system practiced in pre-colonial societies as "the penal orientation had depended on the maxim "an eye for an eye" ostensibly because the social agreement was such that a criminal needed to be punished" (Orakwe et al. 1997: 3).

In traditional societies in the grass-fields in Cameroon, perpetrators such as repeat offenders and witches who posed serious harm were killed, ostracized or sold into slavery. Occasionally those who went against the laws of the land got confined in special institutions designed to remove them temporarily or permanently from the mainstream society (Matthews et al. 2009: 19). As time evolved, events took a different direction in which the main forms of punishment shifted from public executions, whippings and floggings, manual labour to one in which institutions such as jails became the standard form of confinement.

The sources of the history of prisons in Cameroon are lost, diverse, fragmentary or otherwise difficult to interpret (Edward et al. 1974: 7). This is as a result of the poor documentation and limited scholarly attention that has been invested on the history of prisons in Cameroon. On the other hand, the historical background provides useful descriptions of the institutional and administrative changes that took place, but ignores the specific historical traits of the modern prison and the wider social context in which it emerged. These 'administrative' or 'traditional' histories lack an analysis of 'passion, power and conflict' and are generally 'long on facts and short on interpretation' (Howe, 1994:12).

Gradually, the orientation towards penal policy began to develop with Cameroon's first encounter with the formal system of imprisonment in relation to punishment. This was centered around two periods: the colonial and postcolonial era. The colonial era was further divided into two stages, which were under the German colonial rule and the Franco-British rule. Most of the prisons in Cameroon are legacies of German colonial rule. The main reason behind the construction of these prisons was to remand indigenous delinquents and citizens who disobeyed the laws and orders laid down by the German administration. Those remanded were made to work for public projects particularly the building of schools, hospitals, bridges and road construction.

Presently, there exist seventy prisons in Cameroon. These prisons are divided into three main categories: Central prisons, are located in the capital of each region. Principal prisons are linked to magistrate courts consisting of all categories of prisoners' including pre-trial detainees; while secondary prisons only accommodate sentenced prisoners' and are scattered all over the country.

#### ***4.2. The Bamenda Central Prison***

Once, I witnessed an event after a judgment at the Bamenda High court where a lawyer in amidst

tears told his client “I am sorry, there is nothing more I can do for you. These guards (referring to prison guards) will take you to your final bus stop. Today, a lot of people avoid referring to the Bamenda Central prison by its name because of the terrible stories recounted to them about prisoners and the deplorable conditions of the prison. This maximum-security prison was built in 1924 by the German colonial administration with an intended capacity of 300 inmates. Today the prison is home to approximately 655 inmates of whom 397 are pre-trial detainees. There are seven major groups of offences for which the Bamenda Central prison inmates have been charged: arm robbery, theft, false pretence, murder, assault, misappropriation and trespass to land. All these inmates are divided according to their legal statuses, into the different wards in prison. There is a juvenile reformatory school in prison that has an attendance of almost thirty juveniles. The ratio of male to female inmates is approximately 12: 1, in this case the males 564 and the females are 6. The age that is over-represented in this prison is 16-35 years. Convicted prisoners spend 14 hours daily in close confinement as opposed to 11 hours for pre-trial detainees. A cell measuring about 8 square meters houses about 24 inmates. A majority of the prisoners complain that the cells are overcrowded, unsanitary and inadequate. The length of time for duration in prison custody depends on the status of each prisoner.



*Some juvenile prisoners at the Bamenda Central Prison.*

A prison administrator and several assistants jointly administer this prison. The prison door of the Bamenda Central prison is open to prisoners transferred from various prisons around Cameroon. The Bamenda Central prison distributes prisoners to other prisons. Irrespective of the various identities and backgrounds of these prisoners, they share a common bond, which is their participation in criminal activity. Many prisoners are engaged into agricultural activities. They operate small gardens where they grow vegetables, pepper, cabbages, potatoes, and maize, amidst others.

A selected group of prisoners are assigned to prepare food for prisoners in the kitchen. Prisoners are served one meal per day. The meal usually consists of fufu corn and bitter leaf soup or rice.

Many prisoners prefer to prepare their own food and sometimes they receive food from relatives and friends who pay them occasional visits.

The Bamenda Central prison has basic facilities like water, an infirmary, electricity, and a juvenile reformatory school. In line with making the period of incarceration a time of useful apprenticeship, prisoners are assigned to several workshops in prison where they engage into vocational courses such as weaving, shoe mending, mechanical engineering, pottery and computer sciences.



*A group of convicted prisoners.*

The prison population at the Bamenda Central prison belongs to diverse denominational backgrounds. Within the week, prisoners organize football matches between ‘pagans’ against ‘Christians’. The winner price is usually a paltry sum of money donated by a generous prisoner. A majority of the prisoners hail from impoverished backgrounds and their socio-economic conditions impedes their access to the justice system. In the words of Franz Fanon (1977), these prisoners are “the wretched of the earth”.

#### ***4.3 The final bus stop- Bamenda Central prison***

In the administration of justice, the Bamenda Central prison is at the tail of the criminal justice system. This prison which covers a surface area of approximately seven hectares of land, was constructed by the German government in a then secluded area in up-station Bamenda. Every day, judicial officials escort inmates who have been remanded to prison custody to the Bamenda Central prison. These inmates are destined to spend part of their lives because of the permanent or temporary loss of their liberty.

At first sight, the appearance of this prison instills fright into every new inmate. The 4 (four) watchtowers overlooking this prison, coupled with the presence of armed guards that are stationed at these towers for 24 (twenty four) hours, rings a bell inside the head of every newly arrived inmate. Usually, prisoners who are brought to this prison for their first time have a different perception of what to expect inside. This is as a result of the high walls that adjoins the towers.

After the routine registration and medical inspection conducted on the 'newly arrived', he/she is brought into prison by any warder on duty. Immediately the feet of the newly arrived touches prison ground, his eyes get confronted with the hard stares of older inmates. In most cases, the newly arrived is forced to tell his story to the hearing of everybody in the prison community.

Older fellows who have been condemned inform newly arrived prisoners of what to expect in the future. The Bamenda Central prison is presented to them as the 'final bus stop', 'the jungle', 'the devil's paradise' and the 'orphanage'. This is usually a very sad moment for first time offenders who have no friends in prison to sympathize with them. They try to initiate social contacts because of the insecurity that prevails in the inmate community. During prisoners' first night in prison, it is usually common to hear them taking vows like "I will never get involved into crime". But the longer they stay in prison; they become part of the prison culture and gradually forget about life on the outside.

However, in spite of the inmates first experiences, the prison remains a unique community since it is held together by walls and guns, laws and rules, yet in it, regardless of the reasons for its existence, there exist social relations, communication that makes the relation possible and other social processes (Clemmer, 1940: 21).



*A football match organized during the cultural week between prisoners of the Bamenda Central Prison and the Bafoussam Central Prison. This took place at the Bamenda Central Prison.*

#### **4.4. *Friendship and Social Relations at the Bamenda Central prison***

Crew (2009) holds that where social life is but all obliterated, prisons impel their inhabitants to form social relationships, throwing strangers into shared residential spaces and encouraging alliances that help mitigate deprivations in physical safety, material provision, and social support (Crew, 2009: 24). An inmate upon the completion of a 15 years jail term confessed, “I wouldn’t have successfully served my imprisonment sentence without the help of friends”. This provides an answer to the question, why prisoners are in dire need of friends in prison. A majority of the inmates, who meet in prison, come from different places and have different family backgrounds. The need to have security in prison encourages prisoners’ to bond with other fellows. Mukini is a pre-trial detainee charged for theft. Whilst in prison, certain conditions compel him to socialize with older fellows charged with serious offences. Despite numerous threats from the prison administration to disassociate him from such fellows, he cements his friendship for reasons known to him

Social contacts are initiated in prison for different purposes; the structural conditions tend to shape the nature of these relationships, restricting the magnitude and making “friendship” possible only in certain circumstances (Crew, 2009: 19). However, not only are there relations between persons in prison, but also the individuals within the prison communicate and have relations with persons beyond the walls. The relationships established within and outside the prison, affect prisoners’ lives in considerable ways. Yet, at the same time the prison incites closeness, it equally restricts the forms these relationships can take.

Behind the walls of the Bamenda Central prison, prisoners post visible messages inside toilet walls and bedpost. “Beware of the kinds of friends you make in prison”, “Are you sure he is your friend?” “The good prisoner is dead”. These messages set the pace for a variety of social outcomes, empowering as well as restraining the formation of social relationships at the Bamenda Central prison.

Tsinangha, 26 years is a pre-trial detainee charged for theft. He has been in preventive custody for 5 months. He is married and a father of two children. Whilst in prison, certain conditions coerced him to socialize with hardened criminals charged for serious offences. He relies on his friends for financial support in prison. But on the other hand, he possesses a good command in the English and French language, something that his fellows lack. When other prisoners realize that he can effectively communicate in English, every prisoner wants to become his friend. In an interview conducted on the 27th of September 2010 at the Bamenda Central prison, Tsinangha explains why friendship is very important in prison.

‘It is difficult to explain how we (prisoners) become friends with other prisoners. One thing I know is that every prisoner is lacking in something. Because a majority of us are poor, we lean on other fellows for survival. There are some prisoners who are imprisoned because they are ignorant. They need to open up to someone in prison to help them. Two years ago, I remember a prisoner whose case was discharged and acquitted and he remained in prison for another two years. This prisoner didn’t make friends in prison. He had no friend who could help him read and interpret his documents to him. Sometimes you see a good prisoner associating himself with very bad prisoners. The prisoner

does that for various reasons. We make friends with certain kinds of prisoners for a reason. Most of the prisoners who were convicted because of charges of state funds, have lots of friends in prison. They associate with them for several reasons. Firstly, in times of adversity, these prisoners always rescue their friends. Secondly it is normal to hear them making statements to their friends like “When I get out of prison, I will transform your life”. Messages like this instills a sense of hope to so many prisoners. So many prisoners make friends with me because I help them write complaints and letters and that facilitates their relations communicate with their business partners outside prison. Friendship in prison entails being one another’s keeper. I know the dirty side of so many prisoners who are not my friends. We interact in numerous ways. The friend of your friend in prison is your friend. This makes the situation complicated each time an inmate thinks of betraying a fellow prisoner who isn’t your friend to the prison authorities. Because of my role as a middleman between prisoners and the outside, my ear entertains to all kinds of horrible things. I know they need me because of the services I render to them. I equally pretend to be a good friend to some prisoners. My intention is to have their money.’

#### ***4.3. The Ndop Principal prison***

During the second phase of my research at the Bamenda Central prison, as part of my research program, I carried out research in the Ndop principal prison during the period of December 13th 2010 to January 18th 2011. I intended to carry out a comparative study between the Bamenda Central prison and the Ndop principal prison.

The Ndop principal prison is located in Ndop, which is the divisional headquarters of Ngoketunjia division in the North West region of Cameroon. It is a relatively small prison with a capacity of 70 inmates including pre-trial detainees and convicted prisoners. Unlike the Bamenda Central prison, which consist of several buildings, this prison is made up of two blocks; one accommodating the en-



*The Ndop Principal Prison*



tire prison population, and the other block is used for administrative purposes. Because of the lack of infrastructure, all categories of inmates are joined together in the same facility.

A majority of the detainees and convicts in this prison were charged for crimes relating to theft or false pretence. The entire prison population consisted of farmers or school dropouts. Very few of them had legal representation. A certain informant charged with trespass to land, told me, “Most of us in prison don’t need the services of a lawyer because we are innocent of our charges. Those who seek the services of lawyers are presumed guilty. Why would I pay someone to go to court and defend me when I know that I am guilty?”

A majority of detainees at the Ndop principal prison are ignorant and lack human rights consciousness. The prisoners in this prison are different from prisoners in Central prisons like the Bamenda Central prison. These prisoners have little or no formal education, and they are unable to protect, enforce or claim their lost rights from the hands of perpetrators. Most prisoners in here could only understand human rights through the help of fellows that had been transferred from prisons in urban areas like the Bamenda Central prison where there is a certain degree of human rights realization. Sawa Loko is a local bus driver who transports farmers to the neighboring villages on market days. One evening, he was arrested by the driver of a certain judicial official and placed into police custody. Unable to afford the amount demanded for bail, he was charged with battery and later transferred to the Ndop principal prison. After spending three weeks in detention, he was released in court following a number of negotiations. I realized during my study at the Ndop principal prison that inmates could understand and appreciate human rights principles and concepts if translated into their local vernacular.

The Ndop principal prison is a production prison that owns large hectares of arable land on its territory where both pre-trial and convicted prisoners are compelled to cultivate the farm. The produce harvested is meant to supplement prisoners’ feeding and a part of it sold. Looking at every prisoners ration, there is every indication that the food is distributed to different sources. Most of the prisoners I spoke to complain that their rations were insufficient to enable them perform the task assigned to them on the farm. Amongst the crops cultivated are beans, maize, potatoes and cocoa yams. Most prisoners complain that they are made to work constantly on this farm. They share the opinion that it is a way of subjecting them to punishment. Moreover the size of the farm is way too large for the limited number of prisoners who work on it. At most times, the superintendent who is in charge of this prison request through the delegation of penitentiary administration for prisoners to be sent to the principal prison. This usually occurs during the farming season where labor is in high demand.

In the course of my research, I discovered evidence of various forms of torture practices frequently used as punishment at the Ndop principal prison. I observed several cases of detainees whose ankles were chained together for committing infractions, based on the order from prison authorities. A situation of this nature usually occurs each time prisoners have confrontations with the guards. The guards normally intend to subject prisoners to difficult situations by chaining them. Detainees explained that they must be able to find creative means such as cutting garments apart and sewing button closures where they can be removed despite the connected shackles, or endure wet clothes for hours after bathing (Churchhill, 2008). Mokoroma is one of the convicts I met at the Ndop principal



prison. He was constantly in chains during the entire period I spent at the Ndop prison. He told me, “The prison guards chain my legs all the time. I am sometimes referred to as a dog. Everybody who comes to this prison identifies me with this chain. This one has been on my legs for ten days.”

Despite the plight of inmates in this prison, a majority of them prefer this prison to other prisons around the country. Most of them acknowledged that ‘Even though this prison is in the bush, our stomachs are always full and we don’t sleep on bare floors’.

#### ***4.4. Conclusion***

The prisons in Cameroon are not a recent affair taking into consideration the numerous detention units that had existed during the pre-colonial era. The evolution of prisons from punitive to reform regimes suggest that there was a shift from barbarism to civilization. Examining the Bamenda Central prison and Ndop principal prison, there are many reasons to accept that much hasn’t changed after close to a century of instituting reforms. The government still continues to maintain the colonial infrastructures inherited from the colonial master. More worrisome is the fact that most prison officials remain untrained and ignorant of some of the domestic and international instruments ratified by the Cameroonian government. Despite several calls from domestic and international agencies, the government still allocates limited priority to its prisons. With the joint support of the European union, resources were harnessed to give the Bamenda Central prison a facelift. This was realized through the provision of free legal services to inmates on remand and the erection of a new prison wall. Ironically, the cases of most inmates who benefitted from this largesse still remains wanting. The absence of adequate infrastructures creates a situation in which prison officials bring together amateur and hardened criminals inside the same facility. This enhances criminality as ‘petty’ criminals are introduced to new and sophisticated criminal ideas. However, despite the walls, guns and draconian prison orders, prisoners’ establish social relations in prison. Without friends in prison, imprisonment becomes unbearable to a majority of prisoners’ at the Ndop and Bamenda Central prison.

## 5. The Importance of Money in Prison

Money is a very useful commodity in the criminal justice process. A majority of the accused believe the welfare of a prisoner depends on his financial viability. This chapter explores the ways in which prisoners' at the Bamenda Central prison aim at resolving their ever-increasing demands in prison by engaging in various kinds of businesses in prison. In this chapter, I am going to discuss the following: the art of begging, taxi man, restaurant chefs in prison, and the invisible trade. Generally, the reality remains that a majority of these prisoners' hail from impoverished backgrounds. They need money to address a number of issues such as affording legal representation, prison exigencies and their family needs. This chapter considers the usefulness of money on prisoners' and their families and why prisoners' are in dire need of money. This chapter on the importance of money is relevant to this study because of its importance in the understanding of prisoners' agency and perspectives of justice. In the description of the illicit trade on drugs in prison, the author creates a platform for understanding the interaction of the various actors and their environment. He argues that despite the tight security measures and disciplinary sanctions of the administration, the quest for money in prison is so important that the principal actors are willing to go the extra mile to satisfy their desires.

When Jamka was convicted on a charge of arm robbery and sentenced to 15 years imprisonment, he was dejected and distraught. There was no way he could spend 15 years behind the walls in prison leaving behind a daughter who suffered from sickle cell anaemia. From dawn to dusk, he roams the prison, in search something that will generate 'money' to meet the cost of his daughter's medical expenses. As we will see, some prisoners' succeed in this venture and others not. But as the saying goes "Give a prisoner a loaf of bread, and he will say thank you. Give him money and he will tell lie prostrate".



*A rich prisoner relaxes in his VIP cell at the Bamenda Central prison.*

### **5.1. 'The art of Begging'**

A majority of the prisoners' remanded into prison custody has a history of begging for money. Begging seems to be part of the prisoner's culture of the Bamenda Central prison. Almost every prisoner remanded into prison custody inculcates this habit from older fellows and it remains ingrained within them. How did this come about and why do prisoners resort to begging at the Bamenda Central prison? Begging within and out of prison has become a perennial thing. More worrisome is the condition of pre-trial detainees who are deprived of certain privileges in prison.

Prisoners who are brought to court for trial, use the various courts to beg for money from court officials and passerby's. Relatives and friends of prisoners who come to court to witness their trials are ashamed to identify themselves with these begging prisoners. They conceal their faces and close their ears to the cries of these prisoners. Attached to the prison van that escorts prisoners to court are long ropes attached to plastic bags. Each of these bags belongs to a prisoner. They hope that everybody who passes along their way would drop coins into these bags. Those who are empathetic with their plight give them money.

Simbong Jani who is standing trial for a charge of theft said: " We all know begging is a shameful act but we cannot exempt ourselves from it. We beg because we need to survive."

