SUPREME COURT OF CAMEROON

SOLEMN REOPENING OF THE SUPREME COURT

(22 FEBRUARY 2018)

ADDRESS OF THE RIGHT HONOURABLE CHIEF JUSTICE OF THE SUPREME COURT

Lord Justice Daniel MEKOBE SONE

Yaounde, 22 February 2018

The President of the Senate,

The Speaker of the National Assembly,

The Prime Minister, Head of Government,

The President of the Economic and Social Council,

The President of the Constitutional Council,

The Vice-Prime Minister, Minister Delegate at the Presidency in charge of Relations with the Assemblies,

The Minister of State, Minister of Justice, Keeper of the Seals,

The Minister of State, Minister of Tourism and Leisure.

The Grand Chancellor of National Orders,

Distinguished Ministers,

Distinguished Ministers-delegate and Secretaries of State,

Distinguished Ambassadors and Representatives of International Organizations,

The Permanent Secretary of OHADA,

The Director General of the National School of Administration and Magistracy,

The Governor of Centre Region,

The Government Delegate to Yaounde City Council,

Distinguished Judicial and Legal Officers,

Distinguished Army Generals,

The President of Cameroon Bar Association,

The President of the National Association of Notaries Public,

The President of the National Association of Sheriff/Bailiffs and Process Servers,

Traditional and Religious Authorities,

Learned Barristers at law,

Distinguished Guests,

Ladies and Gentlemen,

The Supreme Court of Cameroon is pleased with your presence in this hall decorated for such major events and heartily welcomes you therein.

Pursuant to the provisions of **section 33 of Law No. 2006/16 of 29 December 2006** to lay down the organization and functioning of the Supreme Court, at the start of each judicial year and **on 28 February at the latest**, the Supreme Court shall hold a solemn court session to mark the reopening of the judicial year.[1]

The solemn reopening of the Supreme Court holding this Thursday, 22 February 2018 is in compliance with both the law and traditions of Superior Courts of final jurisdiction.

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1 Cameroon Judiciary and its new institutions. Collection of instruments, P.U.A 2007 Page 49.

Like in previous years and true to tradition, the Supreme Court will present a discourse on the criminal justice policy of our country under the theme "**The Spirit of Forgiveness and the Enforcement of Criminal Law in Cameroon**".

Your Excellencies,

Ladies and Gentlemen,

In modern democracies, the goal of the criminal law is to restore social peace disrupted by criminal acts perpetrated with the society as a victim.

It should, therefore, carry out its mission in compliance with the principle of legality in respect of the offence and the punishment.[2]

"Nullum crimen sine lege, nulla poena sine lege"

"No crime without law, no punishment without law"

Of course, the Cameroon legislature fully complies with this rule, and that is why it has defined many offences in relation to the social values to be respected.

Law No. 2016/7 of 12 July 2016[3] on the Penal Code of Cameroon provides for offences relating to destruction of private property, public

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2 Philippe Conte et Patrick Maistre Du Chambon, *Droit Pénal Général*, Armand Collin Paris p.60
Stefani, Levasseur et Bouloc, *Droit Pénal Général*, Dalloz, Paris 1980 p.144.
Yves Jeanclos, *les 07 Principes du Droit Pénal*, Hachette, Paris, 2015, P.36
3 Special edition of the Official Gazette of the Republic of Cameroon of 12 July 2016

property, violation of the physical integrity of persons, moral integrity, and integrity of the family, indecency, etc.

In a bid to complete the list of offences, **section 18 of the Penal Code prescribes** three types of penalties: principal penalties (death penalty, imprisonment and fine), accessory penalties and alternative penalties.

