

THE PROTECTION OF THE INTERESTS OF THE CHILD IN THE LIGHT OF THE REFORM OF CAMEROONIAN PENAL LAW

Written by *Etaba Abana Rémi*

Ph.D. Law Student, Faculty of Law, University of Ngaoundéré (Cameroon)

ABSTRACT

The family is the starting point, see the foundation of society. It is the environment par excellence where the interests of the child must be protected and then becomes the basis of any society. On this basis, the interests of the child must be taken into account in order to have a prosperous society. Thus, the protection of the interests of the child becomes indispensable in order to have educated men. This protection of the interests of the child can be done in civil matters but also in criminal matters to better supervise the child in the family see there.

Only the protection of the interests of the child in criminal matters is the main focus of this study. However, since it was the child who was at the centre of the study, it would be essential to protect the interests of the child in criminal matters while taking account of certain aspects of civil law. It is then up to the legislator to protect the interests of the child in Cameroonian criminal law while taking into account the civil. Even as this protection can have pitfalls. Such a demonstration inspires the need for a reorganization of domestic law in the area of protection of the interests of the child, so that its operative part follows the legal philosophy of hierarchically higher norms. In order to achieve this, this reorganization must lead to the revision of the penal provisions. The inclusion of the interests of the child in Cameroonian criminal legislation is inevitable, with an impact on certain categories of children in the family.

Keywords: Child, Best Interests of the Child, Protection, Criminal Law

INTRODUCTION

The reflection on the interests of the child in Cameroonian criminal law is very important, when we know that children towards their parent are often doomed to themselves. Parents wanting to secure family interests sometimes end up neglecting some children. This can inevitably lead to injustice towards their childrenⁱ. Hence the need to address the interests of the child in Cameroonian criminal law. Even at the outset, the concept of the child for centuries and its place in contemporary society has evolved. The child was the one who did not speak, had no right to speak and could not give his opinionⁱⁱ. His life depended only on the choice and decisions of his parents. Changing societal aspirations have made it possible for children to be subject to their own needs and laws. It should then be said that the child had a certain freedom of expression, which allowed him to defend his own interests in the face of the dominant power of his parents. The child then becomes a hope for the future, these interests must be protected to ensure a better and prosperous future. Children are considered the "future builders", they are the guarantors of tomorrow's wealth and not the possession of the father or any propertyⁱⁱⁱ. So, the child now has all these rights to protect his own interests. However, the rights granted to children within the framework of United Nations conventions are not always taken into account by the legislators of the States parties, this is the case of the Cameroonian legislator because it often happens that the legislator wanting to protect a category of person does not take into account the interest of the child, hence the need to talk about the interest of the child in Cameroonian criminal law.

This then leads us to define a number of concepts, first of all the right which, according to the lexicon of legal terms^{iv}, can be understood in two ways, on the one hand, the objective right which refers to a set of rules governing life in society and sanctioned by the public authority, on the other hand, the subjective right which is a prerogative attributed to an individual in his interest enabling him to enjoy a thing, a value or to demand from others a benefit. However, within the framework of our study, we are interested in objective law, since we will work globally in criminal matters. As for the child, he is defined as a first-degree descendant son or daughter regardless of age. This is the abandoned child, dependent, adoptive, adulterine, unborn, conceived, of a first bed, in danger, in custody, incestuous, legitimate, stillborn, natural, collected, without seen guarded. But within the framework of our study, we will limit ourselves to the consideration of certain categories of child in general and the case of the

adulterine child in particular^v. As for the interest, it refers to what is important, that is, a moral (assignment, honor) or economic (Money, possession of property) consideration that in a case (contract, trial) concerns, attracts, concerns a person. This is tantamount to saying that interest is not only material but also moral. The best interests of the child then refer to what is claimed for the good of the child. This concept is a primary consideration in all judicial decisions in family matters. The notion has no exact definition, which leads everyone to understand it according to their own personality, their own subjectivity. That is why Professor Gaubert points out that it is in reality the personality of the judge who knows the case that will be expressed in the decision rendered. The judge in this regard will use the law and his conscience to decide the case. The interests of the child are not limited to material property, but also to the child's Freedom, Security, life and family ties.

As Dean Carbonnier famously put it, the best interests of the child are a "magic formula"^{vi} in family law^{vii}. The members of the doctrine thus often testify to a certain uneasiness with regard to this notion, comparable moreover to that observed when it comes to public order or the general interest. This difficulty becomes all the more problematic as the concept is increasingly used in legal texts, in international treaties, or in case law^{viii}. The resistance that the concept offers to the analysis therefore refers to the impossibility of giving a meaning, a pre-determined meaning of the child's interest, or, failing that, of identifying criteria capable of favouring its identification. But it is permissible not to take a position on this point. It then arises the problem of protecting the interests of the child in Cameroonian criminal law.

In view of the contours of the interests of the child in Cameroonian criminal law, several questions may be asked to this effect. It seems wiser to ask an essential question: does Cameroonian criminal law sufficiently protect the interests of the child?

The study on the interests of the child in Cameroonian criminal law will focus on two main areas. It will be a question of talking about the indisputable protection of the interest of the child in the reform of Cameroonian criminal law on the one hand, and the perfectible protection of the interest of the child in the reform of Cameroonian criminal law on the other.