During the occasion of the prison fellowship held at the Bamenda Central prison chapel, many Christians who attended this event swore never to visit the prison again because they saw the sight of these begging prisoners too grim to handle. Out of pity for the situation of prisoners, a certain complainant who was part of the delegation to prison expressed empathy for their plight and promised to forward an application for withdrawal of the case of a an inmate in preventive detention. He said, "I am scandalized at the majority of prisoners who have suddenly been transformed into beggars".

There is a degree of solidarity amongst pre-trial detainees as compared to convicted prisoners. At the end of every begging session, inmates share the proceeds of the day with other fellows in the hope that every good turn deserves another.

Every pre-trial detainee needs to establish a cordial relationship with the prison guard who occasional lets him out to beg for money from visitors to the prison. Pre-trial detainees who are eventually sentenced and subsequently become convicted prisoners go through a difficult time in prison. They take a long time to adapt to the their new environment. They envy pre-trial detainees who go to court and have the opportunity to beg. At the prison yard, some convicted prisoners are egoistic. They only think about themselves and those who are their friends in prison. Newly admitted prisoners experience difficulties especially as they may take a longer time to associate themselves with new convicts.

A majority of the prisoners remarked that when they were in the conventional society, they wondered why begging is often associated with prisoners and prison guards. Mokanyi is a convict who was charged with rape and sentenced to 7 years imprisonment in 2007. He vividly explains how he became a beggar. "During my first weeks in prison, most of my relatives and friends constantly came to see me. Each time they visited me, they brought with them food and the basic necessities I needed in prison. But as time went on, everybody deserted me. My grandmother complained that she couldn't afford transport money to come to prison. I initially thought I would spend a shorter time

in pre-trial detention. As time went on, I found myself begging from one inmate to the other. I didn't only beg for money, I begged for everything. I need money so desperately especially when my lawyer threatened to pull his hands off my case if I failed to provide his fee. If you are imprisoned today, you will also beg. The living conditions in prison are deplorable; it warrants everybody to beg”.

Begging is not only done by prisoners at the Bamenda Central prison. Prison guards tactfully employ a subtle approach when it comes to begging. They beg from prisoners and their families especially during prison visits. Most prisoners complain that they inculcated the habit of begging from prison guards. Most prison guards tell prisoners they “borrow” and not “beg” from them. The items ‘borrowed’ extend beyond monetary issues to many different items possessed by prisoners.



*Inmates awaiting trial devise a means of begging through their cell windows.*

Begging at the Bamenda Central prison has become so endemic that prisoners who complete their sentences and return to the society find it practically impossible to dissociate from such an act.

### **5.2. Taxi man**

“Taxi man” is used to describe prisoners who act as middlemen between visitors and their relatives in prison. A taxi man takes up a position at the entrance of the prison. He calls it a “park”. Every visitor who wishes to see a prisoner buys a “call card” which cost 100 francs cfa (11 cents) and he writes the name of the prisoner he wishes to see on the card. The taxi man takes this card to prison and subsequently comes back with a prisoner. After the visitor concludes his visit, the taxi man escorts the prisoner back to his cell. This transaction costs the prisoner 50 francs cfa (approximately 5 cents).

It is the fervent wish of every prisoner to become a taxi man at the Bamenda Central prison. After each transaction, the visitors sometimes offer money to the taxi man as a sign of appreciation. The prisoner on the other hand bribes the taxi man not to disclose the contents of his bag to other

prisoners.

Becoming a taxi man at the Bamenda Central prison is more of a privilege than a right. It is one of the most sought after jobs in prison. Apart from the monetary gains a taxi man is entitled to, sitting close to the prison gate opens him to a world of opportunities. Most taxi men establish useful contacts with several important personalities such as lawyers, pastors and businessmen who visit the prison on a daily basis. They take advantage of the presence of visitors to extend messages to their relatives and friends.

However, the mandate of each taxi man depends on his relationship with those in authority. Since a majority of prisoners desperately want to become taxi men, those who work as taxi men make herculean efforts to remain in the good books of those in authority.

Bongsisi is a 32-year-old convict charged in 2007 for aggravated theft and sentenced to 7 years imprisonment. Prior to his imprisonment, he worked as an electrician. According to Bongsisi's account of the facts, in 2004, he returned from work one night and stopped at his friend's apartment to borrow a screwdriver. Upon realizing that the door was closed, he decided to get the key where his friend normally keeps it. Unfortunately for him, when he returned the key to its normal position, someone apparently saw it. That same night thieves visited his friend's apartment and looted all his belongings. During the course of investigation, many people testified that they saw Bongsisi coming out of his neighbour's apartment. All efforts to prove his innocence fell on deaf ears as he was arrested and subsequently carted off to jail. After spending four years in prison, during an interview Bongsisi succinctly explains what it means to become a taxi man.

[A prisoner doesn't become a taxi man out of chance. He has to be extremely fortunate. It entails patience and sacrifices. Taxi business in prison is the only job that guarantees a prisoners' income. In prison, an inmate uses money to get money. I did very mean things in prison only to save money to secure this job. It takes one day for the life of a taxi man to change. You might stumble on someone at the gate who eventually turns your life around. Even when you work as a taxi man, you need to constantly "oil" the lips of those in charge of appointments. Money in this prison is the only language of communication. Once a prisoner is not capable of understanding this language, his life becomes miserable].

Taxi men are also a point of contact between the administration and the inmate society. They keep prisoners abreast with the recent developments in prison because they seem to know every visitor that comes in and goes out of the prison. Most taxi men have become the subject of much gossip within the prison. Fellow inmates often accuse them of transmitting information from the inmate society to the administration and vice versa. Ntankon is an inmate who has worked as a taxi man for 6 years. He regrets the vulnerable position in which taxi men find themselves. "It is difficult for a taxi man to secure his position without compromising his virtue. The administration sometimes exerts pressure on us to reveal most our plans. We sometimes betray fellow prisoners. A majority of prisoners label us as "traitors". They think we are selfish. We don't have a choice. Life in prison is very difficult. We secure our daily bread by maintaining our positions as taxi men. It is a nightmare for a taxi man to be relieved of his duties. This means you have to go back and embrace the consequences of your actions in the inmate society". However, in spite of the complications relating to taxi business



in prison, it still remains the dream of every prisoner at the Bamenda Central prison.

### ***5.3 Mobile restaurants and chefs***

Mobile restaurants and chefs refer to those prisoners who move around prison selling cooked food to fellow prisoners and prison guards. This business is operated with the help from people outside the inmate society. Some prison officials that prepare cooked food employ prisoners to sell them to their fellow inmates. At the close of the day, the inmate accounts for the balance and he is compensated based on his sales for that day. Most prisoners desire to eat this food but sometimes cannot afford to pay for it. At times they borrow hoping to pay back in the future. This puts the “chef” in a difficult situation as his employer refuses to pay him pending the payment of the outstanding balance. Most of these chefs have devised a way not to borrow any longer to fellow inmates. Most of the food flask carries a visible sign stating “No Credit Today. Please Come Tomorrow”.

However, most chefs complain that they are not satisfied with the remunerations received from their employers. What keeps them going is the “smell” that comes from the food. “It makes us think about home,” an inmate said. Moreover working as a chef gives you credibility amongst other prisoners. It is easier for a fellow inmate to lend money to a chef. The reason being that he can always get food in return for his money.

During the passage of time, most chefs have decided to ask their families to engage into the business of bringing cooked food for them to sell in prison.

Jamka is a 34 four year old pre-trial detainee charged with armed robbery. He has been awaiting trial for 2 years now. Before he was remanded into prison custody, he worked as a mechanic. He is married to two wives and a father of seven children. Prior to his arrest and detention, he left behind a pregnant wife and a daughter who suffered from a terminal disease. Whilst in prison, everyday his wives bring cooked food for him to sell. The business is quite lucrative because at the end of each day, he is completely sold. Fellow prisoners help to patronize his business by buying the food he sells. In an interview Jamka explains why this business is so important to him. He says: [I desperately need to raise money to support my family. My youngest daughter suffers from sickle cell anemia. She is often admitted to the hospital. Her mother lost her job when I was imprisoned. We equally have to take care of the children. At the moment, two of my children are at home because of school fees. I don't have a lawyer because I can't afford one. In spite of my predicament, I have to do something. Most of the prison guards laugh at me and tell me I shouldn't be doing this kind of job at my age. I don't care as long as this satisfies my family. I thank God for the support I receive from other fellows. Moreover this job makes me see my wives on a daily basis].

### ***5.4. The invisible trade***

At the Bamenda Central prison, inmates are involved into several kinds of businesses. One of the most thriving and lucrative is the invisible trade on drugs. It is dubbed the “invisible trade” because firstly, the goods are not visible, and secondly its clandestine nature further restricts inmates from comprehending its operations. A majority of inmates believe it is one of the most well-structured and well-organized businesses in the Bamenda Central prison and there seems to be an intricate network

between the various actors involved. But who are the actors responsible for this illicit trade? And how does such a business thrive in prison in spite of the maximum security? A majority of the prisoners who do drugs pick up the habit when they are in prison. An inmate can go to every length to smuggle a gram of marijuana and a packet of cigarettes into prison. This is because it is a high priced commodity in prison. Any of these items could be exchanged for any valuable thing inside the prison walls. The maximum security in prison has not been able to stop the flow of marijuana into prison. Every corner in prison, the air is full with the pungent smell of marijuana. But every prisoner I talked to expressed a certain degree of ignorance about it. They were afraid their blunt opinions might implicate them.

At the Bamenda Central prison, there exist two kinds of prisoners involved in this lucrative trade: the drug users, and the pushers. The drug users are usually those prisoners who have the financial prowess to afford to invest in this illicit trade. Because of the thriving nature of the business in prison, they establish contacts with actors outside the prison establishment who constantly supply them with drugs. The pushers on the other hand are not necessarily those who do drugs. Their duty is to smuggle the drugs into the various sections in prison. Apprehending prisoners involved with drugs has proven to be impossible because the prisoners' involved in this trade are of exemplary character.

In the Bamenda Central prison, the fight against this trade continues to be futile because so many different actors are involved in it. A combination of prisoner's astuteness, complicit visitors and corrupt prison guards has kept the constant flow of marijuana into prison constant despite concerted efforts by the prison administration and prisoners' to reduce it. During my research, inmates who wanted to know my opinion about drugs in prison always confronted me. They posed questions like "What would you do if an inmate ask you to buy him marijuana?" "Is it bad to occasionally take drugs?"

The organization of the illicit trade in prison is not quite different from the ones in the movies. It is a privilege for an inmate to work as an errand boy for a drug dealer in prison. An inmate would never disclose the identity of a fellow inmate involved in this trade. They can tell you those who consume the product. The drug dealers are fast in understanding which prison official is experiencing financial difficulties. This is what makes them vulnerable to the substantial sums they receive in return for a blind eye to drugs. Once a prison guard successfully succumbs to temptation and starts doing deals with inmates, it is difficult for him to get out.

Omoni is a 37-year-old convict. He was charged in 2007 for false pretence and sentenced to 5 years imprisonment. He was once a drug baron in prison. He stopped this illicit trade because his fellow mates whom he considered as his 'business associates' got transferred to other prisons around the country. In an interview, he explained the dynamics surrounding the illicit trade on drugs.

'A majority of inmates who come to prison are not drug addicts. They get involved into drugs because of frustration. Most inmates who are into drugs perceive it as a way out. In prison, a fellow inmate doesn't introduce you to drugs by giving it to you. It is expensive. I started taking drugs the very first night I got into prison. It is mind-boggling when you listen to the horrific experiences of fellow inmates some of whom spent three years awaiting trial for stealing a goat. I was very lucky to work as an errand boy in prison. This is a privileged position. It helped me to raise money to take care of my



family and also seek the services of a lawyer. I know it is a very risky job. But the money I got from it is worth the trouble. Over the years, the administration has tried to prevent drugs from entering prison. They will never succeed because those who are mandated to fight this trade in prison are part of the whole scheme. How is it possible for the prison guards to fight against something that helps supplement their minimal income? The trade in drugs will continue to thrive in prison as long as poor people are in prison. It is extremely difficult to overcome this temptation. Every prisoner's dream is to engage into something that will give money in prison. What the public deems as evil, we see it as good. That is the reason why we are here and others are outside. Imprisonment shouldn't stop me from performing my responsibilities. I am determined to look for money in every way. After all, when you look at money, you can never imagine the source of it.'

### **5.5. Conclusion**

A majority of the inmates at the Bamenda Central prison are from impoverished backgrounds. These prisoners are too poor to meet up with the several financial exigencies of imprisonment especially healthcare and food. In the empirical reality of the Bamenda Central prison, without money, surviving imprisonment is almost impossible. Prisoners' are in need of money for different purposes. While some prisoners' focus their minds on surviving imprisonment, other fellows with financial responsibilities manage to provide for their families outside of prison. The litigation process left many families of prisoners' with outstanding debts to settle. Most of these families lacked the financial prowess to meet some of these demands and as a result of this, some lost the only source of generating income for their families. With all these concomitant worries, the quest for money leads prisoners' into all kinds of trajectories. However, the primary aim of prisoners' is how to obtain money and turn their lives around and give it a meaning. The reason behind the quest for money extends far beyond prisoners' circles and involves different kinds of actors.

Prisoners' employ several strategies on how to obtain money in prison. The paths they choose, informs their perceptions of justice. They resort to all kinds of businesses such as begging, the selling of food and the trade in drugs. Within a short while experiencing the criminal justice system, the lives of prisoners' are suddenly transformed into beggars. Engaging into such acts demeans them in the eyes of the public. On the other hand, prisoners' provide justifications concerning their involvement in the illicit trade on drugs in prison. Prior to imprisonment, many prisoners' weren't drug addicts. Because of their sheer frustration with the criminal justice system, they perceive their involvement in this trade as a way out to their respective plight. Their plight continues to fill them with indignation for the criminal justice system. According to their perceptions, as long as poor people fall into the dragnet of the criminal justice system, prisoners' will become vulnerable and seek avenues that provide solutions to their worries. The thriving trade in drugs is considered the panacea for a number of problems at the Bamenda Central prison.

In the Bamenda Central prison, the search for money has brought together several actors to the platform. As long as the state fails to redress some of these institutional problems, it becomes perennial. With the assistance of some corrupt prison staffs, addicted prisoners will further commit crimes, which will exacerbate the reoffending rates thus causing offenders to be recycled through the system.

## **6. The Prisoners Court at the Bamenda Central prison**

### ***6.1. The Prison from within***

Many prisoners conveyed to me that one of the difficult things of life in prison lies in the legal uncertainty. By legal uncertainty, I will refer to the situation that obtains when inmates find themselves in a state of almost complete lack of knowledge as to the outcome or state of their cases before the formal justice system. The reasons for this are many. In prison, significant lack of knowledge, institutional lapses stand in the way for inmates to effectively access the formal justice system. These barriers are nearly insurmountable for those without resources or those who face structural disadvantages, forcing them to rely on alternative methods of resolving their problems. Both the guilty and innocent, pre-trial detainee and convict look for ways to empower themselves to address these barriers by assisting other prisoners in dire need of justice. When outside prison, people refer to informal justice systems because they don't trust the formal justice system (Thorne et al. 2004: 5); this also seems to apply in prison. Here prisoners use the informal justice system as an alternative for formal justice systems. Prisoners' use the mock courts not to get to a decision to resolve a dispute, but to predict the outcome of the formal trial on the one hand. But there is more as prisoners become aware of the fact that the courts are not the only language of justice available to them. How prisoners' deal with this is the question I seek to address in this chapter. Hoggart (1954) argues that "When people feel that they cannot do much about the main elements of their situation, but simply as a fact of life, they adopt attitudes towards that situation which allows them to have a liveable life under its shadow, a life without a constant and pressing sense of the larger situation" (Hoggart, 1954: 18). The renunciation of the formal justice system and the setting up of a "prisoners court" is perceived by prisoners as a form of insurrectionary struggle, and a victory over the formal justice system. In this court, mock trials are frequently organized to prepare the cases of inexperienced criminals who will subsequently stand trial before the formal courts. However, the prisoner's court doesn't open its doors to every prisoner. It is an exclusive court whose clandestine nature permits it to be operated only by a limited category of prisoners who refer to themselves as "the circle of great minds." The idea behind the formation of this court came from a group of prisoners who combined their ideas and experiences to seek possible solutions to some of the issues the formal court failed to address. These prisoners had had different experiences in different prisons and courts around Cameroon. These prisoners see it as their duty to sensitize other prisoners of their rights, teach them the necessary skills and tactics needed for defense and also to prepare their minds psychologically for the outcome of their respective trials in court. Apart from the defense strategies taught to prisoners in this court, the officials of this court tend to address a wide range of issues which are of significant concern to prisoners such as helping them to read and translate some of the documents provided to them by judicial officials in the course of their stay in prison, how to address complaints to judicial officials, some of the ways of obtaining support from families, friends, and prison officials and most especially ways of coping with imprisonment. A majority of the prisoners who encountered the informal justice system in prison prefer it because it provides a basic knowledge of criminal proceedings, and at the end relieves them psychologically.

Nevertheless, the mock courts are not easily accessed by a majority of prisoners. It is one of the most guarded secrets of an inner circle of prisoners who address themselves as the "great minds".

Their ambition is to revolutionize other fellow prisoners from “mental slavery” and eventually set them free from the hands of perpetrators. Though a majority of the members form part of the intelligentsia in prison, a few members of this circle are illiterates but with significant experience based on the considerable time they had spent in prison. This chapter opens with the examination of an informant called Aruba who is one of the principal figures of the mock court. Prisoners use several names and adjectives to describe him including the “Devil’s Advocate”. In the second part of the chapter, a number of questions are addressed: why did the mock courts emerge? In what ways were they innovative? What were they concerned with, and who were those involved in them? To throw more light on it’s functioning, the last part of the chapter presents a case in the mock court.

## **6.2. Aruba the “liberator”**

According to the sociologist Barry Barnes, it is widely recognized that ‘for an individual to possess agency is for her to possess internal powers and capacities, which, through their exercise, make her an active entity constantly intervening in the course of events ongoing around her’. This aptly reflects the case of an inmate at the Bamenda Central prison called Aruba.