In Cameroon, criminal penalties aim at the following:

- **intimidation:** the severity of the punishment provided by law and the fear of an exemplary sentence should aim at dissuading prospective criminals;
- **retribution:** punishment is the penalty for an offence committed; in other words, it is the corresponding payment to the offender; and
- **reformation:** any punishment that does not take into consideration the need for reformation of the offender serves no purpose and is inhuman.[4]

Concerning the philosophy of punishment, **Professor Stanislas Melone**, one of the greatest authorities on criminal law in the history of our country used to say that the offender is punished because he has committed an offence "**punitur quia peccatum**" and so that he should not commit the offence again "**punitur ne peccatur**".[5] That is why **Seriaux** held that "**forgiveness is a form of the remission of sins**".[6]

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(4) Stanislas Melone, les grandes orientations de la législation pénale en Afrique : le cas du Cameroun R.C.D n°7, janvier-juin 1975 p.20

(5) Stanislas Melone, article referred to above, p.33

(6) Seriaux, Droit canonique, coll. Droit Fondamental, PUF. Paris 1996 p.35.

Generally, criminal proceedings often give the impression that the offence is grievous. And the red robes worn by the Judges clearly reveal the exasperation of the repression. Mounting a guard of honour before delivery of judgment on a criminal matter clearly expresses the severity of the criminal punishment.

The Judge in charge of criminal matters should relentlessly discharge his daunting task by applying the Law "**without fear, favour or malice**" and sometimes with the necessary calm.[7]

What public opinion sees in the hearing of a criminal matter is the image of sadness and persecution. Meanwhile, in the enforcement of criminal law in Cameroon, forgiveness is omnipresent in order to temper the severity of the repression.

Criminal Law cannot be enforced without taking the human dimension into account when trying criminals. That is why **Pascal Diener** wrote: "**the law, the whole law, even in its most technical aspects, is always dominated by morality in its normative function**".[8]

In our criminal justice policy, there are a number of parameters that teach us that criminals are first and foremost, citizens who are

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(7) Cf. Article 23 of Decree No. 95/48 of 8 March 1995 to lay down the Rules and Regulations governing the Judicial and Legal Services provides: "I ..., swear **before God and all men** honestly to serve the people of the Republic of Cameroon in my capacity as a member of the Judicial and Legal Service, to render justice impartially to all in accordance with the laws, regulations and customs of the Cameroonian people, without fear, favour or malice, to keep the secret of deliberations and in all ways, in all places and at all times to bear myself as a worthy and faithful member of the service."

(8) PASCAL DIENER, Ethiques et Droit des affaires D.1993 Chr. P.17

sometimes victims of the vagaries of life. This should always be taken into account.

Criminal law as a whole oscillates between firmness and clemency. It can validly be said that the enforcement of criminal law is largely dominated by the spirit of forgiveness. Such an interpretation may raise the following questions:

- ***Why should the acts of a criminal be forgiven?***
- ***Can all criminals be forgiven?***
- ***Can forgiveness be granted at all phases of a criminal trial?***
- ***Are there any circumstances where forgiveness is impossible?***
- ***Is forgiveness total or partial?***
- ***What is the purpose of forgiveness in Cameroon criminal law?***
- ***What would our repressive system be if it did not include forgiveness?***

All these questions are clearly answered in our **substantive law** and affect all aspects of our criminal justice system.

It should be pointed out that the spirit of forgiveness in combating crime is founded first on the law, second, the Judge, and third, the victim.

Your Excellencies,

Ladies and Gentlemen,

In Cameroon, the criminal law policy substantially incorporates the spirit of forgiveness.

The offence is determined by the legislature. However, it may happen that an offence is committed in full and yet, it becomes impossible to prosecute the offender(s).

The Cameroon legislature has provided legal techniques to decriminalize an offence or discontinue criminal action.[9]

An offence may be decriminalized during prosecution or after judgment has been delivered.

During prosecution, the legislature has made it possible to raise justifying facts that can remove the criminal responsibility from an act. Some examples include law enforcement, obedience to lawful authority, lawful defence,[10] and the state of necessity[11].

These circumstances clearly show that an ordinary criminal act is transformed into a lawful act because it has been justified. The following instances are quite illustrative:

- a soldier who, in saving his life, shoots an armed terrorist coming close to him has not committed any offence;
- a citizen who, in defending himself in his home against thieves, causes the death of one of them has acted in lawful defence within the meaning of **section 84 of the Penal Code (PC)**. In such case,

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(9) Cf. Sections 83, 84 and 86 of the Penal Code, 64 and 65 of the Criminal Procedure Code.

