

THE DEATH PENALTY IN LAW AND IN PRACTICE **CAMEROON**





CAMEROON

AREA

475 442 km²

CAPITAL

Yaounde

POPULATION

25 876 380 (2019, World Bank)

OFFICIAL LANGUAGE

French, English

HEAD OF STATE

Mr. Paul Biya, President of the Republic, has been in power since November 1982. He is now serving his 6th term in office after being re-elected in 1992, 1997, 2004, 2011 and 2018. His political party is the Cameroon People's Democratic Movement (CPDM).

MINISTER OF STATE, MINISTER OF JUSTICE AND KEEPER OF THE SEALS

Mr. Laurent Ezzo

MINISTER OF FOREIGN AFFAIRS

Mr. Lejeune Mbella Mbella

MINISTRY IN CHARGE OF THE PENITENTIARY ADMINISTRATION

Ministry of Justice



STATUS
MORATORIUM ON EXECUTIONS

DATE OF THE LAST EXECUTION
1997

NUMBER OF DEATH SENTENCES IN 2020
0

NUMBER OF PRISONERS ON DEATH ROW
AT THE END OF 2020
250+ ESTIMATED

DEATH PENALTY APPLICATION AND CONDITIONS OF DETENTION OF DEATH ROW PRISONERS

THE CONDITIONS OF DETENTION OF DEATH ROW PRISONERS

Conditions of detention of death row prisoners in Cameroon are relatively similar to those of other prisoners. In outdated prisons where overcrowding is endemic, prisoners suffer from terrible health conditions and minimal food rations. Being a stigma, the death sentence is prejudicial to how prisoners are treated by other prisoners and by the penitentiary administration. Death row prisoners are often designated as responsible for mutinies, jailbreaks or demands, and are unfairly sent to solitary confinement where they suffer many privations. Although death row prisoner's access to healthcare is the same as other prisoners, fears of prison staff result in refusing external healthcare.

The vast majority of death row prisoners interviewed for the fact-finding mission conducted by ECPM (Together against the death penalty), *Droits et Paix* and RACOPEM (the Network of Cameroonian Lawyers Against the Death Penalty) in 2019 declared that they had been ill-treated during preliminary investigations. According to the National Commission on Human Rights of Cameroon, the practice of torture is widespread in Cameroonian places of detention. 78% of the death row prisoners interviewed said they were threatened or tortured. Because of visits' denial and without any means to pay for a legal adviser, most of those sentenced to death were forced to admit their crimes in order to save their lives.

CLEMENCY

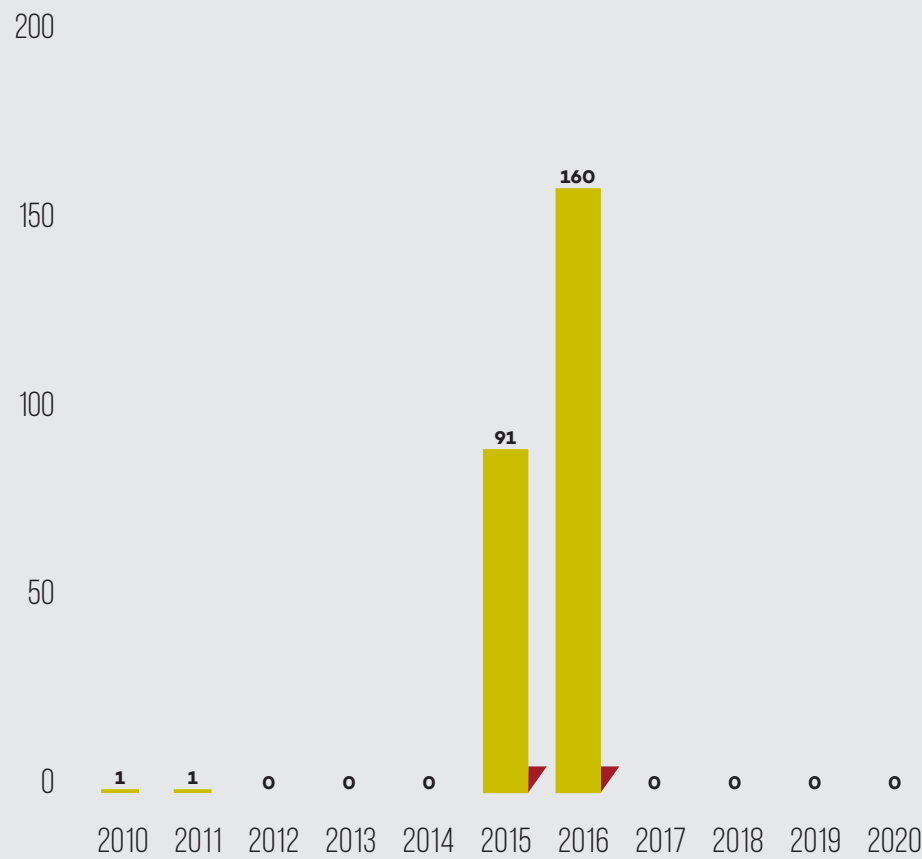
Article 22 (1) of the Cameroonian Criminal Code states that: "*Every sentence of death shall be submitted to the President of the Republic for his decision on commutation*". Since he came to power in 1982, President Paul Biya has exercised his right of pardon in a discretionary manner.