Prior to his arrest on the 26th of May 2004 at Foncha’s street Bamenda, he was a third year law student at the University of Yaounde II Soa. Whilst at the University, Aruba was unable to continue his education after he lost his parents in a ghastly motor accident. He delayed his education for a couple of years because he had to take care of his siblings. During the final phase of his last term at the university, he visited his fiancée in Bali after he was informed by a telephone call of her ill health. “Upon arrival in Bali, it turned out to be a trick employed on me. She missed me and used her sickness as a trick to bring me closer. But then, she kept on complaining about pains in her stomach and she asked me to buy a certain drug from the drug dealer to ease her pains. After delivering the drugs to her, I returned to Bamenda and promised to check on her the following day. That same night, I sent her several texts enquiring about the state of her health. When I got no response from her, I called her mobile phone but she wouldn’t pick up her phone. The following morning, I went to the market to get fruits for her. On my way back home, two men approached me in civilian clothes. I was arrested for the death of his fiancée Rosa and detained at the judicial police in Bamenda.” He said.



*This is Aruba “the liberator”. He is addressing the prison administration on behalf of prisoners on the occasion of the launching of the cultural week at the Bamenda Central Prison*

Rosa died during the early hours of the morning. According to the autopsy report conducted on her, she tried to commit an abortion. Her death came as a shock to her entire family including her boyfriend.

The police during their investigation realized that she had been in constant communication with Aruba. Witnesses including the drug dealer testified that Aruba was in Bali the previous evening and had actually bought a certain drug from his drug store.

Whilst in police custody, the police subjected him to all forms of torture in their desperate attempt to have him confess to the charges brought against him “I was mercilessly beaten until I lost consciousness on several occasions. This went on for several weeks. My fiancée’s cousin, Vivian visited me whilst I was still in police custody. They both grew up together in the same house. They were quite close. Vivian vividly recounted the entire event to me. I was beyond shock when I heard that Rosa was six months pregnant. Rosa had confessed to Vivian that she took medications to get rid of the pregnancy because she knew I would never give my consent to such an ungodly act. I acknowledge my responsibility for the pregnancy, but I was ignorant about it. I was told before she died, she asked for forgiveness from me. Those were her last words to Vivian. Vivian recounted everything she told me, to the officers in charge of the investigation. They had mixed feelings about it. She did everything to release me to no avail. A week later, I was remanded to prison custody until January 2009 when I was sentenced to (15) fifteen years imprisonment. Vivian visited me in prison on the eve of her departure to the United States. She was devastated when she heard about the outcome of my trial.”

Aruba told me he has decided to make prison his home. He spends a good chunk of his time reading law textbooks and watching legal thrillers in prison. Most fellows today at the Bamenda Central prison inculcated a reading habit as a result of his efforts. Besides his bed, are posters of several civil rights activists like Mahatma Ghandhi, Martin Luther King jr, Malcolm X and Ken Saro Wiwa. On the top of his bed is a bold inscription titled “A Long Walk to Freedom”.

He is one of those prisoners assigned to preach during the morning devotion. On such occasions, the priest introduces him to newly remanded prisoners who subsequently meet him and recount their experiences with the criminal justice system. During his sermons in the morning devotion, he seizes the opportunity to preach on sensitive issues relating to the welfare of prisoners. He finds pleasure when he delivers sermons on topics like hope, justice and human rights to inmates.

Aruba is quite influential both with his fellows and in the “prisoners court.” Because of his popularity, within prisoner’s circles, several fellows come to him as potential clients who envisage their cases to be tried at the prisoner’s court. Because of his skills and the time he dedicates in his cases, he succeeds in virtually every case he handles before the mock trials; prisoners refer to him as the “Devil’s Advocate.”

However some prisoners perceive Aruba’s popularity with mixed feelings. Those who made a living out of writing letters and complaints for other prisoners felt threatened as their clients abandoned them to seek the services of the officials of the mock court.

On the other hand, Aruba is an unpopular figure in the eyes of the prison staff. When I initially started fieldwork at the Bamenda Central prison, a warder advised me to stay away from Aruba. “He is going to poison your mind. That young man is such a bad influence on prisoners. Everything

changed the day he entered this prison. He constantly reminds prisoners of their rights. In the past, prisoners were very obedient. His gospels on human rights have destroyed this prison. We all know he is the brain behind the strike actions in prison. We are watching him closely. One day he is going to pay the price” he said. It was rumored by some prisoners that Aruba was constantly invited for meetings with the prison administrator. An informant corroborated this piece of information. “I once saw Aruba sneaking out of the office of the prison administrator. I later eavesdropped him telling another fellow that the prison administrator begged him not to rally prisoners to a strike action.” Surprisingly, each time judicial officials visit the prison for control, Aruba is never part of the delegation of prisoners called up to express their grievances. He equally occupies no office in the prisoners’ government. When I asked him about this, he responded by saying “they are just a bunch of ignorant fellows used by the administration to get hold of prisoners.”

### ***6.3 The Prisoners court***

The idea behind the prisoners’ court originated from the guilty as well as innocent prisoners, both groups faced with legal uncertainty. Prisoners adopted various strategies to overcome some of the problems the formal justice system failed to redress. One of such strategies was the ideas, experiences and contributions of prisoners put together to strengthen the prisoners court. Because a majority of prisoners at the Bamenda Central prison are uneducated, they often view the formal justice system as distant, inadequate, irrelevant or alien, leading to situations in which they elevated the prisoners court to the level of the formal courts of justice.

Most prisoners welcomed the idea of a prisoners court not only because of its affordability, but because it was easily accessible to a majority of them. Prisoners assumed the roles of judges, police officers, prosecutor, witnesses and the defence lawyer. They state as their primary duty to educate and sensitize every prisoner who goes through this court. Older and experienced prisoners train less experienced prisoners with skills and tactics needed during criminal proceedings. Prisoners are introduced to an imagined courtroom where they are taught the necessary skills such as how to overcome the tensed courtroom atmosphere. The prisoners’ mindset is influenced and they are thought to view the actors of the criminal justice system as their enemy. “Always remember that you are an enemy to the Police, Judge, Prison officials including your lawyer. They are all interested in your money. At the end they get rich and you get prison.” The president of the prisoner’s court is called Jango. He prides himself for having attended (5) five maximum-security prisons in Cameroon. He is a jailbird. He is (42) forty-two years old and he spent half of his life in prison. According to his prison records, he has committed all sorts of crimes ranging from simple theft to murder. He belonged to a group called “M 7”. All his criminal friends died in various operations. He is the only surviving member of this group.

Prisoners assume the roles of judge, prosecutor, defense lawyer, witness(s) and a Prison guard. The prisoner’s court is a trial court that entertains all kinds of cases from prisoners. The officials of this court hail from all the three sections of the Bamenda Central prison. The court is a clandestine court operated strictly by its members. Since it is not an open court, its members only refer cases to it. There are two criteria for admitting cases to this court. First, a case can only be accepted if the





*An influential official of the prisoners court at the Bamenda Central Prison.*

members are convinced that the prisoner suffered an injustice as a result of his socio economic background. Second, cases are considered only of those inmates who have been in preventive detention for at least two years are considered. Prisoners who have spent longer periods in preventive detention are obliged to confess and explain the entire story to the hearing of the members of this court. They are later tried in the mock court. A mock trial is a trial that is not real. It is a preparatory phase for the eventual trial in the formal court. It is organized twice every month and the registry of this court charges a fee of (200) Two hundred francs CFA (approximately 30 cents) for registration, pending a balance of a thousand francs CFA (approximately two US dollars). Prisoners who are unable to afford the required sum in most cases sell or surrender their valuable property.

The registrar of this court has been accused of embezzlement on several occasions. He uses his position to exploit other prisoners by charging more than the required sum demanded.

At the end, a majority of the prisoners whose cases were tried at the mock court said they regarded it as a positive experience. Some of the positive attributes of this court include the fact that there was procedural justice; an end to insecurity and the court was knowledgeable. Some of the inmates alleged, “One of the best things I enjoy in this court is that you are presumed innocent until proven guilty”, “The fact that we are tried and sentenced at the end makes us aware of our fate. I now know that I will eventually end up in prison. Psychologically, I don’t feel traumatized anymore”, “What I admire most in the court is that the officials are more knowledgeable than those in the formal courts. During my trial, in the formal court, nobody bothered to explain anything concerning my trial to me. I wish those judges could come to prison and take some good lessons on how to adjudicate”.



#### ***6.4. The mock trial of Mokambo***

Mokambo is a 33-year-old man. He is a builder by profession. He uses his expertise in assisting thieves to break into houses. He engaged in such activities for more than 5 years. Four years ago, some thieves required his assistance to get into the premises of a businessman in a village called Mbembang. After successfully breaking into the house, the thieves shot and killed the owner of the house and wounded several others. The thieves gave Mokambo a gun and told him to stay outside and shoot anybody who approached that house. Because he was scared, he accepted and remained outside. Unfortunately for Mokambo, one of the wounded victim's had family relations with his wife. She recognized Mokambo but kept everything to herself.

After the thieves completed their mission, they shared the proceeds and everybody went his own way. The following morning, the lady who had recognized Mokambo visited his home and threatened to report the incident to the police unless he exposed the perpetrators. Shortly after, Mokambo visited the police and recounted the whole incident to them. After being kept in police cell for several weeks, he was charged in court for murder and sent to prison to await trial. Shortly after his remand in prison custody, three other members of the gang were arrested and they pleaded guilty to the charges levied against them. Whilst in prison custody, three of them escaped leaving behind Mokambo. His case suffered several adjournments. The last adjournment was a year ago.

On the 27th of October 2010, I witnessed the trial of Mokambo. This trial took place in the prison chapel. On this date, some prisoners were assigned to ensure that the chapel be kept clean. The warden on duty feigned ignorance about what transpired inside the chapel. He remained outside and played cards with other prisoners.

Mokambo was later ushered into the chapel by a prisoner who assumed the role of a prison guard. During the previous years, Mokambo's application to this court had been rejected because of his loyalty and submission to the prison administration. Recently a close friend he had known outside prison referred his file to the prisoners' court and now his application was accepted.

The proceedings started with Mokambo swearing with his life that whatever thing he saw and heard would never be told to a third party. From his facial expression, he appeared shocked when he recognized familiar faces of prisoners. He couldn't believe that some fellow prisoners he interacted with were officials of the prisoners' court. The registrar stepped forward and after reading the charge sheet, he said, "Nobody comes to this court with dirty hands. If you come in peace, we will give you cold water to drink. No prisoner is above the laws of this court. If you want to succeed with your case, you must tell us the truth. Nobody tells lies in this court. Everything we bind here, will be bound in court tomorrow".

Mokambo's trial lasted for a period of over thirty minutes with both the prosecution and defence counsel trying to secure a conviction and an acquittal. After the court recessed, the presiding judge asked if Mokambo had anything to say to the court before he read his verdict. His lawyer pleaded on his behalf and said "Even though Mokambo had committed offences in the past, he is just a victim of circumstances in this present case. He comes from an impoverished background and he is the breadwinner of his family. He is married and a father of four children. One of his children died last week because the mother couldn't afford money to pay for his medical bills. Mokambo is remorseful

for his actions and begs the court to pardon his poor soul.”

After several seconds, the judge began reading his judgment. He said before he was born, there was the law and the law will continue to exist after him. He is just there to implement the law. He said the case of Mokambo would serve as a precedent to other young men who indulged in similar offences. He sentenced him to five years imprisonment. After he finished reading his judgment, he assigned another official of his court to teach Mokambo the required tactics he will use in court.

The prisoner who gave this lecture was one of the oldest serving prisoner's in the Bamenda Central prison. He was sentenced to death in 1996. His sentence was repealed by the presidential clemency to life imprisonment. When he approached Mokambo, he asked him to look him straight into his eyes.

“You have to make maximum use of this opportunity. You have to explain to the judge what you went through during the course of your detention. Tell him you still suffer from a broken rib as a result of the torture you received from the police. No prisoner has ever been killed for expressing his plight to the judge. Avoid the eyes of those sitting in court and concentrate on the judge. He holds the key to your life. Be careful not to be carried away by the judges appealing words to you. Hang on to your plea even if he promises you acquittal. Avoid talking too much for this might contradict your statement. Do not ask for pardon except when the judge is done with the case and ask you to say something. Asking for pardon will imply that you are guilty. Do not be bothered by the prosecutor's interrogation. No matter how he intimidates you, remain calm for he is just an actor in court. Never call the name of a witness you can't trust. Be confident of yourself and put it at the back of your mind that you are a prisoner and there are just two things the judge can do to you. He either acquits you, or sends you back to prison. The Prison is already your house so there is nothing to be afraid of. Good luck Mokambo”.

Two days after the mock trial in prison, I attended Mokambo's trial at the military tribunal. When his matter was called, his lawyer was absent. The judge informed his colleagues to tell him that if he fails to appear in court on the next hearing, she will proceed with the matter with or without him. Mokambo's case had suffered more than ten adjournments. Mokambo raised his hand when he realized that the judge was about to adjourn his case. Everybody in court was surprised and keen on hearing what he had to tell the judge. Mokambo said he was disappointed with his lawyer's continuous absence in court and henceforth wanted his matter to proceed without him.

The judge readily accepted and proceeded with the case. Mokambo pleaded guilty and later presented his case in the most succinct manner.

Everybody in court was overwhelmed with his manner of presentation. The court recessed and two hours later at the end of the trial, the judge read her verdict and Mokambo was sentenced to 5 years imprisonment.

It was quite a happy day for his family members who witnessed his trial. His wife expressed her joy. “Finally his days in prison are numbered. It is very stressful when someone spends his whole life awaiting trial. I now know the status of my husband,” she said. Mokambo received many com-

pliments from the lawyers and prison guards who witnessed the trial. They congratulated him for his boldness and eloquence. After receiving his imprisonment warrant, he was escorted back to prison. By the time they arrived at the prison, news about Mokambo's trial had spread around prison like wild fire.

### ***6.5. Conclusion***

This chapter has illustrated the insecurity prisoners are faced with. The main reasons for this insecurity are enormous. Firstly, the lengthy pre-trial detention is responsible for the plight of several prisoners who remain uncertain about the length of time they will spend in preventive detention. Secondly, a majority of prisoners remain uncertain about their rights as prisoners. Those who are knowledgeable of their rights lack the necessary resources to enforce them. Thirdly, a majority of prisoners remain uncertain on how to access and deal with the formal justice system. The formal justice system is alien to a majority of prisoners who have little experience using the courts. Few prisoners who can afford legal representation experience difficulties in communicating with lawyers and judges.

The case of Mokambo shows that mock court's help to deal with this uncertainty. The prisoners feel heard. Finally they can tell their stories and someone listens to them.

The mock court predicted the sentence of Mokambo and it eventually became true. This happened to the cases of several prisoners who experienced the mock court. As a result, the mock court and its officials became popular as many prisoners expressed the desire to experience it so as to be able to know more or less what to expect in terms of length of prison sentence. The fact that prisoners make adequate preparations for their respective trials gives them agency. Instead of being pessimistic about the outcome of their trials in court, they have devised a solution to deal with unreliable and incompetent lawyers who are interested only in their money. They can now tell their stories to someone who is willing to listen to them without considering whether they are rich or poor.

Regardless of the limited prison sentence awarded to prisoners by judges in the formal courts, as long as the legal system is plagued with the aforementioned problems, there remains a possibility that prisoners will express loyalty and steadfastness to the mock court. The few cases I highlighted exemplify the cases of a majority of prisoners at the Bamenda Central prison.

## **7 Between Hope and Despair: The Impact of imprisonment on families of prisoners**

Families of prisoners' are first of all the backbone of prisoners'. By including families of prisoners' in this study, the author wanted to analyze the ways in which prisoners' maintained contacts with their families, and why such contacts were needed. Imprisonment brings challenges for families (Smith, Grimshaw, Romeo & Knaap 2007: 6). Often the mother, wife or a family member engages in the criminal proceedings of the prisoner. This chapter considers the impact of imprisonment on families of prisoners', the trials and tribulations of prison visits, the effects of prisoners' transfers on their families and the absence of the breadwinner from his family. During the course of this study, the author conducted extensive interviews with 17 families of prisoners' as well as casual interviews with sixty relatives of prisoners'. I was brought to the knowledge that prior to the arrest of most prisoners' they owed huge debts that was subsequently transferred to their families upon their incarceration. Their families experienced financial hardship as they exhausted their resources in order to support their relative in prison. However, despite supporting their relative in prison, they sometimes incurred additional cost for proceedings. Recognizing that the breadwinner played a pivotal role in securing the livelihood of his family, the imprisonment of the breadwinner destabilized the social structures of most families.

A description then follows with the pressures and experiences of a prisoners wife called Isatu. She conceived during the eve of her husband's arrest. Her determination to secure the release of her husband from jail makes her travel through the criminal justice process. On this journey, she encounters several actors of the various criminal justice agencies. Her demand for justice reveals the deficiencies plaguing our criminal justice system. Her story is a tale of hope and despair.

### ***7.1 The case of Isatu***

Almost all families rely on their families for material and financial support. I met families of prisoners during prison visits; in court and most especially during the moments I visited them in their respective homes. A majority of pre-trial detainees are in dire need of the support of their families. During my research at the Bamenda Central prison, every day I returned back from prison, I came back with numerous pieces of papers carrying the addresses of families of prisoners asking me to contact their families.

One Friday morning in the month of August 2010, an inmate in preventive detention asked me to contact his wife. He had been in prison custody for seven months. I tried on several occasions to get in contact with his wife, first to no avail.

A week later I received a telephone call from her. After introducing myself, we spoke for a few minutes. From our conversation, I realized that she expressed enthusiasm about her husband's case and was eager to meet me. We made an appointment to meet at the Bamenda Central prison. On the day of our appointment, she explained the circumstances surrounding her husband's case.