(10) Cf. Section 83 provides: "(1) No criminal responsibility shall arise from an act performed on the orders of a competent authority to whom obedience is lawfully due. (2) This Section shall not apply where the order is manifestly unlawful."

(11) Lawful defence and the state of necessity are still qualified as causes of no criminal responsibility.

there is neither assault occasioning death (section 278 of PC) nor murder (section 275 of PC);

- a mother who fraudulently takes bread from a bakery to give her child who may die of hunger does so due to the state of necessity and there is no theft within the purview of **section 318 of PC**;[12]
- a medical doctor who amputates the leg of his patient to save his life has not committed an offence of assault occasioning grievous harm within the meaning of **section 279 of PC**. Where he kills the unborn child to save the life of its mother, the medical doctor has not committed an offence of abortion; and
- the Judicial Police Officer who, in carrying out an investigation on an offence of *flagrante delicto*, conducts a search during legal hours has not committed an offence of invasion of residence within the ambit of **section 299 of PC**.

Roger Merle and **André Vitu** in *Traité de Droit criminal*[13] consider such justifying facts as "**exceptional circumstances leading to infringement of criminal law**".

These are instances of forgiveness legally laid down by the Cameroon legislature.

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12 Section 318 (1) (a) of PC provides: "Whoever causes loss to another
(a) by theft, that is by removing property ... shall be punished with imprisonment for from 5 (five) to 10 (ten) years and with fine of from CFAF100,000 (one hundred thousand) to CFAF1,000,000 (one million).
cf. Stefani et Levasseur op. cit p.324

13 Roger Merle et André Vitu, Traite de Droit Criminel, Paris, 1984 P.1215

Your Excellencies,

Ladies and Gentlemen,

Immunities may be considered legal hitches to prosecution. Persons who enjoy immunity may commit an offence but the courts do not have jurisdiction to examine such offence, and the matter cannot be heard once it has been revealed that the alleged offender enjoys immunity.

Immunity is a form of privilege or forgiveness provided for by law in some legal, social and family situations.

Such protection may, in the meaning of legal provisions, take many forms such as **parliamentary immunity,**[14] **diplomatic immunity,**[15] **judicial immunity**[16] and **immunity between relatives**[17].

Parliamentary immunity hampers any prosecution for offences resulting from statements made in Parliament or reports and other documents printed on the order of a House.

It boosts freedom of expression in the National House of Representatives.

Nevertheless, such immunity should not be mistaken for another prerogative known as **sanctity**[18]. In fact, it is forbidden to prosecute

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14 Parliamentary immunity aims at protecting Parliamentarians and Senators.
15 Patrick Paillier et Alain Pellet, Droit International Public. L.G.D.J Paris 2001, p.730
16 Judicial immunity makes it possible for judicial debates to take place in peace and quiet.
17 Immunity between relatives focuses on family values in relation to material values.
18 Stefani et Levasseur, Droit Pénal Général, Dalloz, Paris, op. cit. P.481

Parliamentarians except in cases of *flagrante delicto* or on the orders of the Assembly during sessions or the Bureau between sessions.

It is worth noting that freedom of expression is limited to statements made and discussions held during assemblies. Meanwhile, the other acts and actions that largely exceed the spirit of forgiveness provided for by the legislature are not necessarily covered by immunity. Parliamentarians are respected and respectable personalities, but the legislature did not imagine some of their excesses that may make it difficult for them to conduct proper democratic discussions.

By acting contrary to the law they themselves voted, they willingly set aside legal protection in the name of freedom of expression. They were not expected to go beyond the scope of the law they themselves laid down. And as **Bruno Chenu** said, "**Freedom without limits is dangerous**"[19].

Diplomatic immunity[20] is based both on national law and the Vienna Convention of 1961. It enables representatives from a foreign State or international organization to discharge their duties hitch-free. It is enjoyed by all diplomatic staff and even their families.

Diplomatic immunity is comprehensive and covers all offences. It prevents body search, house search and seizure.

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19 Bruno Chenu, Martin Luther King, "I have a dream" Edition Nouveaux-Horizons Paris, P.15

20 The Vienna Convention of 1961 lays down the scope of diplomatic immunity for diplomatic staff

Diplomatic bags, for example, should not be searched. Such bags that have been considered sacred for a very long time, no longer seem to be worthy of no suspicion.