Over the last 10 years, President Biya has granted commutations on four occasions: in 2008, 2010, 2011 and 2014. All with limited impacts decree No. 2020/193 of 15 April 2020 excludes people sentenced to death on terrorist charges. Yet, in 2015, terrorism accounts for more than a third of charges.

JUDICIAL REVIEW

Cameroon law authorises a review of trials for anyone convicted of a crime or an offence (art. 535, Criminal Procedure Code). However, this right is not effective due to the significant financial resources required for this procedure.

NUMBER OF DEATH PENALTY SENTENCES OVER THE LAST 10 YEARS



THE NATIONAL LEGAL FRAMEWORK

THE CONSTITUTION

There is no mention of the death penalty in the Cameroonian Constitution promulgated on 18 January 1996. However, the Preamble of the Constitution states that “every person has a right to life, to physical and moral integrity”. According to article 65, the Preamble is an integral part of the Constitution.

THE CRIMINAL CODE

The new Criminal Code promulgated on 12 July 2016 retained the old provisions on the death penalty. Thus, 11 crimes are punishable by death including “hostility against the homeland”, treason and espionage even if they do not result in death. The Criminal Code sets out two methods of execution: hanging and executions by firing squad.

The Criminal Code defines some categories of individuals excluded from capital punishment: juveniles, pregnant women and individuals suffering from a mental disability or insanity cannot be sentenced to death. Article 2 states the primacy of international law and treaties over national penal provisions; as Cameroon is signatory to the African Charter on the Rights and Welfare of the Child, the death penalty cannot be applied for infants, mothers or young children.

THE CODE OF MILITARY JUSTICE

The 2017 Code of Military Justice removed some offences punishable by death such as abandonment of post in the presence of the enemy and voluntary mutilation in the presence of the enemy. Crimes punishable by death include treason, intelligence with the enemy, espionage and desertion.

THE ANTI-TERRORISM LAW NO. 2014/028 OF 23 DECEMBER 2014

Responding to the Boko Haram violent attacks, Cameroon adopted regulations to repress terrorist acts. This legislation extends the scope of capital punishment to people considered accomplices to terrorism. Financing of acts of terrorism, laundering of the proceeds of acts of terrorism and recruiting and training people with a view to their participation in acts of terrorism are henceforth punishable by death. Moreover, the definition of terrorism is vague as it includes acts that do not require physical violence such as property damage.

This new legislation establishes the jurisdiction of military courts for all terrorism offences, including acts committed by civilians.

According to the RACOPEM, 330 people were facing capital sentences in November 2018, including more than a hundred for terrorist offences.