“My husband returned from work one evening and recounted to me what had transpired during the course of his day. He told me that on his way to work a man who expressed familiarity with him



approached him and proposed a business deal. Since he knew my husband worked as a broker in the cattle market, he wanted my husband to introduce him to some of the cattle dealers. They exchanged contacts and promised to meet the following week. On the said day, my husband complained several times that he had tried to reach the man through his mobile phone to no avail. After having failed to reach him, he decided to leave for work. When he returned in the evening, we had dinner together and retired to our bedroom to rest. About two hours later, we heard someone literally pounding our door. As my husband excused himself to open the door, he returned with five policemen. He was handcuffed and whisked away leaving behind three policemen. They searched our house for close to thirty minutes. The policemen accused me of staying with a thief. When they left, it was pitch dark outside. I was confused by the fact that I didn't know where they took my husband.



*This is Isatu and her baby.*

*“This pregnancy reminds me of the last night I spent with my husband.”*

The following morning, I visited several police stations and finally discovered that my husband had been detained at the public security station in old town Bamenda. I requested to see my husband and when he was brought out, I could barely recognize him. His face was swollen and saw several wounds on his body. He told me the policemen mercilessly tortured him and coerced him to confess to the charges brought against him. A police officer took me into his office and narrated the whole incident. He told me a gang of thieves had operated two days ago in the neighborhood of Ntarinkon. On conducting their investigation, they discovered that my husband was the last person who communicated several times with one of the thieves who apparently was shot by the owner of the house during the robbery incident. He went further to explain that because the other members of the gang ran away, the police concluded that my husband must have been a member of this gang of thieves. I began crying in his office. He later asked me if I was willing to pay the sum of one hundred thousand francs (approximately 200 US dollars) for the case to be dismissed. I immediately rejected the offer because I know my husband. I believe that he is innocent. Every day, I brought food for my husband. Two weeks later, he was transferred to the Bamenda Central prison to await trial. In my confused state, I sought advice from so many people who had experiences with criminal procedure. My landlord finally provided me with the complimentary card of a certain lawyer and advised me to reach him. The next day I visited

his chambers and recounted the whole incident to him. He asked me to open a file for my husband's case which cost twenty five thousand francs cfa (approximately 50 US dollars). I had to borrow part of the money and added some money my husband asked me to keep. I returned two days later and handed over the money to the lawyer who promised to look into husband's case. Two days later, the lawyer sent one of his assistants to see my husband in prison. Two months later, I was surprised when my husband told me that he never had any visit from the lawyer nor heard anything from him. The following month, my husband was brought before the Examining Magistrate in the absence of his lawyer. I got angry and nervous and decided to find out what was happening. The lawyer informed me that he couldn't look into my husband's case unless his professional fee is paid. After several verbal exchanges, we finally concluded that I must pay his fee. On my way home, I contemplated on the various possibilities I had within my reach to raise such a huge sum of money. I arrived home disillusioned and resorted to sell some of the valuables in our house. After selling most of our valuable items in the house, I resolved to relocate to my parents in the village. With the support of my parents I raised the amount of money. After handing it over to the lawyer, he promised to secure the release of my husband. As time went on, I discovered that the attitude of the lawyer hasn't changed one bit. Every time my husband was brought to court, his lawyer never showed up. This happened on several occasions and I could not comprehend why he still behaved that way. Each time I tried to call him, he would either ignore my calls or switch off his phone. I visited his law firm on several occasions and was told by his secretary that he was either busy or out of the office. After several unsuccessful attempts to meet him, I lost my temper on one occasion in his chambers and yelled at his secretary. He heard the outburst and came out of his office. We had a verbal dispute and he asked if my erratic attitude was associated with the paltry sum I paid to him. He went ahead to say that the amount wasn't sufficient to fuel the least of his cars. This time he promised again to send one of his collaborators to see my husband. A while ago, I asked my husband who informed me that he hasn't received any message nor seen anyone from his office. I will continue to call the lawyer until the day he tells me he denounces his interest in the case".

After close to a month, I decided to visit Isatu again. She hails from a village close to a village of some of my informants. Her parents' compound is made up of three small houses occupied by her mother, grandmother and two of her siblings. Her father died five years ago. Most of her relatives are farmers and cattle herders who depend on agriculture as their means of survival. The day I arrived at their compound, I met several of her relatives. Apparently she had told her relatives that she was expecting an important visitor. I was warmly welcomed and they served me with tea and food. She introduced me as someone interested in prison affairs. I had a brief discussion with them. From the look on their faces, it seemed that they were not comfortable with the subject of our discussion. Isatu later explained to me that imprisonment was considered as a taboo in their community. This wasn't the kind of discussions people entertained in the open. I later announced my departure and Iasatu escorted me to the roadside where I was supposed to board a vehicle. She told me she had something important she had been considering discussing with me. She said, "I am frustrated and tired of trying to release my husband through the formal way. Everybody keeps telling me it is a waste of time and money. Many people say things would be much easier if I contacted the magistrate handling my hus-



band's file." As I tried to probe her further into the discussion, she kept quiet for about a minute, and when she spoke, she said "I have made up my mind to bribe the magistrate in charge of my husband's case. I will be very grateful if you can introduce me to the Examining Magistrate. I am afraid my baby might come when my husband is still in jail.'

According to Iasatu, her plan was feasible and concrete. She heavily relied on the stories and experiences shared by friends and relatives who had previously encountered the justice system.

'My friend's elder sister consulted the judge and her brother was released. I hate myself for not having thought in that line,' she said. What stood as a stumbling block for Isatu was someone to take her to the doorsteps of the judicial official in charge of her husband's case.

### ***7.2. Challenges of the Criminal Justice Process on Families of Prisoners***

Most people, who are unexpectedly arrested, remanded or sentenced, find it difficult to explain the circumstances surrounding their imprisonment to loved ones. Because most arrest conducted by the police and gendarmes are done in the presence of families of prisoners, it leaves them with a traumatic feeling for over a long time. A majority of inmates at the Bamenda Central prison, lamented on the fact that the police humiliated them in the presence of their family. Generally, most arrests are unexpected for the offender. A majority of the prisoners, who admitted to be guilty of the charges, stated they never involved their family relations in their criminal activities. Most prisoners claim that their children looked up to them as their role models. Many of them found it difficult to confront their children afterwards especially during prison visit. Many prisoners found it difficult to live with their families upon the completion of their prison terms because of the humiliation they had been subjected to during the course of the proceedings. Most children who experienced the arrest of either of their parent have felt distressed and traumatized for a very long time. A prisoners' daughter who is twelve recounted her ordeal to me. She says, "I was returning with my father from the market when suddenly two policemen in plain clothes started assaulting him. He was forced to the ground and smashed several times on his belly. My father had been sick for a while. He was handcuffed and taken away. This was something very strange to me. I feel distressed each time I remember that incident. I don't know if I can ever forget that incident". Imprisonment causes many children of prisoners to be stigmatized and ostracized at school. This affected the progress of most children who dropped out of school. Other children changed their schools during midterm as a way of avoiding the embarrassment they received from their parents.

On the other hand, wives of prisoners who lived in a small community were subjects of ridicule. They were under extreme pressure and many received insults from members of the community. A family of a certain inmate who was arrested and subsequently charged with false pretence, felt humiliated and embarrassed at the fact that her husband was arrested in their local market. Most of her neighbors who witnessed the scene transmitted the news, which spread like wild fire to the community. Her children were insulted and harassed by other children in the neighborhood. She says, "Each time people see me coming, they will start gossiping about my family. Our family became the

subject of ridicule in the community”. In certain cases, some stigmatizations received by families of prisoners have even made them to decide to relocate to other places where no one recognizes them.

Besides stigmatizations, and social exclusion of the family member, the arrest of a family member brings an additional challenge: many families of prisoners have been unable to understand the intricacies of criminal justice procedure and therefore unable to assist or speed up the process. Because this is a new experience for families of prisoners’, they often seek advice and information from wrong places and people who end up exploiting them. A wife of a prisoner suffered exploitation from a court staff that posed as a judge to her. Because of her desperation, she yielded to the demands of this impostor only to realize finally that he was one of the cleaners at the court.

The criminal justice proceedings pose a lot of challenges for families of prisoners. A majority of these families are unable to differentiate between the preliminary inquiries conducted by the Examining magistrate and the proper trial. By the time the Examining magistrate concluded the preliminary inquiry and transferred the matter to court, most families became confused and distressed with the entire procedure. Ngumcho is the wife of an inmate charged with murder. She felt frustrated when she was informed that her husband’s case had been transferred from the Examining Magistrate’s office to court for hearing. She misconstrued the preliminary enquiry for the trial and invested all her resources during this phase of the proceeding. Moreover, most families of prisoners consider anything done in “court” to be part of the trial process. Their hopes are often dashed when the procedure last more than the time they had anticipated.

A majority of prisoners at the Bamenda Central prison blamed their lawyers for not having prepared their minds adequately for the fate that lies ahead of them after their respective trials. They claimed their lawyers failed to prepare their minds of the possibility of being imprisoned. As a result many of them failed to make adequate arrangements for their family. An inmate regretted that he had invested so much money in his defence. “I spent several millions over these years. My children are now suffering. They are out of school and my wife can’t afford a decent meal for them. I wish I had heeded to the wise counsels from friends”. Healey, (2000) expresses a similar opinion when he posits adequate care arrangements for the children because of the ‘anxiety or chaos in the lives of the parent due to crime, heavy drug and alcohol use and poverty (p.15)’.

Families of prisoners express a degree of skepticism of government agencies. A majority of them alleged that their reluctance to use mainstream services especially criminal justice related agencies was partly because of the stigmatization linked to imprisonment. Most families of prisoners personally knew most of the staffs working in these agencies. Some felt embarrassed to explain their problems to them. Similarly, others became skeptical and thought these agencies might implicate them after listening to their stories. The fear of arrest exempted a lot of families from consulting these agencies. Most families of prisoners’ who consulted most criminal justice agencies in the past became disappointed when they failed to provide solutions to their problems. According to a family of prisoner, she says, “This people helped to increase my problem instead of providing a solution to them. They ask me all sorts of questions unrelated to my problem. I left them worse than I came”. As a result of this, some families of prisoners discourage others from consulting these agencies.

### ***7.3 The absence of the breadwinner to the family***

The term breadwinner is used in this context to describe someone who earns money to support his family. Before imprisonment, a majority of prisoners performed the role of breadwinners to their respective families. As a result of the absence of the breadwinner, many families experienced serious financial problems. In the Bamenda grass fields, generally, it is an established principle that the head of the house takes care of his family. He bears all the financial burdens and goes the extra mile to ensure that his family is happy at all times. A majority of the inmates were primary income earners for their families. Most wives of prisoners performed the role of housewives. Most prisoners at the time of their arrest supported other dependents. An informant who was charged with aggravated theft and sentenced to (7) seven years imprisonment lived with (12) twelve dependents prior to imprisonment. A majority of these children consisted mostly of his relatives. He performed all the duties of a father to them. Many of them addressed him, as 'dad'. Imprisonment caused many of these children to drop out of school and return to their respective villages. They subsequently joined bad company and got involved with crime. Njami is a convicted prisoner at the Bamenda Central prison. He was charged with armed robbery and the possession of firearms. Prior to imprisonment, he lived with more than ten children in his household. He provided the main income of the household. Two years after his imprisonment, two of his sons joined him in prison and three of his daughters became pregnant. His two sons were charged with theft. When I had an interview with the wife, she was devastated by the fact that she has been unable to protect their children. She said, "Since the day my husband was arrested, life has not been treating us well. I am helpless and unable as a farmer to give these children a decent upbringing. Five of our children dropped out of school. My three daughters are pregnant and two of my sons are now in prison. I know my husband involved himself in criminal activities. He never brought his business close to our doorsteps. I know he did whatever thing he did for the benefit of his family. He has always wanted to protect his family. All my children are into crime. People blame me for failing to take care of them. I blame the government for sending their father to jail. We once had a happy family; now it's all a dream". The impoverishment of most families of prisoners is exacerbated by the fact that they are forced to incur indirect financial costs in purchasing services that were formerly provided for by the prisoner. Most of the prisoners had business commitments with people unknown to their wives. Some of them took advantage of the prisoner's absence to exploit his family. A pre-trial detainee at the Bamenda Central prison, prior to his arrest had negotiated a business deal with a car dealer in Bamenda. They both agreed that he would complete the balance of the car in six months. He paid him a considerable sum of money worth more than half of the original price. He promised to complete the balance in six months. But before this period elapsed, he got into problems and was remanded in prison. The car dealer later approached his wife and put her under duress to complete the outstanding balance otherwise he would seize the car. Since the wife couldn't raise the amount of money requested in such short notice, the car dealer seized the car from her.

Families of prisoners who experienced financial challenges, kept it to themselves. They felt that the imprisonment of the breadwinner was already a form of punishment to him. They decided not to bother the prisoner with information pertaining to the hardship they experienced in his absence. Families of prisoners kept the prisoner abreast only with the good memories he had concerning his

family. Information such as the ill health or death of a relative was kept away from the prisoner. A convict at the Bamenda Central prison once sent me to his family who resided in a village forty kilometres away from Bamenda. When I arrived, I was shocked when I discovered that his son had died a week ago. The wife said, “He doesn’t need these kind of messages in prison. The existing problems in prison are already way too much for him. Moreover, if I inform him, he might think he is partly responsible for his death and this might cause him to escape from prison”. In spite of the challenges families of prisoners encounter, they sometimes prefer to endure the hardship in silence.

#### ***7.4. The Trials and Tribulations of Prison visits***

One of the ways prisoners have kept close contacts between the outside world and their families has been through regular visits. Generally, prisoners are entitled to visits from their families. For most prisoners at the Bamenda Central prison, receiving a visitor or friend is one of the most exciting moments in their life. On most visiting days, the visitors comprise of visitors within the Bamenda vicinity and those who travel long distances to visit prisoners. Those who haven’t visited the prisoner in a while pose unending questions about the welfare of the prisoner to anybody around the prison vicinity. Some visitors prefer to pay a surprise visit to their relative or friend; but generally a majority of the prisoners are informed about such visits. In the Bamenda Central prison, some prisoners spend years without receiving a single visitor. A majority of the inmates at the Bamenda Central prison share the opinion that without visits from relatives and friends, it is almost impossible for a prisoner to survive imprisonment. They construe prison visits as a key ingredient in the eventual rehabilitation of a prisoner. Inmates are anxious upon the request of a visitor to meet them.

During my fieldwork study, I observed visiting days at the Bamenda Central prison. The visiting takes place at the reception office at the Bamenda central prison. The surrounding is not conducive, as both the visitor and prisoner seem to be at ease with this arrangement. This is further compounded by the absence of privacy. The visiting room is situated at the entrance of the prison. Everybody who gets into the prison passes through this section. The visit between the prisoner and his family is quite stressful as they are often interrupted by the noises and barking orders made by prison officers.

Generally on visiting days, visitors will have to check in at the reception desk and purchase a visitor’s card that costs one hundred francs CFA (15 cents). They wait outside as each visitor is called depending on the number in his/her card. Because these visits are subject to time limitations, all visitors are required to conform to the instructions spelt out to them by the officer on duty. The mood of the visitor usually ranges from anxiety to a state of disappointment upon meeting the prisoner. One of the first questions posed to every prisoner is always “Are you alright?” In most instances some families of prisoners have been unable to withdraw their tears, as they appear shocked at the degree with which the prisoner has emaciated.

Usually, the first few minutes are always a tensed moment for both the prisoner and his visitor. When both prisoner and visitor were finally settled down, the inmate listened intently to what the visitor had in store for him. Usually, families of prisoners always delivered good and sometimes bad news to inmates. Most inmates always posed calm and remained silent during prison visits. They

listened intently as the visitor recounted vivid accounts to the prisoner of what had transpired during his absence. The prisoners on remand are kept abreast with the development surrounding their cases. These stories instill hope and a future to look up to for the prisoner. Most convicted prisoners' make an effort to impress their wives by also telling them about projects they intend to realize after completing their prison terms. Most prisoners whose cases are on appeal discuss about the chances of succeeding. They all appear hilarious but seem unable to express their feelings since they are under the watchful eyes of the prison guard.

Seemingly, anyone who looks at the sitting arrangements during prison visits might be tempted to think that both the prisoner and the visitor are quite close; they are world's apart as they are restricted only to a hug. Many families of prisoners are usually dissatisfied with the time allocated for prison visits. The visit hardly seems to have began when the prison officer on duty announces to the prisoner that its time to leave. It is always a bitter moment for both the visitor and the prisoner who are separated just when the tension had been reduced. Most inmates I considered as the 'tough guys' at the Bamenda Central prison always concluded such visits with tears in their eyes. Most of them find it practically impossible to say goodbye to their loved ones. Returning back to prison for most prisoners was likened to the battlefield where the chances of survival were limited. An inmates wife expressed a similar view," Each time I depart from my husband, I have the feeling I won't see him anymore. This is because he becomes a shadow of himself after every visit. There is something I can't explain that creates such a feeling within me".

The veil behind prison visits is usually uncovered at the dawn of each visit. Sometimes I was informed through interviews and my observation about the enormous sacrifices families of prisoners went through to ensure that they made regular visits to the prison. So many families of prisoners borrowed money to enable them meet the cost of such visits to prison. A majority of families of prisoners had to travel long distances to visit their relative in prison. Most of them came from far off villages and traveling back to their respective destination posed a daunting task for them. A mother of an inmate on remand complained that she was always frustrated after each prison visit. She lived in a different town further away from Bamenda and her situation was further compounded by the fact that she had no relative in Bamenda. She says, "I visit my son every six months because I am faced with so many challenges. It takes me more than four months to prepare for a single visit. I have to save money to be able to afford the transport cost and also purchase some of my son's needs in prison. I usually travel very early in the morning to be able to arrive on good time to see my son. I cannot travel back immediately I see my son because that will mean that I will arrive very late in the night. It's risky and dangerous. Last time I slept at the motor park under the cold. I don't have any relative in Bamenda". These visits pose a lot of challenges for some families of prisoners who organize everything by themselves. If they don't visit their relative in prison, the prisoner stands the risk of never having a visitor. This is especially critical in the case of young prisoners who need care and attention. One of my informants who was heavily pregnant insisted on visiting her son in prison despite her doctor's advice. This lady will travel every month just to ensure that she maintained close contact with her son. She says, "The doctor has advised me not to travel for long distances because of my present condition. I cannot abandon my son in prison! He means the whole world to me. What he needs at this moment



is someone to support and encourage him. This comes with a lot of sacrifices”. That notwithstanding, to some families of prisoners, visiting their relatives in prison is an opportunity they wish they could afford. The reality is that prison visits further exhaust the little resources they have to sustain their families.