Regarding **judicial immunity**[21], the legislature has provided that any oral or written statements exchanged during court sessions by counsel and the parties to a matter shall not constitute offences of defamation or insults. The law protects these men of justice who work for the establishment of the truth and justice.

They should be level-headed so as to hold back their anger within a reasonable threshold before the courts. One can validly express their anger against a colleague, the parties to a matter or even the Judges while remaining courteous. Here again, the legislature has laid down the limits of forgiveness and protection.

Concerning **immunity between relatives**[22] provided for by **section 323 of PC**, the overall goal of forgiveness laid down by the legislature is to give privilege to family harmony. Thus, in the family, there is no theft, false pretences, **misappropriations, special theft between spouses and between parents and children**. However, such tolerance does not cover aggravated theft, aggravated false pretences or aggravated misappropriations. A child, for example, who organizes the robbery of his parents is answerable for his offence before the court and

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21 Section 21 (2) of Law No. 90/59 of 19 December 1990 to organize practice at the Bar provides: "No words spoken or documents produced by an advocate in court may give rise to any action for libel, abuse or contempt unless such words or documents are contrary to his oath. A report shall be made of the breach in question during the session by the court."

22 Family cohesion is no longer a ground of justification of aggravated theft with knives or firearms.

may, as per **section 320 of PC**, be punished with imprisonment for from 10 to 20 years. In extreme cases, he may be punished with the death penalty where the parent sustains grievous harm or is killed during the robbery. [23]

Your Excellencies,

Ladies and Gentlemen,

The legislature has even gone further by instituting prescription[24] and discontinuance of criminal action.

In fact, **section 65 of the Criminal Procedure Code (CPC)** lays down the period of prescription for felonies, misdemeanours and simple offences. It provides: "**Prescription shall be the barring of prosecution following the failure to commence action within the prescribed limitation period.**"

The period of prescription shall be 10 years for felonies, 3 years for misdemeanours, and 1 year for simple offences. [25]

Prescription is the time lapse which stops the prosecution of an offender. There are times when society prefers to forget an offence than to restart prosecution of the author of such an offence.

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23 Section 320 of PC provides: "Whoever commits a theft by the use of force causing the death of another or grievous harm as provided for in sections 277 and 279 of this Code shall be punished with death."

24 Prescription constitutes an oversight endorsed by society; let sleeping dogs lie.

25 There is a distinction between prescription for prosecution and prescription for the penalty provided for by section 67 of PC.

It should be noted that some serious offences such as crimes against humanity or acts of terrorism are imprescriptible. That is why on **2 April 1998, Maurice Papong**[26] was convicted and sentenced for acts he committed during the 2nd World War.

The gravity of such offences makes it impossible to forgive their offenders as per the rules of prescription.

The most recent technique of forgiveness is that which is known as "**discontinuance of criminal action**". Section 64 of CPC lays down the general principle of discontinuance of criminal action as it provides: "**The Procureur General of a Court of Appeal may, by express authority of the Ministry in charge of Justice, enter a *nolle prosequi* at any stage, before judgment on the merits is delivered, if such proceedings could seriously imperil social interest or public order.**" [27]

The following special instruments have also provided for "**discontinuance of criminal action**":

First, section 18 of **Law No. 2012/11 of 16 July 2012** to amend and supplement some provisions of **Law No. 2011/28 of 14 December 2011** to set up a Special Criminal Court provides: "**(1) Where [restitution of] the proceeds of embezzlement or corruption [is made], the Procureur General [at] the Court may, subject to a**

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26 Thierry Garé, Droit Pénal Spécial, Larcier, Paris, 2013, P.70

27 "Discontinuance of criminal action" provided for by section 64 of CPC is drawn from the *nolle prosequi* procedure applied in Criminal Procedure in the North West and South West Regions for a very long time now.

written authorization by the Minister in charge of Justice, enter a *nolle prosequi* against the proceedings instituted prior to the committal to the trial court.

Provided that, where such restitution is effected after committal to the trial court, a *nolle prosequi* may be entered against the proceedings prior to any judgment on the merits and the court seised shall pronounce the forfeitures under section 30 of the Penal Code and note same in the criminal record.