LAW NO. 2016/015 OF 14 DECEMBER 2016 ON THE SYSTEM OF WEAPONS AND AMMUNITION

This legislation broadens the concept of a weapon and provides for death for certain types of use of chemical and nuclear weapons.

In total, 24 legal provisions provide for the application of the death penalty in Cameroonian law.

LEGISLATIVE PROVISIONS RELATING TO THE DEATH PENALTY

CRIMINAL CODE

Article 21	Classification of offences. (1) Offences shall be classified as felonies, misdemeanours and simple offences according to the principal penalties provided for them, as follows: - A felony shall mean an offence punishable with death or with loss of liberty for a maximum of more than 10 (ten) years and a fine where the law so provides ; [...]
Article 22	Conditions precedent to execution. (1) Every sentence of death shall be submitted to the President of the Republic for his decision on commutation. (2) No death sentence may be executed until the President shall have signified his decision not to commute. (3) No woman with child may be executed until after her delivery. (4) No execution may take place on Sunday or on a public holiday.
Article 23	Execution. (1) Execution of a death sentence shall be by shooting or hanging as may be ordered by the judgment and shall be public unless otherwise ordered in the decision not to commute. (2) The bodies of persons executed shall be returned to their families at their request, but on condition of a quiet funeral. (3). Nothing may be published by the press beyond the official record of the execution and any official communique that may be released (4) The detailed application of this Section shall be prescribed by decree.
Article 39	Where applicable. (1) Sentence of preventive confinement may be passed on any offender subject to Section 88 of this Code by reason of the following convictions, including that accompanying the sentence, within the space of 10 (ten) years exclusive of any sentence served and any preventive measure involving personal restraint: a) Two (2) convictions for felony punished with imprisonment or with death commuted first into imprisonment; [...]
Article 81	Threats. (1) No criminal responsibility shall arise from submission to threats, not otherwise avoidable, of imminent death or of grievous harm as defined by this Code. Provided that where the act committed is defined as an offence punishable with death or has resulted in death or in grievous harm, the responsibility of the person committing the act shall be merely diminished. [...]
Article 91	Mitigation in case of felony. (1) Upon a finding of mitigating circumstances in favour of any person convicted of felony, the sentence may be reduced to not less than 10

	(ten) years' loss of liberty if the offence be punishable with death, to not less than 5 (five) years if it be punishable with loss of liberty for life, and to not less than 1 (one) year in any other case. [...]
Article 102	Hostilities against the fatherland. Any citizen: a) Taking part in hostilities against the Republic; b) or assisting or offering to assist the said hostilities; shall be guilty of treason and punished with death.
Article 103	Other felonies punishable with death. Shall, if a citizen, be guilty of treason and, if a foreigner, be guilty of espionage, and shall in either case be punished with death whoever: a) Instigates a foreign power to undertake hostilities against the Republic; or b) Surrenders or offers to surrender to a foreign power or to its agents any troops, territory, installations or equipment employed in the defence of the nation, or any defence secret, or who in whatever manner acquires such a secret with intent to surrender it to a foreign power; c) With intent to injure the defence of the nation, damages any construction, installation or equipment, or commits any malpractice liable to prevent their normal working or to lead to an accident.
Article 111	Secession. (1) Whoever undertakes in whatever manner to infringe the territorial integrity of the Republic shall be punished with imprisonment for life. (2) In time of war, or in a state of emergency or siege, the penalty shall be death.
Article 112	Civil war. Whoever provokes civil war by arming the people, or by inciting them to take arms against each other, shall be punished with death.
Article 124	Against the law, the operation of a Public Service, or the Security of the State. (1) Any person in whom is vested any part of public authority, and any public servant, who with any other such person conspires or determines: [...] (2) Where the concert is between the civil and military authorities, the punishment shall be imprisonment from one (01) to ten (10) years. (3) <i>Si le concert visé à l'alinéa 2 ci-dessus a pour objet un crime contre la Sécurité de l'Etat la peine est celle de mort.</i> Where the object of the concert described in the last preceding subsection is a felony against the security of the State, the punishment shall be death.
Article 156	Assault on public servant. (1) Whoever uses force on a public servant or otherwise interferes with him, shall be punished with imprisonment for from 1 (one) month to 3 (three) years and with fine of from CFAF 5 000 (five thousand) to CFAF 100 000 (one hundred thousand). [...] (5) Where the force or interference is intended to cause death the punishment shall be death.