To sum, the greatest problem encountered by families of prisoners is the emotional difficulties that comes after prison visits. Many families of prisoners remain emotionally destabilized for extensive periods of time. Some resolve never to come to prison again. This is not because of any of the reasons mentioned above but because of what prison visits impacts on them. An inmate’s wife suffered a miscarriage after visiting her husband in prison. She says, ” I almost passed out when I saw my husband. He was so pale that I could barely recognize him. I took ill shortly after that and the illness



*Convicted prisoners transferred from the Bamenda Central prison to the Ndop principal prison together with the researcher (in the middle).*

### **7.6. Conclusion**

Imprisonment continues to pose overwhelming challenges to families of prisoners who are socially and economically disadvantaged. Limited research has been carried out on families affected by imprisonment. Without families of prisoners, a majority of prisoners at the Bamenda Central prison would be unable to overcome the ordeal of imprisonment. Families of prisoners, continue to make enormous sacrifices for their relations in prison. The absence of the primary income earner in the family leaves the family in a difficult position. This is further worsened by the fact that the plight of families of prisoners does not appear to be in the list of any major priorities in any government department. Most of the institutions created to address the problems of these families usually overlook their needs. A majority of families of prisoners are unable to have easy access to the mainstream institutions because of the stigma attached to imprisonment. Because of the absence of protocol, the law enforcement officials arrest suspects in the presence of their young children thus increasing feelings



of trauma and emotional instability for them. Families of prisoners are further stigmatized by the public that expresses no sympathy for their plight. Families of prisoners relocate to different places, which affects the wellbeing of their children. But in spite of these challenges, families of prisoners continue to maintain meaningful relations with their relative in prison. Their primary concern has been to instill a sense of hope and assurance in the minds of their relative in prison. This sacrifices comes with hardship on the part of these families who travel over long distances and incur extensive financial cost to satisfy the demands of the prisoner. The numerous prison transfer requests made by prisoners evidence the importance of these families in their lives. As long as the government fails to implement policies and reforms that address some of the plights of families of prisoners, it further enhances intergenerational offending.

## 8. Prisoners encounter with the criminal justice system

We know that the Cameroonian criminal justice is not blind (blindfolded lady justice) but disadvantageous for the poor. What we don't know is how inequality plays out in individual lives. How do the criminal justice system, its institutions and actors treat the poor? And how do they respond to such treatment? And how do these encounters influence prisoners' perceptions of justice?

In an attempt to understand prisoners encounters with the criminal justice agencies, this chapter focuses on three issues; the selected cases of four prisoners, prison control and the much-heralded visit of the president to Bamenda town.

The prisoners mentioned in this chapter, consist of guilty and innocent prisoners' whose experiences with the criminal justice system informed their perspectives of the justice system.

This chapter dwells on three aspects relating to the cry of injustice by prisoners and how this paints a picture of the empirical reality. The first are four selected cases of prisoners, that explains the difficulties they face as they access justice, the second is on prison control, that discusses the relationship between judicial officials and accused persons, and the third concerns the much heralded presidential visit to the Bamenda town.

While certain aspects such as torture, excessive detention periods, illegality of arrest and detention have been mentioned in the previous chapters, I will concentrate on insights gained from the stories extracted from interviews with prisoners and my participant observation of the empirical reality as this is important in understanding prisoners perspectives of justice. For each of the three themes under the spotlight in this chapter, I concentrate on the questions my research raises with respect to prisoners agency and perspectives of the criminal justice system.

### 8.1. Cases of Prisoners at the Bamenda Central prison

*“Sometimes I lie awake at night and wish I was never born into this world.  
I ask myself why all this is happening to me?”*

*Omayya Njaya, born in Kinnjima in 1982 to a Fulani family who were pastoral nomads in search of a livelihood. He never had the privilege of a formal education. He started assisting his father when he was 6 years old as a cattle herder. Until he was married in 2004, he lived a busy life moving across the entire region of the country shepherding cattle for its owners against a small amount of money. When he finally got married in 2004, he settled with his wife in a valley called Tumbura where they both raised their two children. Prior to his arrest, he had no criminal record with the law. He returned home one evening and learnt from his children that the gendarmes came looking for him. He later reported himself to their station and he was subsequently arrested and charged with arm robbery. He was later transferred to prison to await trial. During his stay in prison, he was informed that the perpetrators of the alleged offence had been found. For a period of 32 months in prison, he was never called up to court to answer the charges against him. At the time of my interview with him, he had just recovered from an illness he feared could take his life.*

'I remember vividly, I had just returned from the hill to check upon a young calf that had fallen into a ditch and fractured its leg, when my last daughter ran up to me and demonstrated an act I could not decipher. I perceived something terrible had happened to them as she continued to point her finger to a certain direction. Her mother who had returned from the stream confirmed my apprehension. The 'bad men'<sup>1</sup> visited our homestead and molested my wife in the presence of my children for failing to disclose my whereabouts. I had mixed feelings on the *raison d'être* of their visit. It was already nightfall so I decided to report to the gendarmerie post in the morning. On arrival at the gendarmerie post, I was immediately arrested and detained. I was severely tortured by the officer on duty. The following morning, another officer informed me that I was part of an armed robbery operation that took place in one of the neighbourhoods. I was charged with armed robbery and later sent back to the cell. I spent two weeks in detention without seeing my family. On a certain day, I was brought before the legion commander. He seemed different from his colleagues, as he expressed shock that I had been tortured. He advised me to seek someone to bail me out. I was asked to pay the sum of 60,000 FCFA francs (Approximately 120 US dollars) for the bail out. I told him I couldn't afford such a huge sum of money; moreover I was innocent of the charges.

The next time I saw him was three days later when other detainees including myself were escorted to a waiting van. We were told that our new destination was the Bafoussam Central Prison. On our way, I saw my wife and two children probably coming to give me food. Upon arrival in Bafoussam Central prison, we were all escorted under tight security to the reception hall at the prison. Here, our bodies were examined and the warden on duty began interrogating me. She spoke French to me, and I Pidgin English. Consequently there was a language barrier, as I could barely understand the questions addressed to me. She asked me for my family's address, and then their telephone numbers. She got angry when I told her none of my relatives had a phone. She accused me of lying and directed me into the main prison yard. I cannot express the shock I felt when I stepped into the strange world before me. As I walked towards the prisoners in the court, all I could see was pale, beaten and angry faces staring intently at me. Suddenly, a prisoner ran towards me and hit me in the face. He sneered at me and asked "What brought you here"? In that confused state, he dipped his hands into my pocket and when nothing came out, he slapped me again and demanded for my 'new man tax'<sup>2</sup>. Shocked, I turned back only to see the warden who escorted me to prison laughing. I had never in my life been incarcerated so these things seemed strange to me. My inability to pay the new man tax caused enormous problems for me in prison. I was later punished to clean the toilets and bathroom for a month. My first night in prison was hell for me. I was kept in a section meant for hardened criminals. In the night, they will ask each one to demonstrate to the amusement of other prisoners, the criminal acts they performed prior to their being arrested. When it came to my turn, I declined and I was mercilessly beaten and asked to smoke marijuana. Most prisoners including myself slept on bare floors during our first weeks in prison. We evolved to sleeping on cartons for close to six months. One Friday afternoon, I was asked to see a superintendent in his office. He informed me that he just received a call

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1 The 'bad men' are referred to the gendarmes. Because of their interrogation among civilians, they have been given such a title.

2 This is an amount levied on every recent inmate in prison. It is charged by prisoners and considered compulsory for every new prisoner.

from Tumbura stating that I was innocent of the charges levied against me. The gendarmes had apprehended the original perpetrators of the crime and they were presently in police custody in Tumbura. As I stood there recollecting my thoughts on all the suffering and punishment I had gone through, the superintendent informed me that, "Such messages are not strange to us. We receive them all the time". I was quite shocked at the fact that he wasn't enthusiastic about the news. I was sent back to prison with the hope that the next day I will become a free man. A week later, a new inmate was admitted to our cell. Upon interrogation, he admitted to us that he was part of a gang of four that took part in an operation in Tumbura. He was the only one who survived the operation. Whilst in detention, he had been informed that a certain Omayah had been arrested and he is presently awaiting trial at the Bafoussam Central prison for the same offence. We slept opposite each other for several months. He finally became my best friend in prison. He showed sympathy for me and could lay down his life for me. He stood up for me every time the older inmates bullied me.

One day I was determined to remain at the doorpost of one of the senior superintendents. As he was about to step out of his office, he saw me and was surprised that I had lost of weight. He tried to sympathise with me even though he seemed pessimistic about the outcome of my case. He promised to discuss my case with the State counsel of the military tribunal. When the State counsel eventually visited the prison, I was shocked to realize that a majority of inmates wanted to meet him. So many prisoners shortlisted their names on the list of prisoners who had to meet the State counsel. With such great number I felt disappointed and relegated to the background. I was so happy when my name was called amongst the prisoners to meet him. When I eventually met him, he didn't bother to hear my part of the story. He told me that he knows every detail of my case. He posed a categorical question to me: "Do you have (300) three hundred thousand francs CFA (approximately 600 US dollars) I didn't utter a word because I was first of all intimidated by his presence and secondly I was scared that anything I said might irritate him. A few seconds later, he dismissed me from his presence and the next prisoner was brought to him. When I explained my encounter with the State counsel to other fellow inmates, they advised me to heed to the State counsel's demand. They told me that as long as I live in prison, my destiny rest in his hands. After spending 13 months in preventive detention at the Bafoussam central prison, eight prisoners including myself were transferred to the Bamenda Central prison to continue awaiting trial. Comparatively, the Bamenda Central prison is small compared to the Bafoussam Central prison. Together with the other inmates, we were well respected in this prison. Prisoners in this prison knew we had come from a bigger prison where they exist all kinds of hardened criminals. I was shocked when the head of the awaiting trial section instructed other prisoners to treat us well. After spending three months at the Bamenda central prison, I made several attempts to discuss with the prison officials here. My matter got complicated because every prison official I explained my case to refer me to other prisoners who had spent a longer time in pre-trial detention. I was told prisoners whose cases were before the military tribunal spent at least three to four years before their cases were called in court. I have written numerous complaints to the prison administrator explaining my plight. Everybody says patience is the watchword in prison. Two weeks ago, I took ill and after several diagnosis, the medical officer at the infirmary said I was suffering from pneumonia and hypertension. I don't have money to buy drugs. Living in prison is difficult for me. Our cell room

is infested with lice and bedbugs. They bite me all the time. I wonder if I will ever see my family. I have been in prison for close to three years today and I don't know how tomorrow looks like. Why is everybody reluctant to look into my case? I have never received a visitor because my family doesn't know where to look for me. What do I need to do to prove that I am innocent? Sometimes I lay awake at night and wished I were never born into this world. What kind of laws do we have? I have lived in prison with so many prisoners whose cases are worse than mine. They have been released and I am still here. I don't receive visitors because my family has no idea about my whereabouts. My life is frustrated. I am the breadwinner to my family. I don't know how they survive without my assistance. The government is doing everything to transform me into something else. Even if I am released today, my life has been frustrated.'

*"You still have a chance to make something useful out of your life in prison."*

*Jude Kwama, was born in 1988 in Njuta, Njaki. He was sixteen years old when he left his parents in the village to search for greener pastures in the city. He found a job as a sales boy in a modern bakery in town. He is a holder of a primary leaving school certificate, and had hopes of furthering his education in the future. His boss permitted him to attend an evening secondary school twice every week. Shortly afterwards he was promoted to the rank of a cashier in the bakery. He subsequently invited his junior sister from the village and enrolled her in a secondary school in town.*

*On one fateful evening, he was returning home from work when he noticed a vehicle trailing him. In a state of panic and fear, he started running because he thought they were after him to collect money he recovered from the sales of that week. He stopped running after a while and raised his hands up when he heard shots fired in the air. Two policemen alighted from the vehicle and one of them shot him twice on both legs. At the time he was remanded into prison custody, he could barely walk.*

[When I completed my primary education, I spent several years helping my parents on the farm. I wanted more than that and this is the reason why I decided to visit the city. My parents were very poor, but I was bright at school. The first time I experienced what it meant to sleep in a house with electricity was when I came to town. The only way I could give my life a meaning was to go back to school. But my dilemma was how to support myself financially. I decided to look for a job but was turned down at every occasion because of my inability to communicate effectively in English language. Luck smiled at me when I finally had a job as a delivery boy in a bakery. I will get up as early as five in the morning and distribute bread to several provision stores in town. This job proved promising because my boss provided me with a roof over my head. Because of my dedication to my job, my boss kept on promoting me till when I eventually became the main cashier in the bakery. On certain weekends when business was good, I would count millions and later deliver it to my boss. After saving much money, I invited my junior sister in the village and enrolled her in a secondary school in Bamenda. Twice every week, she would assist me at the bakery. Life began improving for us until one fateful evening when I was returning home from work. This particular day, I closed late because I stayed behind settling

the financial accounts of the bakery with my boss. The time was slightly above (11) eleven pm when I decided to leave. I was almost halfway home when I realized that a vehicle was coming after me. As I quickened my pace, the driver increased the speed of the vehicle. I became terrified and started running when suddenly I heard the sound of a gun. I raised my hands as a sign to indicate that I was harmless. I could tell from their vehicle that these policemen belonged to the Mobile Intervention Unit. Two police officers alighted from the vehicle and one of them removed a pistol and shot me three times on my legs. (The scars are still there) I cried and told them that I wasn't a thief. This fell on deaf ears as I was sooner thrown behind their vehicle. I fainted and only discovered myself the following day at the hospital. My hands were hand cuffed to a bed. On my right hand side was a boy slightly above my age who was struggling to say something to me. His entire body was covered with blood. He bled profusely. I eavesdropped a nurse saying that we were all brought to the hospital the previous evening. I felt excruciating pain all over my body. At the close of an hour of struggling, my bedmate died trying to explain something I couldn't comprehend. I still have nightmares about that horrific experience in the hospital. Two days later, the police escorted me to Bafoussam together with several other boys. I had never seen them in my life and many of them seemed to know themselves. When we eventually arrived Bafoussam, the authorities deliberated and concluded that we should be brought back to Bamenda. I was later remanded at the awaiting trial section at the Bamenda Central prison. Life in prison was hell for me especially when older inmates tortured me despite my critical condition. Older fellows gave us drugs and assigned us to difficult tasks in prison. I encountered all kinds of prisoners at the awaiting trial. It is a miracle that my legs eventually got healed and I am able to walk again. I have lost everything I ever worked for. Thieves broke into my house and stole everything. My junior sister was forced to return to the village because of hardship. Since she left no family has come visiting. My boss came here once and gave me money. He told me that he was afraid to interfere in my matter. He thought they might implicate him. He expressed sympathy and promised to secure a lawyer for me. It is difficult to survive imprisonment without the attention of family members. Once, two gendarmes who happened to be the colleagues of the officer who shot me visited prison and expressed surprise that I was still in prison. They told me that the officer who shot me admitted to them that he committed a grave mistake. He became afraid that my family might take legal actions against him and he decided to seek for a transfer. I am presently in prison with some of the prisoners who were arrested on that night. They feel sorry for me because they know what transpired. I have never been to court. Older prisoners continue to advise me to be optimistic about the outcome of my case. Some inmates advised me to escape. I cannot escape because I know I am innocent. The prison administration thinks the recently constructed wall can hinder us from escaping. We have also devised several methods of dealing with our problems. During prison visits, I sometimes receive gifts from so many people I don't know. They all claim they were my customers. I supplied bread to every part of this town. Today I have nothing to show for it. I continuously look up to God to get me out of this problem. I am very active in our church here in prison. Twice I have been re-elected as the head of the juvenile reformatory choir group. I try to shape the lives of many juveniles who believe crime is the only way out. It is difficult today to see juveniles smoking marijuana. I report them to the administration. Many of them who are released come from wealthy backgrounds. I no longer suffer because



they visit me all the time. I understand that prison changes people; but it can only change a prisoner who gives his consent. Prison helps to add something to your character. It cannot add something to nothing. A bad child brings his bad habits from home and prison helps to mould it. You have a chance in prison to make something useful out of your life and turn it around. You cannot survive imprisonment if you lack patience. Some prisoners have spent close to five years awaiting trial. Some have never been to court. This kind of cases demoralizes every inmate who comes to prison. When trying to make an effort to get out, older inmates discourage us by referring to cases of older inmates still in prison. We have a choir practice coming up soon. I hope you will attend service with us on Sunday. I have to hurry now so as to be able to catch up with my friends.’

*“I was chained like a dog and tied to a bed every night for a period of one year”.*

*Simon Ngek Kwei, was born in 1946. He is a native of Oku Bui Division North West Region of Cameroon. He is married and a father of 9 children. He is equally responsible for 6 other children that lived with him prior to his arrest on 15-08-1997. He is an agricultural technician by profession. He was arrested alongside his wife, Grace Yaya and son Adelbert Ngek who was 15 years at the time. Simon was charged with murder, arson, destruction, illegal possession of arms and aggravated theft. He was tried by the military tribunal in a different jurisdiction and sentenced to life imprisonment. He later appealed and his sentence was reduced to 25 years imprisonment. His son, a student was jailed to 10 years and his wife was later acquitted after serving two years awaiting trial. Shortly after her release, she died of diseases she contracted while awaiting trial in Kodengui maximum prison. Whilst in detention, his house was looted and subsequently burnt by the forces of law and order.*

‘On the 15-08-1997, 68 of us were arrested all over the entire North West region alongside my wife Grace Yaya and our son Adelbert Ngek in connection with the Southern Cameroons National Council S.C.N.C matter. The forces of law and order looted my property and later burnt my compound. (He shows a picture of it). Together we were all arrested and taken to Yaounde<sup>3</sup> and I was placed in custody at the Mfou prison<sup>4</sup> in Afamba division for a year. Every night, I was chained like a dog and tied to a bed for a period of one year. I was later transferred to Yaounde Central prison Kondengui where I met my wife, son and the others. After two and a half years awaiting trial, we were tried and my wife was released; my son jailed to ten years and I was sentenced to life imprisonment. We appealed the judgement and this time the appeal court acquitted my son and my sentence was reduced to twenty-five years. It is five years today since we appealed the decision of the court of Appeal. My lawyer informed me that nothing has been said about our case at the Supreme Court. When my wife was released, she had nowhere to go to. My wife took ill shortly after her release. She died as a result of the diseases she contracted whilst in prison. My children have become orphans and refugees in their home. Five of those arrested alongside myself died in prison. I was later transferred to the Bamenda Central prison. Every detail of my life is recorded in my diaries. My diary suddenly disappeared

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3 Yaounde is the capital of Cameroon.