THE INDISPUTABLE PROTECTION OF THE INTERESTS OF THE CHILD IN THE REFORM OF CAMEROONIAN PENAL LAW

The protection of the interests of the child is a predominant factor in the family policies of any legal system. Since the psychological and physical development of the child is only partial, the adoption of a set of individualized rights is imperative. It is for us to talk about the obvious consideration of the interest of the child in Cameroonian criminal law on the one hand (A) and the latent consideration of the interest of the child in Cameroonian criminal law on the other

The manifest consideration of the interests of the child in Cameroonian criminal law

To thrive, children need protection and encouragement. These include stable and loving relationships, a sense of security, individual and developmental experiences, boundaries and structures, and a balanced and reassuring environment. The punishment of violations of integrity as a guarantee of the interests of the child (1) and the protection of the interests of the child in family rights (2) will be discussed.

Punishment of offences against integrity as a guarantee of the interests of the child

We will have to talk about the protection of the interests of the child in physical integrity and the protection of the interests of the child in moral integrity.

In order for him to be infanticide, a number of conditions must be fulfilled relating to the status of the victim and the perpetrator or accomplice of the offence. With regard to the conditions attached to the victim, two conditions are attached to the victim's status in relation to his or her condition and age. It is necessary that the victim is a new born, that is, a child born alive^{ix}. The criterion of viability can be questionable because when the child is born alive, it is assumed that he has reached gestative maturity, he has presented apparent signs of life and is different from a stillborn^x, one who has never lived outside the maternal breast. This criterion of life birth makes it possible to distinguish infanticide^{xi} from abortion and miscarriage^{xii}. As to the age of the victim, the legislator emphasizes that the act must have been committed " in the month of his birth ". With regard to the conditions relating to the perpetrator or accomplice of infanticide, the legislator emphasizes that it is primarily the mother of the child. The latter is

the one that naturally gave birth to him or is recognized as such. In accordance with Cameroonian civil law, childbirth is the recognition of the child by his mother, it is the one who gave birth that will be considered^{xiii}. Infanticide is an obstacle to the best interests of the child because a child who dies after birth loses the rights that he could benefit from. The motivations for mothers to kill their new born babies are sometimes financial and material. All infanticides are different. Or that there is simply no desire for a child^{xiv}.

As a result, Article 340 of the Criminal code provides that a mother who is the principal perpetrator or accomplice in the murder or murder of her child in the month in which she was born shall be liable to imprisonment for a term of five to ten years only, without these provisions being applicable to other perpetrators or accomplices.

Forced marriage is a criminal offence, and child marriage without consent is by definition a forced marriage. Forced marriage is intended to marry a person against his will. The family imposes marriage on one child but also on another family and of course, does not respect the consent of their child^{xv}.

In societies practicing forced marriage^{xvi}, girls and women have a lower status than men. As a result, Article 356 of the Cameroonian Penal Code punishes forced marriage^{xvii}.

The protection of the interests of the child in his moral integrity consists in talking about the criminalization of procuring and the criminalization of abandonment of the home.

Prostitution and its attendant evil, trafficking in persons for the purpose of prostitution^{xviii}, are incompatible with the dignity and worth of the human person and endanger the well-being of the individual, the family and the community.

According to Article 294 of the Cameroonian Penal code, pimping can be defined as the situation of an individual who aids or facilitates the prostitution of others or who even occasionally shares the proceeds of the prostitution of others or receives subsidies from a person engaging in prostitution.

Among the crimes against the sexuality of children, pimping is commercial sexual exploitation. The criminal legislator criminalized him only from Ordinance No. 72/16 of 28 September 1972 by providing details in the understanding of the offence^{xix}.

The repression of procuring operates in two cases^{xx}. In the event that the offence is committed against a person over 21 years of age without any aggravating circumstances, the perpetrator shall be punished by imprisonment from six months to five years and a fine of 20,000 to one million francs. Articles 294 and 343 of the Cameroonian Penal code provide for imprisonment from six months to five years and a fine of 20,000 to 500,000 CFA francs for prostitution in the strict sense. The prison sentence is the same, but the maximum fine is increased to one million francs for pimping. Depending on the circumstances of the offence, these penalties may be increased. In Cameroon, they are simply doubled if the offence of procuring is accompanied by coercion or fraud or if the perpetrator is armed^{xxi}. The criminalization of marital removal highlights the criminalization of abandonment of home and the criminalization of expulsion from the marital home in Cameroonian criminal law.

The criminalization of abandonment of the home involves first examining the constituent elements of the offence in order to clarify it better, and then examining the applicable penalty.

The first element is the existence of a marital or filial relationship between the victim and the offender. A person who lives in a common-law relationship with his partner and who is subsequently abandoned cannot invoke against the latter article 358 of the Cameroonian Criminal code^{xxii}. It is this that governs the abandonment of the home^{xxiii}. As a second element, there must be genuine abandonment of the family home and the offender must renounce all or part of his material or moral obligations towards his spouse or his offspring. To these material elements must be added the intentional or moral element. The offender must act voluntarily and know what he is doing^{xxiv}.