Article 236	Depredation by band. (1) Whoever as a member of an assembly or band, and by open force, plunders or damages any moveable or immovable property, shall be punished with imprisonment for from 10 (ten) to 20 (twenty) years. (2) For such felony committed in a state of emergency or siege the punishment shall be imprisonment for life. (3) For such felony committed in time of war the punishment shall be death.
Article 276	Capital Murder. (1) Whoever commits murder: a) after premeditation; or b) by poisoning; or c) with a view to trafficking the organs of the victim; d) in the preparation, facilitation or commission of a felony or misdemeanour, or to enable the escape or to procure the impunity of the offender or of an accessory to such felony or misdemeanour, shall be punished with death. (2) Murder shall be deemed premeditated notwithstanding that the identity of the victim is not decided or that the enterprise depends on the fulfilment of a condition.
Article 320	Aggravated theft. [...] (2) Whoever commits a theft by the use of force causing the death of another or grievous harms as provided for in Sections 277 and 279 of the Penal Code shall be punished with the death. Cf. Article 277 — Grievous Harm. Whoever permanently deprives another of the use of the whole or of any part of any member, organ or sense shall be punished with imprisonment for from 10 (ten) to 20 (twenty) years. Cf. Article 279 — Assault occasionning grievous harm.
Article 350	Assault on children. (1) The penalties prescribed by Section 275 on the one hand and by Sections 277 and 278 on the other shall become death and imprisonment for life respectively where the offences are committed against a person under 15 (fifteen) years of age, and the penalties prescribed by Sections 279 (1), 280 and 281 shall be doubled. (2) Upon conviction for misdemeanour under this Section, the Court may order the forfeitures described in Section 30 of this Code.
Article 351	Assault on ascendant. The penalties prescribed by Section 275 on the one hand and by Sections 277 and 278 on the other hand shall become death and imprisonment for life respectively where the offences are committed against the legitimate, natural or adoptive father or mother of the offender, or against any other legitimate ascendant, and the penalties prescribed by Sections 279 (1), 280 and 281 shall be doubled.
Article 354	Aggravated kidnapping. (1) The punishment for kidnapping under either of the two last foregoing Sections shall be imprisonment for life where:

- the person kidnapped is under the age of thirteen; or
 - the offender commits the offence with intent to obtain a ransom or obtains a ransom.
- (2) The punishment shall be death where the minor dies as a result of the kidnapping.

THE CODE OF MILITARY JUSTICE

Article 34	Desertion in wartime and/or with conspiracy [...] (4) Any serviceman who deserts to join the enemy shall be punished with the death penalty.
Article 51	Abstraction in zone of operations (1) Whoever abstracts items from a wounded, sick or dead serviceman in a zone of operations shall be punished with imprisonment for from 5 (five) to 10 (ten) years. (2) Where, in addition to the acts referred to in Subsection (1) above, such person engages in violence against the serviceman, the penalty shall be the death sentence, regardless of the grounds for such violence.
Article 61	Treason Any Cameroonian serviceman or any serviceman working for Cameroon who: (1) takes up arms against Cameroon ; (2) delivers to the enemy supplies for the army, plans or places of war or naval arsenals, military ports or airports, or the basic order, codes or secret of a military operation, expedition or negotiation; shall be punished with the death penalty.
Article 62	Collusion with the enemy The death penalty shall be pronounced against any serviceman who: - conspires with the enemy for the benefit of the latter; - participates in a conspiracy to thwart the conduct of a military operation; - causes the flight or prevents conscription of servicemen during a military operation.
Article 63	Espionage (1) Whoever knowingly in a clandestine manner or under false pretence enters a place of war, a military post or establishment, to obtain documents or information in the interests of the enemy ; (2) Whoever provides the enemy with documents or information likely to undermine military operations or jeopardize the safety of military positions, posts or other establishments; shall be considered a spy and punished with the death penalty.
Article 64	Hiring (1) Whoever causes, encourages or assists Cameroonian servicemen to join the enemy shall be punished with life imprisonment. (2) Were the offender is a soldier, he/she shall be punished with the death penalty.