4 Mfou prison is a principal prison in the centre province in Cameroon.

and later it was brought back to me. I wonder what people want from my diaries. I have nothing to conceal. I just keep records of the events of my life. I have been keeping diaries for thirty years. My diaries assisted my lawyers during my trial. They got background information of some of the events I had registered in my diary. During our trial, the European union and several international human rights organizations like Amnesty International and the Red Cross assisted us with legal representation. More than (18) eighteen lawyers represented us. Our trial was shrouded in controversy. Initially we were charged with acts of secession. The original charge sheet read, "A separatist movement designated as the Southern Cameroons National Council (S.C.N.C) having as objective the acquisition of the sovereignty of the North west and South west provinces through secession, constantly organised meetings during which watch words were given". Our lawyers were busy preparing our defence on these charges. They were taken aback when the prosecution suddenly abandoned the charges that had to do with secession after realizing that the Military tribunal hadn't the jurisdiction to entertain matters on secession. They came up with a different charge sheet that charged us with murder, illegal detention, illegal possession of war guns, aggravated theft and complicity, destruction and arson. Our lawyers during the trial requested to know why people who allegedly committed crimes in a common law jurisdiction were tried hundreds of miles away in a civil law jurisdiction in a language (French) they did not understand. On the day of our trial, the court atmosphere was quite tense with soldiers sitting besides us with guns. I am sure even our lawyers were intimidated by the presence of these military men. The military tribunal is nothing short of a kangaroo court. The officials are without mercy. Looking at our sick, frail, miserable and pale faces, any body with a conscience will acquit us from those trumped up charges. Prison for me is punishment for a crime I didn't commit. The absence of investigation into our case shows the non-respect for the rule of law in this country. Today I am being fed with food I cannot give to my dog. I have spent fourteen years of my life confined to an environment I had never in my wildest imagination thought I would be. I believe this is some of the mysteries in life. Our lawyers presented our case before the African Human Rights Court and we were reliably informed that the court had ruled that we should be released with immediate effect and compensated for the injustice meted on us. No action has ever been made. I have written to the Prime Minister, Minister of justice, Minister of Territorial Administration and Decentralization, the Chairman of the National Commission on Human Rights and Freedom, the Justice and Peace Commission, Civil Society Organizations and several human rights NGOs. I am yet to receive any message from them. I complained to all the prison administrators I met in this prison. They sympathised with me and out rightly told me there was nothing they could do to help me. Sometimes they will call me to their office and ask for advise on how to administer the prison. The only prison administrator who treated me badly was the outgoing administrator, who deprived me of my privileges. What more do they want from me? I have been forced to tread on dangerous grounds. I have seen death and am still alive by the grace of God my protector and stronghold. I am not afraid of anyone. What else can they do to a man of my age? I pity the lives of these young ones in prison. I think their future is destroyed by the long-time they spend in prison. They come out worse than they came in. Look at what transpired during the uprising in prison. Even though I hate chaos, the actions of those boys who orchestrated the uprisings were justified. They were frustrated with their conditions in prison. Imprisonment has

changed my perception of justice. Everyday we get reports from the radio concerning thieves and armed robbers who have been apprehended by the law enforcement. We expect to see them here. To our greatest surprise, they end up not sending them here. What happens to them? The answer is written on the wall. They corrupted the officials and they let them free. So many innocent people rot in prison. The innocent ones are sent to prison because they don't have money or "god father's" to intervene for them. When you come from an impoverished background like ours, justice becomes a luxury; you should tread carefully].

*"I wouldn't be a prisoner if I had money and power"*

*'Issa Kana born in 1953 to a Fulani family in Modinga in the North of Cameroon. He is a cattle herder and lives with his family in Ajing. He is married and a father of nine children. Prior to his arrest, he was the spiritual leader of the fula's in Boti. Upon his arrest, his wife was pregnant for their last son. He and his family shared a wonderful time. This happiness saw an abrupt end on a sunny afternoon on Thursday 23rd of October 2004 when the police arrested him in the presence of his two daughters. He was later charged with theft of a horse and subsequently tried and sentenced to a seven- year jail term. Whist in prison, he enjoys regular visits from his family. On the 23rd of September 2010, I conducted this interview with Issa Kana after his afternoon prayers besides the chapel of the Bamenda Central prison.*

'Sometimes I wonder what might be going through the minds of my children about my situation in prison. How can a man who is well respected in his community for his good values and moral uprightness be imprisoned for the theft of a horse? How do you reconcile a spiritual leader and a thief? This is weird. But I know this is one of the predicaments every human being encounters in his\her lifetime. Each time my children visit me; I encourage them to work very hard to be able to secure a bright future tomorrow. I am here because I don't occupy an important position in the society.

I became a cattle herder at a very tender age after my mother died because of the negligence of my father. I grew up determined to change the course of my destiny. I worked very hard to secure a future for my family and myself. I served my master as a shepherd for 20 years. After he liberated me, he settled me with five calves. The Lake Nyos disaster that occurred in 1986 claimed the lives of these calves. I lost everything except for my life. I started all over. Fortunately for me, I was blessed with a wonderful wife who supported me through the difficult moments of my life. My children are equally very hardworking and they have been of enormous assistance to me. Ten years ago, I relocated together with my family to Ajina because of the good climate. Because my cattle were further away from my home, I considered buying a horse to facilitate my work.

My trouble began on this august Thursday in May 2004 when I visited the cattle market in search of a horse to buy. Unknown to me, I bought a stolen horse from someone I had known for more ten years. The horse cost (130, 000) francs FCFA (Approximately 260 US dollars). I bought this horse in the presence of so many people who knew me in the open market. Two weeks later, the gendarmes at the Tiboro gendarmerie arrested me for stealing a horse. I knew it was a joke because I

knew the address and name of the person who sold the horse to me. I was detained at the Njam gendarmerie post for two weeks and later sent to prison to await trial. The gendarmes carried out their investigation and later arrested the person (Oumarou) who sold the horse to me. When I heard that Oumarou had been arrested, I knew that I will be eventually released and my matter will be discharged and acquitted. To my greatest surprise, the complainant who is a relative of Oumarou instructed the gendarmes to release Oumarou. At this stage, the investigating officer forwarded my case to court. A month later, I was tried and sentenced. Everybody around me including the prison officials was surprised on the duration of my trial process. 'This is because the complainant was an influential person' (a prison official remarked). At this stage, I instructed my friend to sell some of my cattle for me to seek the services of a lawyer. I met this lawyer once and he wasn't even present in court on the day I was sentenced. He was only interested in my money. He kept on intimidating me each time he reminded me that my complainant was a 'big fish' capable of influencing the decision of judges. It didn't bother me because I know my integrity. But I was shocked when my trial began. It was easy to decipher that I had been sentenced even before my trial began. I understood nothing during my trial. My trial process affected my ego. I don't need to be educated to understand my rights. I know that my rights were not respected. I could even tell from the faces of those who witnessed my trial that justice was not rendered to me. There is no justice in my case because the person who sold the horse to me is free and I am in prison. I have listened to the plight of so many prisoners' and I concluded that judges are blind when it concerns the offences of guilty and influential citizens in this country. Some of the influential citizens who end up in prison eventually walk out of prison without serving their imprisonment terms. They tell us that justice is not a commodity afforded by poor people like us. Today people who know me have branded me as a thief. I use to sell meat to so many magistrates when I worked in the slaughterhouse in Koni ten years ago. Most of the judges I knew in the past are now dead. I was fondly called Komna<sup>5</sup>. In this prison, everybody knows what I am capable of doing. The prison officials treat me differently because they all know me. If not of my reputation, my experiences with the criminal justice system would have transformed me into a hardened criminal. I don't blame prisoners who come out of prison worse than they came in, because I know the circumstances they come across. Even the gendarmes that arrested me cooperated with me and sometimes asked me to join them watch television at the reception hall. I believe they did that because of my integrity.

Today my children are out of school because my wife can't afford to pay their school fees. She equally reported to me during her visit here that my second daughter is pregnant. What becomes of my family? Can you imagine what the high and mighty can do to people like us? My only son is in the university; he says he wants to become a lawyer to fight for justice for the poor. My fervent wish is that God grants him his heart's desire so that he might save people in a similar situation like me. My son has reported my case to several human rights organizations. Members of a certain NGO came to prison once and promised to look at my case. It's been over six years now and I haven't heard anything from them. My son says each time he calls the phone number they gave me, it goes to the answering machine. I have told my family to stop fighting this cause. One cannot stand a fight with the gods. But I am sure that I wouldn't be a prisoner if I had money and power.

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5 Komna is a term commonly used in Joma to refer to an honest person.

Presently I sell fried groundnuts in prison. The business is very slow but it occupies me. I live in a different world inside this prison. I am blind to so many injustices occasioned by prison guards upon prisoners. Considering my age, I find it difficult to interact with younger inmates. The prison brings us together, but I keep my distance from them. If you keep your eyes on the ground, you will easily distinguish the guilty and innocent prisoners'. Look at that boy wearing a red shirt; I remember the day he was remanded here. He was a very good boy then. Today he is one of the most hardened criminal's in this prison. The prison has transformed him. Prison is a meeting point for all kinds of criminals. Those organizations that visit the prison to preach about reformation transmit the wrong message. They are supposed to meet judges, lawyers, and police officials and prison guards. Those are the people who need reformation. They fail to effectively implement the laws. I know some prisoners need to change from their old ways. But how do you intend to reform an innocent person? I don't need reformation. I am always angry each time I am invited for a discussion with these NGOs'.

## ***8.2 Prison Control***

There have been reports from various national and international human rights organizations and NGOs, alleging incidents of illegal arrest and detention of accused person's behind the walls of the prison and detention centres in Bamenda town. According to these sources, the rich and mighty use their privileged positions to corrupt and sometimes influence judicial officials to commit acts of illegality. It is against the backdrop of this that the state counsel conducts surprised controls to the detention units and prison to ensure that no accused person has been detained illegally in prison. However, the remarks and actions of some prisoners' on the visit of the state counsel shows that the provisions safeguarding the rights of accused person's have not been respected. This section dwells with the interaction between the state counsel and prisoners'. It highlights the agency of prisoners' and how that informs their perspectives of justice.

It is 11 am in the morning. This is the ideal moment when prisoners gather in the courtyard of the prison to interact and gossip about the recent happenings in and outside prison. A prisoner working at the reception indicates to them with a strange sound that a stranger is about to get into prison. These august visitors are the State Counsel and his delegation. A prison guard hurriedly goes to the entrance of the awaiting trial section to arrange their sitting positions.

In a matter of seconds, the State Counsel's visit spreads around the various sections in prison. A group of prisoners' who were discussing at the courtyard paid no attention to what transpired at the entrance to the awaiting trial. These are older inmates in the prison community.

Suddenly two prisoners' from one of the cells adjacent the prison infirmary appears at the courtyard with chains on their legs. These prisoners' attracts the attention of the State Counsel who looks in their direction and suddenly bends his head down as if he was reading the stack of papers in front of him. The prisoners' who were in chains were punished by the administration for fighting. One of them falls to the ground and in an effort to get him back to his feet, he screamed as if he was in great pain. This calls for the attention of the State Counsel who asked if he had had his breakfast. According to the prisoners', this was obviously the wrong question. They expected the State Counsel to have asked why those two prisoners' were in chains.



The State Counsel later asked the prison guard on duty to go into the awaiting trial and report his presence to inmates. In a short while, I could hear the warder shouting at the pitch of his voice calling on inmates to come and address their problems to the State Counsel. As the State Counsel goes through the files of the inmates in front of him, he poses questions to them pertaining to their health, duration in prison custody, the addresses of their family members, those whose matters have called up in court and finally questions relating to bail. The first inmate he spoke to complained of the deplorable conditions in prison and the second inmate says, “Since 2008, (two and a half years ago) my matter has never been called up in court. I have written numerous complaints to the prison administrator. Every time I ask him about the results of my complaint, he would ask me to write a different complaint and exercise more patience”.

The countenance of the last group of inmates who were brought before the State Counsel was obvious that they had mixed feelings concerning his visit to prison. Some prisoners’ who stood next to me said “We only get to see him (referring to the State counsel) when an incident has occurred in prison”. Another fellow responded, “Nothing good comes out of this visits. He just wants our relatives to come to his office and apply for bail.”

Across the courtyard, I could hear a prison guard rebuking an inmate. “I just don’t understand why you’ve chosen not to present your matter to the State Counsel?” The inmate shrugged his shoulders and said, “What difference does it make? Six months ago, I presented my case to him and he promised to do something about it. I have sent three letters to his office and he has nothing about it. Do you expect me to be happy because he is here?”

The atmosphere at the courtyard suddenly changes as a prisoner approaches the State Counsel carrying a fellow prisoner on his back. The inmate on his back is a bank manager remanded to prison custody on charges of embezzlement. On the day of his remand, he took ill and was admitted at the prison infirmary. His lawyer took advantage of the visit of the State Counsel to prison to present the case of his client. His application for bail was granted on the grounds of medical reasons. Some other fellows were disgruntled with this incident and complained that the State counsel was biased with the cases of other sick inmates who had applied for bail for the same reason. “How could the State Counsel reject his application? He is also a big man like him”.

The State Counsel finally brings his session to an end. He succeeds in addressing a few cases of prisoners’ whom he grants their applications for bail. He promises the other fellows that he will look into their respective cases when he gets to his office.

On his way out, I approached him and briefly explained my work in prison. He smiled and said, “All this while you were busy evaluating my work. I hope I didn’t make a bad impression”. He smiled again as he walked towards his car.

### ***8.3. The President’s historic visit to Bamenda town: Citizens and police encounter***

By choosing the town of Bamenda as the venue to host the commemoration of the 50th anniversary celebration of the military in Cameroon, the president’s visit to the town of Bamenda places itself within this study that seeks to understand prisoners’ encounter with the criminal justice system. As part of the preparation of the president’s visit to Bamenda, thousands of security forces were de-



ployed from other areas of the country into Bamenda. This town is home to a majority of our subjects in this study. The presence of these security forces into this region caused an atmosphere of chaos as the town of Bamenda was literally transformed into a war zone under occupation. In our quest in understanding citizen's encounter with the law enforcement, a focus on the president's visit leads us into understanding who these citizens are and why the police arbitrarily arrested and detained them without any justified reason. Njimami, is a breastfeeding mother of a two weeks old baby. She went out one night to buy food for her baby and got arrested by the police and later detained at the public security station in Bamenda. Her predicament and many others, provides an understanding of how citizens become prisoners' and how they overcome the constraining structures around them.

#### ***8.4. The president's historic visit to Bamenda town***



*During the president's visit to Bamenda town.*

On December 4th 2009, the president of Cameroon Mr Paul Biya, declared in his speech of his intentions to visit the town of Bamenda to commemorate the 50th anniversary celebrations of the military in Cameroon. This message was received with a great applause from citizens all over the country. The visit was a special event for the people of Bamenda because the last time the citizens of Bamenda caught a glimpse of their president was in 1991. Bamenda is a town in the Northwestern region of Cameroon and the capital of the North West region. Bamenda has a population of close to a million inhabitants and the city is an amalgamation of three villages Mankon, Nkwen and Ba-mendankwe. The enthusiastic population spent over a year (December 4th 2009 to December 10th 2010) preparing for this august visitor. As part of the preparations, security forces were deployed from other regions of the country into Bamenda town. Two weeks before the president's arrival, the town of Bamenda and its environs was placed under what was described as a state of emergency. Security forces patrolled

the region from dawn till dusk. The governor of the Northwest region further compounded issues for the population when he banned all public and private gatherings and manifestation. A dawn to dusk curfew was declared and this reinstated military mass arrest of groups of citizens for no apparent crimes. An atmosphere of tension and fear characterized this period. Those arrested and detained at the police stations and the prison were asked to pay a fee pending their release. Human rights organizations and NGOs wrote several petitions to the administration complaining of the injustices meted out to innocent citizens of Bamenda. Most citizens left town because of the fear of being molested by the rapid intervention unit noted for arbitrarily arresting and detaining citizens.

Impromptu searches known as “kale kale”<sup>6</sup> was organised and scores of citizens were arrested pending the payment of a substantial sum of money. A security officer in justifying the actions of the police said the arrest was necessary to maintain peace and security among the populace and moreover, those arrested were without ID cards. On the contrary, most of the citizens I interviewed had their ID cards with them upon their arrest.

### ***8.5. The arrest of Njimami***

Njimami 28 years old is a high school graduate. She is single and a mother of a two weeks old baby. One evening at about 8 pm in the month of December 2010, she went out of her apartment to buy provisions for baby and got arrested by the police of the rapid intervention unit. She was detained at the police public security station in Bamenda for the rest of the evening. At the moment of her arrest, she had no one at home except for her baby. The following morning her neighbours came to rescue her baby after they heard her cries. Njimami’s case caused a situation of unrest amongst civil society organizations that demanded for her immediate release.