Abandonment of the home affects the child's psychosocial development and personal and social relationships. The legislator provides that a spouse, father or mother who, without legitimate reason, evades, by abandoning the family home or by any means, all or part of his moral or material obligations towards his spouse or his children, shall be punished by imprisonment from three months to one year or a fine of 5,000 to 500,000 francs. The interest of the latter is protected by the legislator.

If the offence is committed only to the detriment of a spouse, the prosecution can be initiated only on the preliminary complaint of the abandoned spouse.

The same penalties shall be imposed on a guardian or customary official who evades his legal or customary obligations towards the children in his custody.

The criminalization of eviction from the marital home is important to show elements of the offence and then the applicable penalty.

Talking about the constituent elements of expulsion from the conjugal home leads to the identification of conditions to be met for this offence. First of all, the existence of a marriage bond between the protagonists of the offense. The complainant and the offender must be legitimate spouses.

Since the married woman's domicile is that of her spouse, it follows that the marital domicile will be the place where the husband resides. Thus, spouses who live in different cities because of their professional obligations have the husband's marital home. Consequently, a woman who is expelled while visiting her spouse at her place of residence may avail herself of the provisions of Article 358 referred to above.

The protection of the interests of the child in family rights

It is a question of talking about the protection of the interests of the child in his rights to parents and the protection of the interests of the child through parental obligations^{xxv}.

The protection of the interests of the child in his rights to parents agrees to talk about the protection of the interests of the child in filiation and the protection of the interests of the child through the Prohibition of the enclave to the right to schooling.

The protection of the child's interest in filiation emphasizes the modalities of proof of filiation of the child and the applicable penalty in case of violation of the proof of filiation of the child. Establishing proof of parentage is important to protect the best interests of the child when it is known that children need good follow-up and living with their parent. The truth of a filiation relates mainly to an intimate and secret fact: procreation^{xxvi}. The Cameroonian legislator punished by imprisonment of five to ten years, the one whose actions have the consequence of depriving a child of evidence of his filiation. The applicable penalty is necessary to protect the interests of the child. Violation of proof of filiation of the child is an offence against the

interests of the child and is punishable under Article 341 of the Cameroonian Criminal Code^{xxvii}.

The protection of the interests of the child through the Prohibition of the enclave to the right to schooling shows that education is an essential right, which allows the child to receive an education and to flourish in his social life.

Education is a human right that must be accessible to all without discrimination^{xxviii}. Childhood and adolescence are the periods that are conducive to school education.

Obstruction of the child's right to schooling is punishable under Cameroonian criminal law^{xxix}. Indeed, the legislator punished with a fine of fifty thousand to five hundred thousand francs, the parent who, having sufficient means, refuses to send his child to school.

The protection of the interests of the child through parental obligations emphasizes the criminalization of non-representation and non-payment of alimony.

The purpose of criminalizing the offence of not representing a child is to protect the rights of the parent or parents over their child, but also from the child's point of view, the maintenance of his or her links with his or her legal representatives and the failure to represent the child.

The offence of non-representation of a child thus penalizes the failure to respect the rights of access and of accommodation or custody of a person over a minor child, whether these rights arise from a court decision or independently of any court decision. The material element of child non-representation is characterized by the fact that the child is not handed over to the holder of a right of access or custody, or that the child is not returned after a right of access. In the moral element, tort is an essential element of the offence of not representing a child, which is characterized by the deliberate or undue refusal to hand over the child to the person who has the right to claim him, whatever the motive for this attitude, and in the absence of any present and imminent danger threatening his person or health.

The sanction of the non-representation of the child is a protection of the interests of the child by the legislator^{xxx}. Article 179 of the Criminal code punishes anyone who does not represent a minor to whom his custody has been entrusted by a court decision, even if Provisional, with imprisonment of one month to one year and a fine of 5,000 to 1,000,000 francs. In addition, article 355 of the same code punishes with imprisonment from 1 to 5 years and a fine from

20,000 to 200,000 francs anyone who is in charge of a child does not represent him to those who have the right to claim him^{xxxix}.

Alimony is material assistance paid in a family setting, for the purpose of providing for the vital needs of the creditor who is unable to provide for himself and is in a state of necessity^{xxxix}. Its object is therefore purely food. It may be paid by one of the spouses to his or her spouse during the divorce proceedings on the basis of his or her duty to help and until the divorce is final or by a parent on the basis of the maintenance and upbringing of his or her child.

Latent consideration of the interests of the child

A family is a community of people united by kinship ties existing in all human societies. The International Convention on the rights of the child gives every child the right to a family. Indirect protection of the interests of the child also involves the mother who carries the child before birth. It is for us to talk about the protection of the pregnant woman on the other hand and the protection of the interests of the child in family relations on the other hand.

The protection of the interests of the child through the protection of the pregnant woman

At this level of analysis, it is necessary to talk about physical and moral violence against pregnant women.

There is physical violence of course, but also more pernicious violence, psychological, harassment, threats. The regime of this offence allows it to be classified among the offences fairly severely punished^{xxxix}. Pregnant women in Cameroon enjoy a special repressive regime, taking into account their state of pregnancy. Under the Criminal Code, she is subject to special procedures for the execution of sentences handed down against her for offences against her protected criminal values^{xxxix}.