THE ANTITERRORISM LAW NO. 2014/028 OF 23 DECEMBER 2014

Article 2	Acts of terrorism (1) Whoever, acting alone as an accomplice or accessory, commits or threatens to commit an act likely to cause death, endanger physical integrity, cause bodily injury or material damage, destroy natural resources, the environment or cultural heritage with intent to: (a) Intimidate the public, provoke a situation of terror or face the victim, the government and/or a national or international organisation to carry out or refrain from carrying out an act, adopt or renounce a particular position; (b) Disrupt the national functioning of public services, the delivery of essential services to the public to create a crisis situation among the public (c) Create widespread insurrection in the country; shall be punished with the death penalty (2) Whoever : (a) Provides and/or uses war weapons and equipment; (b) Provides and/or uses microorganisms or any other biological agents, in particular viruses, bacteria, fungi or toxins; (c) Provides and/or uses chemical, psychotropic, radioactive or hypnotising substances; (d) Perpetuates hostage taking; In order to attain the same objectives as those inferred in subsection 1 above shall be punished with the death penalty. (3) The penalty shall be life imprisonment where the visible consequences of the act referred to in sub section (1) above are animal disease or plant destruction.
Article 3	Financing of terrorist acts (1) Whoever directly or indirectly: a) Provides and/or collects funds; b) Provides and/or offers financial services; With the aim of financing terrorist acts and by whatever means, shall be punished with the death penalty. (2) The offence referred to in paragraph (1) above shall be deemed to have been perpetrated even if the funds, the material means and/or financial services have not effectively been used to commit the offence. (3) The financing of terrorism is constituted even if the goods are collected and the services are offered in the territory of another state.
Article 4	Laundering the proceeds of terrorist acts Whoever: (1) acquires, conceals, holds, converts, transfers, conceals or disguises property constituting the proceeds of terrorist acts; (2) uses or shares, even occasionally, the proceeds of terrorist acts; shall be punished with the death penalty.
Article 5	Recruitment and training (1) Whoever recruits and or trains people to participate in the act of terrorism, regardless of where they are committed, shall be punished with the death penalty.

(2) The penalty provided in the paragraph (1) above shall be applied to whoever:

- a. offers, promises gifts, presents or benefits of any kind to another with the intention to participate in a government formed or an agreement established to carry out acts of terrorism.
- b. threatens or pressures another to participate in a government formed or an agreement established to carry out acts of terrorism.

(3) Whoever deliberately joins or trains in a terrorist group abroad with the intention of committing acts of terrorism on national territory shall be punished by ten (10) to twenty (20) years of imprisonment.

(4) In the cases provided for in paragraph (2) above, the offence shall be deemed to have been committed even if the incitement to participate in the grouping and the cartel was not followed by its effects.

LAW NO. 2016/015 OF 14 DECEMBER 2016 ON THE SYSTEM OF WEAPONS AND AMMUNITION

Article 58

(1) Whoever develops, manufactures, employs or uses any of the following :

- chemical weapons;
- unfilled chemical munitions and equipment for use in chemical weapons;
- chemicals for purposes other than industrial, agricultural, medical, pharmaceutical, research or protection against deliberate or accidental chemical emissions, or law enforcement;

shall be punished by imprisonment for life and a fine of between thirty million (30,000,000) and five hundred million (500,000,000) CFA francs.

(2) The penalty is death when the offences referred to in paragraph (1) above are committed in a gang.

Article 71

(1) Whoever : Est puni d'un emprisonnement de dix (10) à vingt (20) ans et d'une amende de vingt millions (20.000.000) à cinq cent millions (500.000.000) de francs CFA, celui qui :

- a. holds, uses, transfers, assigns, sells, alters, disposes of or disperses nuclear material or radioactive sources without the required authorisation;

[...]