‘Most of the businessmen that operated provision stores in my neighbourhood were forced to close their stores on the orders of the governor. This is the reason why I was out in search of a provision store where I could buy my baby’s provisions. On closing my door, I saw a vehicle that I recognized as belonging to the rapid intervention unit. One of the police officers called for me and asked why I was outside. As I tried to explain the reason why I was outside, he requested for my ID card. I removed it from my wallet and gave it to him. After he looked at it, he said I didn’t convince them with a good reason for being outside that night. One of them kicked my ass and asked me to remain quiet and follow them to the station. As I was about to climb into their vehicle, I heard the cry of my baby. I alighted and told them that I would not follow them to the station. The police officer that earlier assaulted me, lifted me up and threw me into the vehicle. When we arrived the at police station, I was hurt and despite the wounds on my body, I was detained in a very dark cell that contained so many people, some of whom included members of my church. The following morning when we were brought out, one of the policemen on duty told us that we could only be free if we applied for a bail out. The police asked each of us to pay the sum of fifteen thousand francs (Approximately 35 US dollars) pending our release from jail. Most of those who could not stand the ordeal of sleeping another night in a dirty cell requested for help from their relatives and friends. Initially, I thought there was nobody to rescue me from this predicament. I spent my entire time crying because of the thought of

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6 Kale kales are impromptu searches organized by the police in which citizens are arrested without arrest warrants and detained.

my baby. I explained my case to my cellmates who greatly sympathised with me. Most of them who were released promised to look into my case. A few hours later, I heard a crowd shouting outside the police station. The officer on duty opened the cell and requested to know my name. Apparently one of my cellmates had gone back to my apartment and reported my case to my neighbours. My neighbours immediately alerted some civil society organizations that promptly reacted by reporting my case to so many private radio stations around Bamenda town. Prior to this intervention, the police officer on duty was at the verge of transferring the remaining of us that were unable to pay the fixed amount of money demanded to the Bamenda Central prison. I was charged with possession of no ID card. The mammoth crowd outside the police station demanded for my immediate release. In a short while, the station was full of people who had heard about my case. Some women who sympathised with my plight brought me to the hospital. I know the police treated me this way because I am not an important person. They wouldn't do that to someone who can bring an action against them. I am fortunate nothing terrible happened to my baby' she said.

### ***8.6. Conclusion***

The issues discussed in this chapter concern the cases of prisoners', prison control and the presidential visit to Bamenda. These issues revolve around prisoners' encounters with the criminal justice system. The case examined brings to the fore three underlying issues. Firstly, most of our prisoners' mentioned in this chapter hail from impoverished backgrounds and their disadvantaged backgrounds hinder them from accessing the criminal justice system. Secondly, the socio economic conditions of prisoners' define their positions within the criminal justice system and thirdly, the chapter discloses that prisoners' perspectives of justice is largely informed by their experiences across the criminal justice system.

The cases of these prisoners' exemplify the cases of a majority of prisoners' who lack the necessary resources to bring actions against perpetrators for the violation of their fundamental rights. From the empirical reality of the cases, it becomes glaring that the constitutional provisions that safeguards the rights of accused persons have been greatly undermined.

## **9. Strike Actions from prisoners at the Bamenda Central prison**

On the 29th of August 2010 and 7th of September 2010, barely after three weeks of my research at the Bamenda Central prison, the prisoners at the Bamenda Central were poised to prove to the members of the public and the government that something wrong was happening behind the walls of prison. The prisoners' strikes that took place on these dates were one of the most explosive periods in the history of revolts at the Bamenda Central prison that saw violent and angry prisoners demonstrating in the prison by the hundred. According to prisoners, the Bamenda Central prison, which is one of the criminal justice agencies, had become a violent unconstrained force acting contrary to what the rule of law obtains. They claimed the administration was insensitive to the series of demands made by prisoners pertaining to their welfare in prison. But the immediate incident that led to the recent strikes at the Bamenda Central prison was the death of a 24 years old inmate in prison. His death came as a wake up call to all prisoners at the Bamenda Central prison. The strike, which extended far beyond the prison walls, caught the attention of the general public and the government. A number of important personalities including the secretary of state in the Ministry of Justice in charge of the Penitentiary visited the Bamenda Central prison to witness the strikes. The inmates all of whom were fuming with anger presented a series of demands requesting the authorities to provide solutions to their unending problems in prison. This incident caused a major upheaval in prison that eventually led to the dismissal of the prison administrator. The strikes eventually came to an end with several stakeholders of the criminal justice system and members of the public acknowledging that the prisoners had every reason to strike. The strikes at the Bamenda Central prison is important to this thesis because it provides answers to some of the research questions previously raised in this thesis. This chapter is closely related to the perception of justice of prisoners' that is the main topic of this thesis. We stand to learn a lot from this chapter in that it provides us with an empirical reality of the confrontations of prisoners' with the administration. Though prisoners got their point across, the reaction from the prison administration caused irreparable damage to the prison community. The chapter is particularly interesting for two reasons: firstly, it provides us with the different kinds of prisoners' behind the walls and some of the ways they resolve their problems and secondly the fact that no one could imagine that the series of uprisings in prison could lead to the dismissal of the prison administrator of the Bamenda Central prison.

Against this backdrop, the first section of this chapter covers the death of Che Rene and the circumstances that proceeded to the first strikes. The second section dwells on the transfer of Kanima; an inmate from the Bamenda Central prison.

From the series of demands made by inmates during the strikes, it shows that the Criminal procedure code is flawed in a number of respects, in particular as regards the length of preventive detention (6-12 months), the establishment of rules protecting citizen's rights, speedier judicial processes and the rapid enforcement of court decisions.

### ***9.1. Prisoners strike: The death of Che Rene.***

September 2 2010 will remain engraved in the minds of a majority of prisoners at the Bamenda

Central prison. On this day, one of theirs, an inmate behind the walls of the Bamenda Central prison died. Che Rene, who died within the prison premises, had been sick of a protracted illness for a considerable length of time. He was such a humble prisoner that most fellows at the Bamenda Central prison wondered how he found his way to prison. During the course of my research, he was the first informant I had an interview with. At the time I met him, he was a patient admitted at the infirmary at the Bamenda Central prison. “Looking at my physical appearance, everybody can testify that my health condition is critical. But I am just one amongst several sick prisoners”. He said. This was the first and last interview I conducted with this prisoner.

Two days later, I returned to prison and found a mammoth crowd gathered at the prison yard. The prison was in a state of turmoil. The inmates at the awaiting trial section had broken loose the gate of the awaiting trial section. Prisoners were on strike because of the death of an inmate and also because they demanded better conditions in prison. Both inmates on remand and convicted prisoners were busy digging up a grave at the centre of the prison to bury one of theirs. The inmates all who were fuming with anger said, “We are all ready to die like our colleague. We all know we are doomed. We must bury him in the middle of the prison. So that his ghost will continue to haunt our enemies.” Every prisoner both old and young was gathered at the prison yard to present his own grievances to the hearing of the officials who were present. The lead prisoner who was mandated to speak on behalf of his colleagues presented a series of grievances to the secretary of state in the Ministry of Justice in charge of the Penitentiary. The secretary of state purposefully visited the Bamenda Central prison to witness the strike.



*Prisoners doing a media coverage at the Bamenda Central prison during the strike action.*

According to the grievances, most of which were written on placards, within one year, so many prisoners had died in prison and others at the hospital. Prisoners’ alleged the prison administration ignored their requests for medical care and improvement on the welfare of prisoners’. The prisoners further complained of the absence of speedier judicial processes and very harsh prison conditions. This was a decisive moment in the destiny of prisoners. They took advantage of the presence of the secretary of state to pour out their grievances to the hearing of everybody. The secretary of state on his part granted audience to the prisoners to air out their problems. A prisoner who was mandated to speak on behalf of others said,

“The purpose of this speech is to draw the attention of the public to the fact that there exist hundreds of prisoners who have been abandoned



and forgotten in prison. Some of them are on bail but they are unable to get out of prison because the prison administration wants them to remain here. Everybody has rejected us. We have been left to die in our misery in prison. Everyone is present here today because a prisoner has died. I wish to draw your attention to the fact that there are numerous things apart from sickness that leads to the death of a prisoner. Every prisoner you see here is a living corpse. We start dying from the moment we are arrested. We have different worries. Some prisoners know why they are in prison and others don't. So many of us are in prison for years without going to court. My case is different because I know my imprisonment is justified, but what about the cases of a majority of prisoners who are innocent? It is better for you people to kill us than subject us to this kind of punishment in prison. This is not what justice is all about. I am not sure there are any of you here who is not guilty of an offence. You are not free because you are innocent but because no one dares to pursue any of you. We firmly believe you will use your high office to address our needs otherwise we will continue to strike. After all we know we are going to get the worst of it.”

On this particular day, the mortal remains of the prisoner was prostrated on the ground and several prisoners guarded his corpse. After several deliberations between the penitentiary boss and the prisoners, the penitentiary boss pleaded with the rioting prisoners to relinquish the corpse to the bereaved family for burial. He emphasized the rights and obligations of prisoners; stating that health care remains a fundamental right of all prisoners. In an address to the prisoners, he said, “We all should have in mind that we are potential prisoners. Have a look at Nkondengui prison and you would discover even ministers there. So, when someone is ill-treating prisoners he should be careful because one day, he could find himself amongst the same prisoners he was ill treating. Prisoners like any other human beings have their rights which should not be tampered with”. The penitentiary boss pleaded with prisoners and promised to address some of the issues requested by inmates such as improving the healthcare and hastening cases of prisoners in pre-trial detention. At the dawn of the crisis, the prisoners were asked to fill up the grave they had dug and the prison administration subsequently contacted the family of the deceased prisoner to come to prison and collect the mortal remains of their relative. Some prison authorities especially the junior prison staffs sympathized with the plight of prisoners. They blamed their superiors for implementing draconian policies at the Bamenda Central prison. A warder at the heat of the crisis lamented, “When an uprising occurs in prison, we are the ones who suffer most because of our close ties with prisoners. Prisoners sometimes vent their anger on us believing that we are responsible for their plight. We just enforce the decisions from our superiors.” Four days after this strike, on Tuesday the 7th of September, another uprising broke out which became more violent than the previous one.

### ***9.2. The Transfer of Kanima: The Second Strike at the Bamenda Central prison***

Four days after this strike, on Tuesday the 7th of September, another uprising broke out which became more violent than the previous one.

One bright morning in September 6 2010, it was barely four days after the previous strike, I was busy discussing with some prisoners besides the administrative building when a warder winked



at me as he escorted Kanima to the administrative block in prison. He is a military officer by profession. He was originally charged with robbery and remanded into prison custody at the Bamenda Central prison. He was a popular figure within prisoner's circles. Many hailed him for his bravery and skills in efficiently organizing the previous strike. The prison administration suspected that he masterminded most of the strikes and they resolved to transfer him to a distant prison in Bafang. In addition to this, the prison guards regarded him as a "bad influence on other fellow prisoners." Several hours after his transfer, the prisoners at the Bamenda Central prison organized the most violent strike ever witnessed in the history of the Bamenda Central prison.

This second uprising in prison made news within and outside the prison walls. There was much speculation as to the cause of this recent uprising in prison. Some sources averred that the prisoners rebelled against their poor living conditions in prison while others blamed the strike on the defiant attitude of prisoners. A flat mate and friend of Kanima, recounted, the reason behind the recent uprising. He further gave me an insider's account of the reason behind this recent uprising. [I was busy discussing with Kanima when a warder approached us and asked Kanima to accompany him to the administrative building. From the warder's facial expression, we could both tell that something was amidst the eyes. As Kanima stood up to accompany him, he whispered something that only both of us understood what he meant. I immediately understood that things were falling in place as we had originally envisaged. I discreetly followed them and I was in time to see a warder escorting him out of the prison. I immediately hurried back and transmitted the news to other fellows. Within two minutes the information about Kanima's transfer had circulated around the prison like wildfire. Unknown to the prison authorities, we had earlier convened a meeting after the previous strike and unanimously accepted that in the event that any prisoner was punished or interrogated with regards to the previous strike, we would set the prison ablaze. We all were prepared to sacrifice our lives for this course. Most fellows called their families and friends and wished them farewell. We wanted everybody to know the degree of injustice that reigned at the Bamenda Central prison. The prison administration further worsened things by transferring a prominent figure within our circle. Our principal goal was to burn down the records office. The strike was supposed to begin in the early hours of the morning.]

To manifest their anger, the inmates got all the firewood from the kitchen and lit a huge fire in the centre of the prison. Whilst some of them were busy destroying prison property and throwing stones at the prison guards on duty, other fellows went ahead and broke into the yard master's office, removed all records from within and set them ablaze. As the few prison guards present couldn't possibly calm down the enraged prisoners, it was thanks to the timely intervention of a combined unit of forces of law and order and prison guards that calm was finally restored into the prison. The scuffle left several prison guards and prisoners wounded. In retaliation the prison guards ransacked the prison and destroyed the properties of prisoners. "After torturing us, our food, art work and property were destroyed in our presence. They told us it was justice meted to us for disorganizing the prison" says a prisoner. In spite of the tensed atmosphere that characterized the Bamenda Central prison the following morning, several inmates still attempted to convene a meeting to deliberate on their next move. "As long as we continue to suffer from injustice, we will never stop protesting. Torturing us doesn't prevent us from organizing another uprising. It instils malicious thoughts against the administration

into our minds”.

When events eventually settled at the Bamenda Central prison, many inmates expressed their opinions that irrespective of the torture they received from the prison administration, they finally succeeded in getting their point across to the administration.

In the morning of Tuesday, September 8, representatives from the Ministry of Justice arrived at the Bamenda Central prison and unveiled the decision from the minister of Justice to dismiss the prison administrator of the Bamenda Central prison. The news of his dismissal was received with a great applause from prisoners. Various groups in the prison held different opinions concerning the prison administrator's dismissal. Some prisoners alleged his dismissal was intended to appease prisoners while others believed it was a form of disciplinary sanction from the government. However, the exit of the prison administrator from the Bamenda Central prison was widely construed by many as a new dawn into the Bamenda Central prison.

### ***9.3. Conclusion***

The events that followed the series of strikes at the Bamenda Central prison revolve around several demands made by prisoners' requesting the prison administration to provide solutions to their unending problems in prison. Prior to the strikes, prisoners' had been nursing and bearing grudges against the infringement of minimum standards of humanity and survival. The prisoner, during his address to the secretary of state for penitentiary administration reiterated some issues which included; the failure to comply with the provisions dealing with remand in custody, the absence of speedier judicial processes, the establishment of rules protecting citizen's rights and lastly an improvement on the welfare of prisoners'.

During the strikes, a majority of inmates expressed dissatisfaction with the extended time they spent in preventive detention. The failure of the Cameroonian government to comply with the provisions of the Criminal procedure Code in respect to basic rights of prisoners' explains the reasons behind their confrontation with the prison administration.

The death of Che Rene came as a wake up call to prisoners' to demand for an establishment of rules protecting their rights. One of such rights is the right to healthcare, which every prisoner is entitled to. Prior to the uprisings in prison, a majority of sick prisoners' who are very poor and unable to afford proper medical attention out of the prison facility received little help from the prison administration. The secretary of state in the Ministry of justice in charge of the Penitentiary corroborated this fact when he said in his closing remarks that “Access to a basic healthcare is a fundamental right to all prisoners; and let no prisoner be allowed to die in prison.” The failure of the government to equip the prison infirmary with adequate medical facilities makes the situation difficult. Apart from healthcare, most sick prisoners' remain malnourished because of the low nutritive value of the food provided to them. In an interview with the deceased prisoner, he said, “There is no need taking medication when you don't have food to eat. Sometimes I sell my medicines to buy food to eat”. Prisoners' apportion blame upon the prison administration for having responsibility in the death of one of theirs. The deplorable prison conditions makes inmates to become vulnerable to various diseases in prison.

Prisoners' are coerced to silence by the administration for physically resisting their subordi-

nate positions. The use of coercion by the law enforcement and prison guards to calm the uprising in prison left hundreds of prisoners injured and devastated. According to them, they perceive their actions against prisoners' as legitimate. In spite of Cameroon's commitments to various domestic and international conventions, she hasn't ratified the optional protocol to the Convention against Torture (OPCAT). Employing acts of torture against prisoners to calm their actions helps to instill violence in them.

The decision of the government to dismiss the prison administrator of the Bamenda Central prison was received with great applause from prisoners' and the public. However, how these measures yield results remains to be seen as the plight of prisoners' informs their perceptions of the criminal justice system.

## 10. Conclusion

*“Everyone in the prison system has their own view and the truth probably lies somewhere in the middle of all that. I believe that some prisoners have as skewed a perspective on prison as the prison officials. However, for the most part, a number of prisoners and guards see it fairly accurately.*

*In prison one frequently hears only a fraction of the truth as it applies to the person telling their story. Interviewing staff, guards, volunteers, prisoners, administrators, and ex-prisoners is a necessity if one is to sort out the “truth” on a meaningful level”*

(David Deutsch)

### ***10.1. Behind the Prison Walls: The Good, Bad, Ugly, Invisible and Unfortunate prisoner***

One bright afternoon, almost at the end of my studies at the Bamenda Central prison, at the close of my discussion with some convicted prisoners, one of them in his concluding statement said: “Nothing exists like a prisoner. We have the good, bad, ugly, invisible and unfortunate prisoner living within our community”. According to prisoners, this was their perception of each other.



*The five different kinds of prisoners. From L-R (Back row)- The ugly, Bad, Unfortunate. Front row. Left to Right- Good, Invisible. Researcher in the middle.*

Prisoners experiences of the criminal justice system mould and shape them into different personalities with different goals to achieve. The chances of a prisoner to successfully serve his imprisonment term depends on who he/she is and their relationship with any of these groups. Why prisoners’ chose to belong to these groups has been a subject of heated debate within the prison community. Why some prisoners’ perceive it as a way of dealing with the exigencies of prison life, other fellows argue that it is strategy employed by the prison administration to disintegrate members of the prison community. Aruba is a prisoner perceived by his fellows as a hero because of his sacrifices and dedication in helping prisoners’ to attain their rights. The fact that his fellows glorify him makes him a bad prisoner in the eyes of the administration. This chapter helps in reordering the minds of the reader as it provides answers to some of the questions posed in the previous chapters on the prisoner and the prison. It equally paints a picture of the empirical reality of the Bamenda Central prison. The story of the good, bad, ugly, invisible and unfortunate prisoner could not be heard until the previous chapters had been

discussed.