Pregnancy is perceived as a period of happiness and fulfilment for a woman^{xxxv}. The legislator gives the penalty applicable to physical violence in article 338 of the Cameroonian Criminal code^{xxxvi}. Psychological violence, also known as moral violence, mental violence, or emotional violence, is a form of violence or abuse towards others without physical violence being directly implemented. This violence can result in psychological trauma, which can lead to chronic

depression, or stress disorder post-traumatique. la pregnant woman facing moral violence may have premature births.

The Cameroonian legislature punishes moral violence against pregnant women protecting the interests of the child. Therefore, in relation to violence against pregnant women, the legislator points out that anyone who commits violence against pregnant women is punishable by imprisonment of five to ten years and a fine of one hundred thousand to two million francs. The legislator here highlights violence as a whole, when it is already known that it can have physical or moral violence. The legislator gives the penalty applicable to physical violence in article 338 of the Cameroonian Criminal code.

The unborn child is defined here as the one who lives in utero, that is, still in gestation in the womb of his mother. As respect for life is one of the foundations of our civilization, the purpose of criminal law is to protect certain values, foremost of which is human life^{xxxvii}.

Domestic violence during pregnancy has a negative impact not only on the mother, but also on the unborn child. Compared to other mothers, mothers who have experienced family violence during pregnancy are more likely to give birth to their child prematurely or to have a smaller or toddler child.

By punishing any act or act intended to destroy the product of conception, articles 337 and 338 of the Criminal code give a deterrent effect to the criminal policy pursued by the legislature in this area. The purpose of this sentence is to discourage potential perpetrators of violence against the unborn child and to punish the perpetrators who have committed this offence^{xxxviii}.

The Legislature provides that a woman who procures or consents to the abortion shall be punished by imprisonment for a period of fifteen days to one year and a fine of 5,000 to 200,000 francs, or both. Similarly, anyone who, even with his consent, procures abortion to a woman shall be punished by imprisonment of one to five years and a fine of 100,000 to 2,000,000 francs. The legislator provides that penalties may be doubled for any person who habitually aborts a person who is engaged in a medical profession or in relation to a medical profession.

The penalty for violence against an unborn child also punishes violence against a pregnant woman in order to better protect the interests of the child^{xxxix}.

The 1996 Constitution of the Republic of Cameroon does not deal with the death penalty. However, the preamble states that " everyone has the right to life and to physical and moral

integrity. It must be treated in all circumstances with humanity. Under no circumstances may she be subjected to torture or to cruel, inhuman or degrading treatment or punishment ". The Cameroonian legislature reserves the death penalty for the most heinous crimes. In accordance with article 22, paragraph 1, of the criminal Code, all death sentences are submitted to the president of the Republic for a decision on the commutation of the sentence. No death penalty may be imposed until the president has notified his decision not to commute the penalty (Article 22, paragraph 2, of the Criminal Code).

In Cameroonian criminal law, a pregnant woman cannot be sentenced to death because this is possible if and only if she gave birth first. This is therefore a very important need for the legislator to protect the interests of the unborn child, who is a child who can benefit from a number of material assets of his parents but also from his right to life^{xl}.

The protection of the interests of the child in family relations

The acts constituting the offence of adultery are identical in all spouses, whether husband or wife. They consist in having sex with a person other than his spouse. The husband with more than one spouse is obliged to prove the existence of a polygamous union. Adultery is the consequence of the violation of the duty of fidelity of the spouses, a duty that itself arises from marriage.

In particular, article 361 of the Cameroonian Penal Code states: "a married woman who has sexual intercourse with another than her husband shall be punished by imprisonment from two (02) months to six (06) months or by a fine from twenty-five thousand (25,000) to one hundred thousand (100,000) francs. a husband who has sexual intercourse with women other than his wife (s) shall be punished by the same penalties provided for in Paragraph 1 Above. However, proof of the existence of a polygamous union rests with the husband ».

With particular reference to bigamy, the lexicon of legal terms defines it as the fact that a person already engaged in the lines of marriage contracts another before the dissolution of the previous one. A second marriage may not be entered into before the dissolution of the first marriage.

Bigamy is punishable not only at the civil level, but also constitutes a criminal offence punishable under article 359 of the Cameroonian Criminal code. Indeed, the legislator provides that whoever commits bigamy is punished by imprisonment from 2 months to 2 years and a

fine of 25,000 to 500,000 FCFA. This penalty discourages any perpetrators of this offence from taking action.

The sanction of bigamy by the Legislature then constitutes a protection of the conjugal relationship which in turn protects the interests of the child^{xli}.

Incest involves sexual intercourse with legitimate or natural ascendants or descendants without limitation of degree and with or without consent moreover, incest against minors is a massive phenomenon with very serious consequences on the physical and mental health of children in the short, medium and long term if adequate protection and care is not put in place.

The phenomenon of incest puts a brake on the satisfaction of the interests of the child it has been important for the Legislature to find a remedy for this offence. The protection of the interests of the child also takes place through the repression of incest^{xlii}. The penalty applicable in the case of incest was a measure imposed on potential perpetrators. The Legislature has found it better to punish incest in order to protect the interests of the child in article 360 of the Criminal code.

Sexual assault can be defined as any sexual assault committed in a violent, surprising and coercive manner. It is therefore any sexual act or attempt at sexual act, advance or unwanted sexual comments, any act aimed at exploiting a person's sexuality using coercion, threats of injury or physical force, by any person, regardless of his relationship with the victim, the place where the context

Sexual offences, rape and indecent assault are punishable. Article 296 of the Cameroonian Penal Code punishes rape^{xliii}. Rape of a minor causes trauma to which the victim bears physical or moral scars for a very long time.