- d. threatens to use nuclear material to kill, injure others or cause damage to property;

[...]

shall be punished by an imprisonment of ten (10) to twenty (20) years and a fine of twenty million (20,000,000) to five hundred million (500,000,000) CFA francs.

(3) The death penalty shall be imposed if the acts referred to in subparagraphs 1.a and 1.d above result in the death of another person.

THE INTERNATIONAL LEGAL FRAMEWORK

THE MAIN INTERNATIONAL INSTRUMENTS AIMING AT ABOLISHING THE DEATH PENALTY

TREATY	RATIFICATION OR ACCESSION DATE
International Covenant on Civil and Political Rights, 1966	27 June 1984 (accession)
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, 1989	X
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 1984	19 December 1986 (accession)
Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 2002	X
Convention on the Rights of the Child, 1989	11 January 1993 (ratification)
African Charter on Human and Peoples' Rights, 1981	20 June 1989 (accession)
African Charter on the Rights and Welfare of the Child, 1999	5 September 1997 (accession)

VOTE ON THE UNITED NATIONS RESOLUTION CALLING FOR A UNIVERSAL MORATORIUM ON THE USE OF THE DEATH PENALTY



UNIVERSAL PERIODIC REVIEWS



During cycle 2 in 2013, 6 recommendations were partially supported among the 126 supported recommendations.

RECOMMENDATIONS RELATING TO THE DEATH PENALTY ISSUED TO CAMEROON IN 2018				
N°	RECOMMENDATIONS	Number	Supported	Noted
1	Consider ratifying the OP2 with a view to abolishing the death penalty for all crimes	1		1
2	Consider ratifying the OP2 to eliminate the death penal-ty	1		1
3	Ratify the OP2	1		1
4	Proceed with the abolition of the death penalty by ratifying the OP2	1		1
5	Accede to the OP2 aiming at the abolition of the death penalty	1		1
6	Abolish the death penalty from its legislation definitely and ratify the OP2	1		1
7	Abolish the death penalty for all crimes and ratify the OP2	1		1
8	Ratify the OP2	2		2
9	Ratify the OP2 and commute all existing death sentences	1		1
15	Ratify the OP2 aiming at the abolition of the death penalty	1		1
17	Ratify and fully implement its obligations under the OP2	1		1
92	Formally abolish the death penalty by amending its Penal code and counter-terrorism laws	1		1
96	Amend the 2014 antiterrorism law, repal the death penalty and end the use of military tribunals to try civilians	1		1
97	Maintain the existing moratorium on judicial executions, and consider commuting all current death penalty	1		1
98	Finalize the abolition of the death penalty	1		1
102	Combat impunity without recourse to the death penalty	1		1
TOTAL		17	0	17