### ***10.2 The Good Prisoner***

*“Always remember that the greatest and most respected personalities in the world had once been called prisoners.”*

Based on my categorization of prisoners, a good prisoner is a prisoner who is remorseful for what he did to victims on the outside. He considers imprisonment as an opportunity to give his/her life a different meaning. A good prisoner sacrifices for other prisoners at his own expense. They paint a clear picture about their lives prior to imprisonment and they remain optimistic towards the future. He equally gives advices to his fellow prisoners especially newly admitted prisoners about various aspects concerning prison life. Good prisoners easily get integrated into the prison culture and they associate themselves with prisoners who share a similar ideology with them. Their primary goal is to serve their imprisonment sentences and encourage other prisoners to emulate their example. They are also very objective in their perception of the criminal justice system. An example of a good prisoner is found in the previous chapter of the Mock court in prison. The prisoner who is described as the liberator (Aruba) is an example of a good prisoner.

### ***10.3 The Bad Prisoner***

*“As long as I suffer in prison, those on the outside will never enjoy peace. I am the product of a bad system. I don’t care what society thinks about me. There is no need becoming a saint in hell.”*



*An example of a bad prisoner who is constantly in chains at the Ndop Principal Prison.*

A bad prisoner has no regrets for the crimes he committed in the past. They perceive criminality as a way of life in prison. Imprisonment does not hinder bad prisoners’ from actively participating in criminal activities within and outside prison. According to bad prisoners’, learning any vocational trade in prison is a waste of time and resources. They contribute in derailing the mindsets of newly



remanded prisoners' by instigating criminal ideas into their minds. In the chapter on business in prison, bad prisoners' were those prisoners' who were often accused for theft in the prison community. The financial secretary of the mock court is a bad prisoner. He was accused of embezzling money allocated for the prisoners' court. Also, during the uprisings in prison, bad prisoners' took advantage of the instability in prison and looted the property of fellow prisoners. A majority of bad prisoners', who were remanded to prison custody as juveniles, ended up becoming recidivist. They suffer abandonment from their relatives who perceive them as egoistic and unappreciative. According to prisoners', bad prisoners' vent their anger on the criminal justice system because they think they are responsible for their plight in prison.

#### **10.4 The Ugly Prisoner**

*“An ugly prisoner wears a mask on his face. He is capable of stabbing someone with a smile on his face. It is difficult to understand their attitudes because they are good, bad, ugly and invisible”*

(A convicted Prisoner at the Bamenda Central prison)

Ugly prisoners are the most witty and dangerous prisoners' behind the walls in prison. They understand how the system operates and tries to exploit the shortcomings of the system for their selfish interest. Ugly prisoners' gain a lot of respect from other fellows and prison officials. They avoid direct confrontations with prison officials but manipulate the system discreetly. Those who don't know them consider them as passive actors within the system because of their meek and humble character. They socialize with everybody in the prison community, but chose to maintain close ties with a particular group of prisoners. A majority of ugly prisoners' had no previous convictions prior to imprisonment. They are often remanded to prison custody with all kinds of charges. Their experience with the criminal justice system suddenly transforms them to ugly prisoners. Ugly prisoners' share a different perception of justice from other prisoners. According to them, nothing exists as justice to a poor man. They raise the question why the criminal justice system holds individuals guilty of the injustice of breaking the law when the law itself aids and abets an unjust social order. The prisoner Omayya Njaya whom I earlier presented in the chapter of prisoners' confrontation with the criminal justice system, is an example of an ugly prisoner. These are prisoners who lived responsible lives prior to imprisonment. This can be evidenced by their creativity and industriousness in prison. Unlike the bad prisoner who is egoistic and uses the system to profit himself, the ugly prisoner uses the system to create division amongst the various groups in prison. They provide them with ideas and ways to contest the system. For certain groups of prisoners', he encourages defiant behavior, while on others, he advises them to avoid taking coercive measures against the administration. Ugly prisoners tactfully organize prison breaks and encourage fellow prisoners to escape. In the process, inexperienced prisoners are caught and severely punished. Ugly prisoners' played a pivotal role in organizing the strike actions at the Bamenda Central prison. Because of their knowledge on how the system operates, and their close ties with the administration, many of them who were accused of inciting the strikes, at the end exonerated themselves from the accusations. Ironically, ugly prisoners' are always assigned to post of responsibilities within the prison structure. In the exercise of their duties, they betray both prison



staff and fellow prisoners to each other. Ugly prisoners believe the prison institution should cease to exist because several actors of the criminal justice system use the prison for their personal gains. A majority of ugly prisoners are rich, witty and resourceful. They take advantage of this to prey on the less privileged prisoners who are poor and look up to them for their subsistence in prison. For ugly prisoners, the opportunity to advise, provide assistance to prisoners and prison guards allowed a kind of surrogate resistance, one which could not be held against them (Crew, 2009. P 33). Though the illicit trade on drugs in prison is jointly organized by the various kinds of prisoners, ugly prisoners are the ‘master’s’, the ‘lords’ and ‘barons’ in prison who assign duties and directives to different kinds of prisoners in the prison community. According to them, ‘a prisoner has to be ugly to compensate for the injustice of the system’.

### **10.5 The Invisible Prisoner**

*“I barely knew him except on the day of his release”*

The invisible prisoner refers to prisoners who stand out from the crowd. The primary concern of invisible prisoners is to serve their imprisonment sentence uninterrupted by anybody. They avoid the company of almost everybody in the prison community. They find it difficult to reconcile their personality with imprisonment. Invisible prisoners are sometimes victims of the criminal justice. Invisible prisoners’ experiences with the criminal justice transforms them into becoming who they are. They are always skeptical of the intentions of anybody linked to the system. The prisoner in chapter (5) five who is charged with theft of a horse is an invisible prisoner. Prior to his imprisonment, he was a cleric. He chooses to become invisible because he found it difficult to reconcile his personality with imprisonment. According to him, ‘Becoming invisible transforms him into a shadow of himself’. Invisible prisoners are addressed by different names contrary to their official names in the record office. In spite of their invisibility, they have various ways of venting their anger on the system. One of such ways is that they avoid becoming part of the reformatory program in prison.

### **10.6 The Unfortunate prisoner**

*“Their bad luck accompanies them to prison. They are the most unfortunate fellows we have here.”*

The unfortunate prisoner is always a victim of circumstances. In most instances, the unfortunate prisoner becomes prey to the deficiencies of the criminal justice system. The reasons behind the imprisonment of a majority of unfortunate prisoners’ consist of a host of issues including missing case files, their socio economic backgrounds that hinders them from proper access to the criminal justice system. As a result, they have limited chances of going on appeal. Cases of unfortunate prisoners are easy to comprehend because the element of injustice that arises from them is glaring. The issue with cases of unfortunate prisoners is that no one listens or bothers to address their problems. The actors of the criminal justice system express a passive attitude to their problems. A majority of unfortunate prisoners who take up problems to these officials are made to understand that their problems are not something entirely strange within the criminal justice system. In chapter six, the prisoner falsely charged with armed robbery continued to remain in prison despite the arrest of the original perpetrators. His case exemplifies cases of unfortunate prisoners at the Bamenda Central prison. In a similar

vein, the visit of the state counsel to prison was an insignificant event to a majority of unfortunate prisoners. Their reluctance in meeting the state counsel can be attributed to the fact that in spite of the numerous complaints brought forward by prisoners' to these officials, no one seems to address their problems. Also, during the uprising in prison, the prisoner who lost his life including those who were held responsible for inciting the strikes were all unfortunate prisoners. Also, on the chapter the case of the prisoner who was accused 'Unfortunate prisoners' is susceptible to influences from other prisoners'. According to them, 'anyway is a way of life in prison'. This state of mind leads them to many problems in prison. They perform services for wealthy prisoners' as 'errand boys'. In the chapter on business in prison, the invisible trade consisted of mostly unfortunate prisoners who go round prison selling drugs for their bosses.

### ***10.7 Final conclusion***

This study shows that according to the experiences of the prisoners of the Bamenda Central prison and Ndop principal prison, justice extends far beyond a judge's sentence to include their individual lives, monetary cost, families, community image, pride and corruption. This has provided a vantage position on which to analyze the agency perspectives of prisoners' and what informs their perspectives of justice. Also, it is at this point that we will conclude with a brief summary of what had been expounded in the previous chapters of this study. I will therefore conclude with the following conclusions and recommendations.

Our study has shown that justice particularly in the complex community of the prison where prisoners' live in deplorable conditions, coupled with the legal uncertainty concerning the outcome of their cases, couldn't be really understood only with a legal examination. As of now, there has been no academic literature on prisoners' and their families that combines their voices, agency and perspectives of justice. My writing hinges on this, but in my understanding of prisoners', I took into consideration the perspectives of other actors such as families of prisoners', judges, prosecutors, lawyers, prison officials, volunteers, the prison chaplain, human rights activist and my prior knowledge of these prisons.

Retiring from the rules-based, legalistic hypothesis of previous scholars and adopting a socio-legal approach in methodology informed my research which was guided by the agency structure model based on the perception of prisoners of justice. My methodology is constructed from the principles of participatory research and participant observation. I interacted with more than 250 prisoners', but my research was informed by 98 formal interviews with prisoners' at the Ndop principal prison and the Bamenda Central prison. My interest in relying more on the interviews with these prisoners' was because they have been active actors within the justice system and the records of their outlook and experiences with the criminal justice system provided answers to my questions. In addition to this, the methodology employed by researchers reflects the kind of data they can obtain from the different kinds of prisoners'. With such differences in the perceptions of prisoners' across the various criminal justice institutions, it is obvious that much has been disregarded by previous macro-level research works and that a one-size fits-all approach to ameliorate the plight of prisoners' in respect to access to justice and prison conditions will be ineffective.

Our study disclosed that Cameroon's colonial inheritance of diverse legal systems laid the groundwork for future problems. The new Criminal Procedure Code that was harmonized in 2007 is a hybrid of the inquisitorial system derived from the French civil law and the accusatorial system of the English common law. This has left a majority of judicial officials wanting because of the difficulties that arises from the interpretation and effective implementation of the text. But despite the circumstances that prevail, the onus rests on the various criminal justice agencies for the successful administration of justice. Each of these agencies must cooperate as not to frustrate the other agencies of the criminal justice system in the exercise of their duties. Our study has demonstrated that there is a lack of concerted efforts between the stakeholders of the various agencies. The cases of some prisoners' expatiated in this study shows that some stakeholders of the justice system, reap benefits from the flaws that emanates from the criminal justice system. The result is that this has led to frivolous charges, illegal arrest and detention of accused persons, inordinate delays in court trials, and deplorable prison conditions.

Also the various chapters of this study disclosed that poverty accounted for the sickening experience of a majority of prisoners' who were too poor to afford bail, seek legal representation and provide for their basic necessities in prison. Prisoners' whose families sought legal representation for them averred that the counsels assigned to protect them from loosing their freedom relented their efforts because their clients were either too poor or because the state failed to provide them with incentives. The result was that these counsels invested little time to prepare for their cases and many of them came to court unprepared and constantly pleaded for adjournments. This resulted to a point where some innocent prisoners' pleaded guilty during their trials as a means to put an end to the ordeal they suffered during the course of the criminal justice proceedings.

Further, due to the collective agency of prisoners', they were able to transcend the deficiencies of the justice system and establish a mock court in prison that dealt with such insecurities. Lastly, our detention units and the prison do not reflect the intention of the legislator when she enacted the numerous provisions that aimed at protecting the rights of accused persons. Under the present circumstances, much depends on the determination and moral uprightness of those actors in the administration of justice to exercise their power of discretion whilst complying strictly with the constitutional provisions that enjoins the rights of accused persons. The repercussions of a miscarriage of justice are overwhelming and the burden rests on prisoners' and their families. It is inconceivable that justice should be sacrificed to satisfy the selfish interest of a few.

As long as these deficiencies are not addressed, the flaws of the criminal justice system will impede the full utilization of the 'laws in principle'. The human rights implications that arose from prisoners' voices will be justified and that will provide a basis on what informs prisoners' perspectives of justice.

It is my hope that the hypotheses and recommendations addressed here will be treated as a matter of urgency if we intend to stop the prison from becoming an institution that recycles criminals.

## **Recommendations**

### ***The Prison Service***

The prison service is plagued with a number of issues that needs due consideration. Firstly, the absence of adequate resources and facilities at the Bamenda Central prison can be attributed to some of the reasons why rehabilitation of inmates is near to impossibility. The prison lacks the necessary infrastructures to host the various categories of prisoners'. The fact that juvenile prisoners' are first admitted into the same facility with older inmates on their first day of remand permits them to interact and contract friendship ties with older criminals in the prison community. I suggest that juveniles should not only be excluded from the midst of older inmates, but their facility should be further away from the vicinity of the prison. Furthermore, the recidivism rate is exceedingly high. A majority of the prisoners' convicted do not receive rehabilitation and commit further crimes. One of the purposes of imprisonment is to rehabilitate the prisoner. It is very important for the prison personnel to prepare a bridge so that prisoners' can eventually cross back into their respective communities. It is of utmost importance that prisoners' are rehabilitated and discouraged from their criminal ways of life. Unfortunately, almost the same faces of former convicts are brought to prison over time.

The causes of recidivism have been explained in this study. But most importantly, the socio-economic conditions and the experiences of prisoners' during the criminal justice system are responsible for this predicament.

### ***Poor working conditions***

The stakeholders of the criminal justice system especially prosecutors and magistrates put in extra time everyday to prepare for the next day. They work in old offices, with almost no security. This leaves them in a vulnerable position to incidents of bribery and corruption. The government should ensure that these officials are provided with the necessary resources to ease their working conditions. Moreover, there are also very few prosecutors to handle the workload of the courts in Bamenda. The government has to improve the working conditions of these judicial officials and make them comfortable during the exercise of their duties.

Our study has disclosed that many prisoners' were wrongfully arrested and detained for extensive periods in police and prison custody. Such mistakes were only realized when the accused had spent months and years in custody. I recommend that the state should create an organization or better still delegate one of the several human rights organizations to help victims bring legitimate claims for financial compensation against the state.

### ***Bail Conditions***

The study illustrated that a majority of our prisoners' were unable to secure bail. One of the conditions most resorted to by magistrates, is to ask the accused to deposit a sum of money with the clerk of the court. The reason that prevented them from securing bail was because they did not have the money to deposit in lieu of bond, and also some were unable to present sureties with a good financial backing. I suggest that the courts' should resort to release on self-recognizance provided the accused

have fulfills the other conditions regarding the application of bail. Also, judicial officials should take cognizance of the fact that a majority of these accused people's hail from impoverished backgrounds. The poor inmate finds it difficult to access bail that requires the services of a lawyer, hiring of a surety and 'oiling the mouth' of a magistrate or police officer. The bail application should be simplified in such a way that accused persons can even orally apply for it based on the circumstances.

### ***Police bail***

The bail law in Cameroon grants judicial officials with the power to grant bail. This right is limited as the police can only grant bail in respect of certain offences. A majority of the prisoners' in our study averred that their charges were frivolous and that the police through the use of force extracted most of their statements from them. Also, our study disclosed that the police could only release some of the accused on the condition that they were willing to pay a certain sum of money disguised as 'bail'. In this case those who were unable to meet this demand, had their matters forwarded to the state counsel or prosecutor. It is evident that most of these cases were followed by trumped up charges. I have two suggestions here. The police should not release someone without the express consent of the state counsel or the legal representative of the accused person. Secondly, legal practitioners should assist the police on how they investigate cases and the authenticity of the statements they obtain from the accused during the pre-trial phase. Thirdly, a new system of tape-recording should be introduced within the law enforcement. And this should be done in the presence of either the lawyer of the accused, or the state counsel in charge of the matter.

### ***Inordinate delays in court trials***

Our study disclosed that many reasons were responsible for the delays in our trials. Whatever the reasons, I strongly suggest that in the interest of justice, arrest should be used as a last resort. The golden rule is that the police arrest a suspect and only then can they commence with investigation. Preferably, it should be the other way round, so that the investigation is completed before the accused appears in court for the first time.

This will ease the overburdened criminal justice system and provide enough time for the prosecution to look into other pending matters. Furthermore, it will reduce the overcrowding in prison. Our study disclosed that one of the reasons for inordinate trials was as a result of the negligence from lawyers of the accused. This is quite common with senior counsels who are easily carried away with the juicy case files of rich clients. The result is that they hand over the case files of their poor clients to their collaborators who are often inexperienced with criminal matters. I will strongly suggest that an establishment is created that litigants can always bring their allegations of ill treatment to an independent body. Also, lawyers should be permitted to ask for several adjournments except under special considerations. This would certainly reduce the number of adjournments required in a case and prevent the accused from incurring cost each time his/her matter is brought up.

### ***Awareness training***

Awareness training centers should be created where certain vital information pertaining to access to

the criminal justice system is brought to the knowledge of citizens. A set of core aspects like applications for bail, criminal procedure and legal aid should be addressed in these centres.

Para-legal staffs should be recruited to help assist litigants who face difficulties accessing the criminal justice system. Those recruited should be stationed in rural areas where a majority of litigants encounter difficulties.

Legal texts such as the criminal procedure code should be translated and vernacularised into some of the local languages so that the information can be disseminated to a wider audience. Radio broadcast should equally be made in some of the local languages.

### ***Promote and support cooperation between stakeholders***

Our study has identified that some of the deficiencies of the criminal justice system arose as a result of the lack of concerted efforts between the various stakeholders of the criminal justice agencies. This can be explained by the existence of a ‘superiority’ and ‘inferiority’ complex amongst the various stakeholders. As long as the judge perceives himself as a deity and looks down on the other actors, the machinery of justice will always be grounded. It is very common to encounter a situation where a prison superintendent refuses to conform to the orders of a state counsel to release an accused from prison custody even when he receives a release warrant. The accused is the person who suffers as a result of this misunderstanding. Justice can only be done when the three agencies accept to collaborate and assist each other in the administration of justice. I will suggest that meetings should be held regularly where the various stakeholders meet to discuss their problems and differences.

### ***Alternatives to prison custody***

Community sentences should be used as an alternative to custody should be used on offenders who have committed minor crimes. This should only be possible in the event that they pose no threat to public safety.



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