With regard to indecent assault, there is indecent assault on a minor of sixteen years of age, punishable under article 346 of the Cameroonian criminal code with imprisonment of two to five years and a fine of 20,000 to 200,000 francs. In addition, penalties are doubled if violence has been used or if the act is committed by a legal representative of the child.

The perfectible protection of the interest of the child in the reform of Cameroonian Penal Law

The issue of protecting the interests of the child is directly related to the goals for development, poverty reduction, schooling of children, from the elimination of gender inequality, to the reduction of child mortality. It is for us to talk about the partial protection of the marital relationship to the detriment of the interests of the child on the one hand and the necessary strengthening of the protection of the interests of the child in Cameroonian criminal law on the other.

The partial protection of the conjugal relationship to the detriment of the interests of the child

Divorce presupposes that two married people break off their relations and ask the judge to confirm their disunity^{xliv}. One has to speak of the repression of adultery to the detriment of safeguarding the interests of the child on the one hand and the repression of bigamy to the detriment of the preservation of the interests of the child on the other.

The punishment of adultery to the detriment of safeguarding the interests of the child

Mention should be made of the conviction of spouses for adultery as an obstacle to the interests of the child and the conviction of spouses for adultery as a means of dissatisfaction with the protection of the interests of the child.

Delinquency is a legal construct that designates all crimes and offences committed in a given space and time, and is determined in relation to the law. Deviance, on the other hand, is a social construction that designates the set of behaviors that deviate from the norm, and is determined in relation to values.

The child who is without a parent sees himself alone in the world and tries to do everything to survive. As a result, he throws himself at banditry and becomes a danger to public order^{xlv}.

The husband being the head of the family takes care of the maintenance and upbringing of children^{xlvi}. However, when one of the parents the husband or wife is in prison for adultery, the fate of the children is not protected, the children are deadlocked the absence of their parent

father or mother who is in prison affects and destabilizes them and eventually become bandits. If the parent who is in prison alone takes care of the children's schooling and the remaining parent does not have the means to send the children to school, they will no longer be sent to school for lack of means and will become offenders^{xlvi}. Most children who do not live with their parents become delinquents and engage in banditry.

The child who becomes an offender is a danger to public order and ends up serving a prison sentence.

The interest of the legitimate child is better protected than the interest of the adulterine child this is observed in so far as the spouse who commits adultery is sometimes obliged not to disclose his act for fear that his partner will seize the judge for adultery and end up in prison. This is a measure put in place by the legislator which puts the interest of the child first and legitimizes it. Indeed, the legislator tries to protect the conjugal relationship to better establish the interest of the legitimate child, but this way of seeing things puts a discrimination between the interest of the legitimate child and that of the adulterine child. On balance, the interest of the legitimate child is put forward to allow the conjugal relationship to be protected.

The fact that the legislator punishes adultery is to the detriment of the adulterine child. The latter remains doomed to itself; it has no protection because the legislator does not facilitate its recognition by its progenitor. Most of the adulterous children take to the streets by engaging in illegal activities^{xlvi}. The adulterine child sees his interest being neglected by the legislator because not only is he not considered in the same way as the legitimate child, the legislator does not allow the facilitation of his integration into the family yet he is the child of one of the spouses.

When the child is away from his parents or one of them, his interests are not protected. The conviction of one of the spouses for adultery drives the child away from his parent, therefore the child finds a void in himself. The removal of the child from his parents jeopardizes his interests. The conviction of the spouses then does not protect the interests of the child it remains indifferent and rather causes unrest towards the child. The removal of the child from his parents goes against his interests, the conviction at this specific level of a negative impact on the interests of the child^{xli}. The interest of the child is not protected in the conviction of one of the spouses for adultery, as this conviction removes the child from his parents.

The adulterous spouse who is put in prison for adultery is removed from his children and as a result, the interest of the child is not protected and eventually is destroyed. The parent who is in prison cannot at the same time take care of his children therefore imprisonment destroys the interest of the child. The conviction of spouses for adultery is an obstacle to the protection of the interests of the child. It is therefore a question of finding that the fact that one of the parents is in prison for adultery destabilizes the interest of the child and destroys it.

The repression of bigamy to the detriment of the preservation of the interests of the child

It is for us to talk about the impact of the repression of bigamy to the detriment of the interests of the child in monogamous marriage and in polygamous marriage.

A child who separates from one or both of his parents is mentally destabilized. It appears that while some children suffer from this situation for a long time, many find it difficult to adapt inadequately to their new family life. A better understanding of the child's reactions to parental separation should facilitate early recognition of children at risk of mental disorders requiring care.

Parental separation is also associated with problems and early transitions when children become young adults, and even later.

The impact of parental separation on the best interests of the child is well documented. Most respond to separation from their parents with painful emotions, including sadness, confusion, fear of abandonment, guilt, misconceptions, anger, feelings of loyalty conflict, worry and bitterness.