OP2: Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

THE DEATH PENALTY IN THE AFRICAN UNION IN 2020

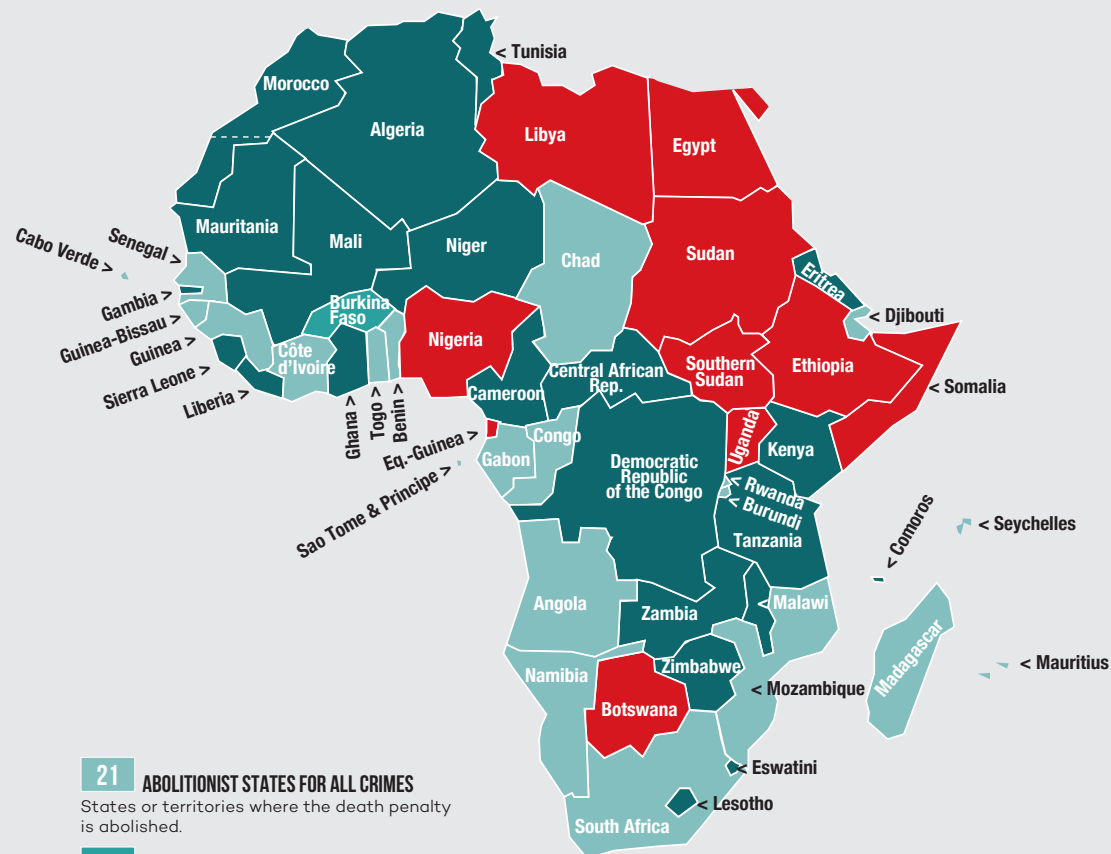
A donut chart illustrating the distribution of responses for the question 'What would be the best way to deal with the problem of capital punishment?'. The chart is divided into four segments: Abolition (52%), Commutation (7%), Moratorium (15%), and OP2 (26%). A legend to the right of the chart identifies the colors for each response: yellow-green for Abolition, orange for Commutation, teal for Moratorium, and red-orange for OP2.

Response	Percentage
Abolition	52 %
Commutation	7 %
Moratorium	15 %
OP2	26 %

A donut chart illustrating the distribution of responses for the question 'What would be the best way to deal with people who commit crimes?'. The chart is divided into five segments: OP2 (red, 65%), Abolition (yellow-green, 23%), Alternative to the death penalty (light orange, 6%), Commutation (orange, 3%), and Moratorium (teal, 3%). A legend to the right of the chart identifies each category with a corresponding colored square.

Response Option	Percentage
Abolition	23 %
Commutation	3 %
Moratorium	3 %
OP2	65 %
Alternative to the death penalty	6 %

Looking at the distribution of topics addressed in the recommendations on the death penalty issued to Cameroon, we can see that the 2018 topics are less diverse than in 2013. In 2018, the focus was made on the ratification of the OP2 to the detriment of traditional issues such as the continuation or formalisation of the moratorium or commutations of the sentences of death row prisoners.



21 ABOLITIONIST STATES FOR ALL CRIMES

States or territories where the death penalty is abolished.

1 ABOLITIONIST STATES FOR ORDINARY CRIMES

States or territories where the death penalty is abolished unless there are exceptional circumstances.

23 STATES WITH A MORATORIUM ON EXECUTIONS

States or territories where the death penalty is implemented but no executions have been carried out for at least 10 years and which did not oppose the latest UN resolution for a universal moratorium on executions and/or having ratified OP2*.

10 RETENTIONIST STATES

States or territories where the death penalty is implemented.

* Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

For more information,
see our fact-finding mission on death row
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