The child who separates from his parent in a polygamous marriage is more delinquent than the child who separates from his parent in the monogamous marriage^{li}, this can be explained in the observation of social facts^{li}. Indeed, the causes of the phenomenon are many, among others, social, economic and cultural^{liii}. "Nothing is more important than building a world in which all our children will have the opportunity to realize their full potential and grow up healthy, in peace and dignity," said Kofi A. Annan, the former secretary-general of the United Nations^{liiii}.

It is true that children from monogamous marriage by becoming delinquents after the imprisonment of one of the parents for bigamy end up violating the criminal law and end up in

prison. This situation can be explained by an analytical reflection insofar as it is known that in monogamous marriage there are few children than in polygamy marriage and the lack of financial means in case of imprisonment of a parent for bigamy has much more repercussions in polygamous marriage.

In polygamous marriages, the imprisonment of a polygamous husband has serious consequences for the interests of the child, since the polygamous husband represents the foundation of the polygamous family. By putting him in prison for bigamy, it pushes children to illegal activities because of lack of livelihood and eventually ends up in prison. The polygamous family implies several children and necessarily requires large means.

The need to strengthen the protection of the interests of the child in Cameroonian criminal law

The notion of interest appears as caring about what goes in the direction of something, someone, who is favorable to them. The child is the most vulnerable part of the family and is the most affected. The strengthening of the interests of the child will necessarily require the mitigation of the repression of adultery (2) and bigamy (1).

Mitigating the punishment of adultery for the effective protection of the interests of the child

Mitigating the repression of adultery is tantamount to finding a more favourable solution to the child's future in order to offer him a more balanced and stable family environment^{liv}. The child of today is the citizen of tomorrow and for him to be responsible and good patriot later he must be well supervised and his good supervision necessarily passes first within a family. The Cameroonian Penal code punishes with imprisonment from 02 months to 06 months any person who has committed adultery. Article 24 of the Penal code defines imprisonment as a deprivation of Liberty during which the convicted person is required to work.

For the purposes of Article 361 of the Cameroonian Criminal code, an adulterous spouse shall be punished by imprisonment for a term of two months to six months^{lv}. Incarceration separates the parents who care for the child and affects his or her development because the separation of the parents affects the interests of the child. An adulterine child is a child who is conceived

within the framework of an adulterine relationship, that is, outside the marriage in which one of the parents is already engaged. It turns out that the legal status of the adulterine child in relation to that of the legitimate child is very complex.

The non-neglect of the adulterine child protects his interest. When a new born is born, it must be given an identity from the moment it is born viable by making it appear in the civil registry with the name of its parents. But it must be remembered that with the law of January 03, 1972^{lvi}, the situation has changed. This law is a new reform of filiation in which the term adultery child was abolished. The child who yesterday was called adultery child, today is recognized as a natural child.

The non-neglect of the interest of adulterine children in matters of succession refers initially to the fact that adulterine children did not have the same rights and were disadvantaged in relation to the legitimate children of None said that they are the children of sin. Fortunately, Act No. 2001-1135 of 3 December 2001 on the rights of the surviving spouse and adulterous children and modernizing several provisions of inheritance law had changed that unequal situation by providing that adulterous children had the same rights as legitimate children in the settlement of estates^{lvii}. As a result, they have the status of reserved heirs (the reserved share is a legal share that rightfully belongs to the heirs).

An adulterous spouse is one who has had intimate relationships with someone other than his spouse. The criminal legislator has provided for a penalty of imprisonment ranging from two (02) years to six (06) months or a fine of twenty-five thousand (25,000) to one hundred thousand (100,000). Thus, the fine appears as a pecuniary penalty under which the convicted natural or legal person, pays or causes to pay to the public treasury a sum of money determined by law.

The fine for a person to pay money to the state treasury can remind the adulterous spouse to order and care for his family, and more precisely for his children in his care. The protection of the interests of the child is paramount. A spouse who has been forced to pay a sum of money for something that could avoid will probably not do it again.

Because of the stability of the family and the protection of the interests of the child, the Cameroonian Legislature must repeal the penalty of imprisonment of the adulterous spouse in favor of the fine. It is very shocking for a child to see one of his parents imprisoned.

Since children are vulnerable than adults, because they have no voting rights and no political, economic and financial influence, because their development and fulfilment in a healthy and stable environment is crucial. The legislator entrusts his education to his mother and father that they are obliged to ensure his interest, and instil in him good value. They are committed to building a healthy and dignified environment. Accordingly, the International convention on the rights of the child (ICRC)^{lviii} provides that " in all decisions affecting children, whether taken by public or private institutions, social welfare institutions, courts, administrative authorities or legislative bodies, the best interests of the child must be a primary consideration ". It is always in the spirit of the integration of the interests of the child that the conviction of the adulterous spouse to the payment of a sum of money will allow him to come to his senses and call him to order^{lix}.

Mitigation of the repression of bigamy with a view to guaranteeing the interests of the child

Bigamy is the fact that a person already bound by marriage enters into a second marriage with another person even before the dissolution of the previous one. In Cameroon bigamy is a criminal offence punishable by imprisonment and a fine.

It is necessary to speak of the annulment of the sentence of imprisonment of the spouses for bigamy in favour of the increase of the fine penalty as an effective response to the repression of bigamy^{lx} and the fine penalty as a repressive means of bigamy protecting the interests of the child.

The penalty of imprisonment when annulled for the purpose of protecting the interests of the child in the context of the repression of bigamy better protects this interest

The annulment of the prison sentence in the context of the repression of bigamy protects the interests of the child^{lxi}. Because of this, the child lives in the family with both parents, he is not separated from his parents and lives in harmony. Since the spouse who has committed bigamy does not end up in prison for this crime, the child remains in constant contact with his parents and this protects his interest. When the child lives with both parents, he is fulfilled and feels under the protection of the latter. From a general point of view, parenting encompasses a relational, spiritual dimension that passes through parental love. The latter provides the child with emotional security, but also stability and an attachment relationship with his parents.

When the child lives with his parents, this implies that he is taken care of by the latter. Because of this, there is an availability of the means available to the child allowing him to maintain his physical and moral balance. The presence of material and financial means at the disposal of the child leads to the stability of his physical and moral balance. The cancellation of the prison sentence in the repression of bigamy allows the child to have the means necessary for his daily needs.

It should be emphasized that the cancellation of the prison sentence in connection with the repression of bigamy entails the non-delinquency of the child. On this, the child who lives with his parents is far from becoming an offender and is difficult to end up in prison for having accomplished an offence endangering public order, and even if he became an offender this would be mitigated compared to the child who lives only with a parent or without a parent.

The punishment of bigamy through increased fines is a deterrent to bigamy^{lxii}. The fact of using only the penalty the fine in the context of the repression of bigamy allows the spouses to turn away from bigamy that is to say that they do not commit bigamy. As a result, it can be said that by increasing the fine at the expense of imprisonment, the spouses turn away from bigamy and therefore the interests of the child are protected.

The repression of bigamy by increasing the fine and cancelling the prison sentence makes the spouses responsible and they distance themselves from bigamy. Spouses at this time feel responsible and trust each other. Using only the penalty of fines in connection with the repression of bigamy, the interests of the child are protected because the spouses continue to live together and eventually become responsible.

The increased fine in the context of the repression of bigamy makes it possible to sensitize spouses by showing them the fine applicable in case of bigamy. The fine protects the interests of the child by allowing spouses who commit bigamy to always remain with their children in the family.

CONCLUSION

All in all, the problem that has caught our attention throughout this work is that of protecting the interests of the child in Cameroonian criminal law. Two important aspects of this problem were discussed.

On the one hand, there was talk of enshrining the interests of the child in Cameroonian criminal law. In this section, we have been led to demonstrate that the protection of the interests of the child in Cameroonian criminal law is done directly and indirectly^{lxiii}. This has been shown to us in so far as it has been seen that the legislator protects the interests of the child^{lxiv} before and after birth in accordance with the relevant legal provisions.

On the other hand, our study focused on the scope of the interest of the child in Cameroonian criminal law where we talked about the partial protection of the conjugal relationship to the detriment of the interest of the child^{lxv} and the necessary strengthening of the interest of the child in Cameroonian criminal law.

This article served to renew the debate around the overly controversial notion of the interests of the child at a time when human rights are experiencing a resurgence of interest. It led to an understanding of its meaning and content, despite its apparent simplicity, and then its consequent application to the child's situation^{lxvi}. The constant search for the improvement of the child's interest should not lead to the birth of a category of social monsters, legally incapable but idealized by exaggerated theoretical protection, to such an extent that its upbringing and socialization become practically impossible. After all, the child must be a child, that is, the human being in miniature, an adult in the making, carefully brought up but gradually empowered. Mr. Jean-Pierre ROSENCZVEIG recalls that "because he has rights, the child also has responsibilities not to say "duties". At the end of the day, the necessary realization of the interests of the child, which sanctions this research, appears as the basis of an effective and imperative reform to be carried out by the Cameroonian legislator to adapt the laws to the requirements of the new standards of protection of the interests of the child.

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- ^{ix} Sustainability is not decisive here in terms of its implications. The viable born child can apparently survive. B. TEYSSIE, *Droit civil- les personnes*, 14e éd., LEXIS NEX.
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- ^{xvi} The Cameroonian Penal code in article 356 punishes forced marriage.
- ^{xvii} The Cameroonian legislator provides that the repression of forced marriage is made by primary or accessory sanctions that may lead to the forfeiture of the paternal power of guardianship and guardianship.
- ^{xviii} Preamble to the International Convention of 2 December 1949. Read the full Convention for the suppression of trafficking in human beings and the exploitation of the prostitution of others on the website of the Office of the United Nations High Commissioner for human rights.
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- ^{xxii} Article 358 of the Cameroonian Penal code punishes the abandonment of home.
- ^{xxiii} The Cameroonian legislator sanctions the abandonment of home in order to protect in another way the interests of the child.
- ^{xxiv} The Cameroonian legislator provides that the perpetrator of the abandonment of home must act knowingly and have the intention to commit this offence.
- ^{xxv} F.RINGEL et E.PUTMA, *Droit de la famille* , PUAM, 1996, p. 201.
- ^{xxvi} F. DEKEUWER, « A propos du pluralisme des couples et des familles », *Petites affiches* du 28 avril 1999, n° 84, p. 30.
- ^{xxvii} The Cameroonian Penal code in its Article 341 punishes the violation of the proof of the child's filiation.

xxviii B.GUIMDO, *Le droit à l'Éducation au Cameroun*. (Expressions juridiques et pratiques d'un droit fondamental) pp. 54-62.

xxix M.ZEH, *Société civile et promotion des droits de l'enfant : l'importance de l'éducation*, in *Cahier Africain des Droits de l'Homme, Penser et réaliser les droits de l'homme en Afrique* 4 juillet 2000, pp. 165-180, pp. 167-168.

xxx The Cameroonian legislator punishes non-representation.

xxxi The Cameroonian Penal code in its article 180 punishes the non-payment of alimony which promotes the protection of the interests of the child.

xxxii The payment of alimony is mandatory and protects the interest of the child

xxxiii In organizing the preconditions for the execution of the sentence, Article 22 CP, paragraph 3, deals with of the maximum sentence of the pregnant woman in the following terms: "the pregnant woman shall be subject to the death penalty only after she has given birth".

xxxiv With regard to the imposition of a custodial sentence and preventive detention, Article 27 of the criminal code on the beginning of the sentence provides for two modalities. Paragraph 2 states that "if a woman sentenced to deprivation of Liberty is pregnant or has just given birth, she shall be punished only six weeks after giving birth".

xxxv From a general point of view, pregnant women enjoy, like any other woman, the Prohibition of night work provided for in Articles 81 and 82 of the Labour Code. For the purposes of Article 81, night work is that carried out between ten o'clock in the evening and six o'clock in the morning. This work is forbidden to the pregnant woman to allow her to rest and facilitate the growth of the conceived child. Article 82 establishes occupational rest for women and children for a daily period of at least twelve consecutive hours.

xxxvi Article 338 of the Cameroonian Penal code punishes violence against pregnant women.

xxxvii The Legislature protects the pregnant woman to protect the right to life of the unborn child.

xxxviii See article 4 of the Charter of the rights of the family presented by the Holy See on 22 October 1983 : "human life must be absolutely respected and protected from the moment of its conception. (a) Abortion is a direct violation of the fundamental right to life of every human being".

xxxix The unborn child is the one who has not yet been born but is in gestation in the mother's breast.

xl By protecting the pregnant woman, the legislator protects the unborn child.

xli In the polygamous family, the removal of the father of the family for bigamy by imposing a sentence of imprisonment has an impact on the interests of the child.

xlii The Cameroonian legislator incriminates incest.

xliii The Cameroonian legislator criminalizes rape.

xliv A. Régnier, *Quand la séparation des parents s'accompagne d'une rupture du lien entre le père et l'enfant*, *Population et Sociétés*, INED, mai 2013.

xlv B. BEIGNIER, *L'ordre public en droit des personnes*, in *L'ordre public à la fin du XXe siècle*, (S/D) REVET Thierry, Dalloz, Paris 1996, P. 19.

xlvi It should be noted that family law, in particular, seeks to safeguard family ties.

xlvii The family becomes a criminogenic environment for children when the latter becomes unstable.

xlviii As Dominique Duprez points out, for example, young offenders, perhaps because the object refers to a problem of categorization, no longer seems to be a major concern in the field of social science research.

xliv The fine causes the spouses not to commit bigamy.

¹ Setting aside the custodial sentence promotes the interests of the child and ensures that the child does not become an offender in the event that the child is less an offender.

li A. BENABENT, *L'ordre public en droit de la famille*, in *L'ordre public à la fin du XXe siècle*, (S/D) REVET Thierry, P. 28.

lii The fine makes the spouses responsible and leads them to trust each other, which subsequently protects the interest of the child because the child living with his or her parents sees his or her interest protected.

liii Kofi A. Annan, the former Secretary-General of the United Nations, was protecting the interests of the child.

liv S. CIMAMONTI, *L'ordre public et le droit pénal*, in *l'ordre public à la fin du XXe siècle*. (S/D) REVET Thierry, P. 96.

^{lv} The Cameroonian legislator incriminates adultery.

^{lvi} The law of 3 January 1972 emphasizes the parentage of the adulterous child.

^{lvii} Act No. 2001 - 1135 of 3 December 2001 on the rights of surviving spouses and adulterous children protects the interests of the child.

^{lviii} The International convention on the rights of the child protects the interests of the child in its preamble.

^{lix} The abolition of the prison sentence for the adulterous spouse protects the interests of the child.

^{lx} The mitigation of the repression of bigamy leads to the moderation of the delinquency of the child

^{lxi} This is a preventive method of protecting the interests of the child, aimed at dissuading spouses from committing bigamy.

^{lxii} The fine penalty as a means of raising awareness of the spouses protecting the interests of the child because parents at the sites of finding themselves in prison for bigamy are punished just with a fine penalty and the children continue to live with his last

^{lxiii} SOBZE (S.), *La protection des droits de l'enfant au Cameroun : ombre et lumière d'un droit de l'homme dans un pays en développement* , p. 2.

^{lxiv} Fr.TERRE et D. FENOUILLET , *Droit civil. La famille, op. cit* ; Avant-projet du Code de protection de l'enfant, *Commentaire* sous l'Art. 66, p. 20.

^{lxv} *Ibid.*

^{lxvi} T. BOULANGER, *Autorité parentale et intérêt de l'enfant. Histoire, problématique, panorama comparatif et international*, pp. 3 et s.