(2) The entry of a *nolle prosequi* shall have no effect on any disciplinary procedures." And Decree No. **2013/288 of 4 September 2013** lays down the terms and conditions of restitution of the said proceeds. These instruments clearly lay down the conditions for discontinuance of criminal action where restitution of the proceeds of the embezzlement has been made. However, they provide for discontinuance of criminal action as a possibility and not an obligation.

Conversely, the instruments still do not envision such a possibility for an attempted misappropriation and the reason is obvious.[28]

Since the establishment of the Special Criminal Court, a number of offenders have enjoyed such pardon, with 61 decisions on discontinuance of criminal action delivered till date.[29]

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28 In fact, the accused who has attempted to misappropriate public property cannot make a restitution of the proceeds of the misappropriation because he had not yet achieved his goal.

29 *Cameroun Tribune* No. 115 30/7729 of 5 February 2018 pp. 4 and 5

Second, **Law No. 2008/15 of 20 December 2008** to lay down the organization of the Military Tribunal provides for discontinuance of criminal action against offenders. However, before the Military Tribunal, only the President of the Republic has the prerogative of giving such instructions to the Minister in charge of military justice, provided the discontinuance is effected before judgment on the merits is delivered. Such was the case of 54 persons brought before the Military Tribunal under the very first acts of destruction by fire, destruction of State symbols, burning of administrative buildings in the South West and North West Regions at the start of crisis therein. In the eyes of the law, such was a discretionary decision of the President of the Republic.

Your Excellencies,

Ladies and Gentlemen,

Forgiveness by the law may be granted after offenders have been convicted and sentenced.

In such case, we talk of Pardon[30], amnesty or remission of sentences and rehabilitation.

In all such cases, the legislature laid down the mechanisms and authors of forgiveness. Our society often thinks there is a confusion of roles. Public opinion does not understand why an offender is convicted

30 Edimo François, Le Droit de grâce du président de la République en Afrique noire francophone, Juridical Tribune, p. 69.
Caroline Gatto, le Pardon en Droit Pénal, presses universitaires d'Aix-Marseille ; volume 5, juin 2015

and sentenced, and later benefits from Presidential Pardon. Meanwhile, each institution plays its part in the conduct of a criminal action.

Once the Supreme Court deliberates and delivers its judgment, its duty is over. The Constitution gives the President of the Republic the latitude to grant pardon to the convict. In this respect, **Montesquieu** had this to say: **"The power to grant pardon is a great resilience for moderate rulers. Such power that the Prince has, to grant such pardon, executed with wisdom, may have admirable effects. The Prince of a despotic government who does not pardon and to who pardon is never granted deprives him of such privileges."**[31]

Sometimes grace which originates from the Latin word **"gratia"** and which means "kindness", makes it possible to correct miscarriage of justice where the judgment has become final. Consequently, there is no need to file an application for review.

In addition to such techniques, the legislature has laid down other measures of leniency and clemency enforced much more by the Judge.

Your Excellencies,

Ladies and Gentlemen,

The Judge who interprets and applies the law is the person at the forefront of a criminal trial. His mission is the most obvious and his duty is characterized by forgiveness. Inasmuch as he is frightening and he punishes offenders, the law gives him the possibility of granting

31 Montesquieu, l'Esprit des lois, Livre VI, Chap 16.

them clemency. The Judge is not a church Minister, but by taking oath before God, he undertakes to be merciful in the discharge of his duties.

The Judge forgives through mitigating circumstances, alternative punishment, and exemption from imprisonment in default of payment.

Mitigating circumstances are grounds for the reduction of punishment to be decided by the Judge at his discretion. Pursuant to **section 90 of PC, "the benefit of mitigating circumstances may be given, for reasons to be recorded in the judgment, save where they are by law expressly excluded."** [32]

The elements the Judge takes into account in granting pardon may result from the circumstances of the offence, reparation of the damage by the offender, sincere remorse expressed by the offender, motive for the offence, etc.

The major outcome of giving mitigating circumstances is the reduction of the punishment below the legal minimum provided for, save where the law so expressly prohibits, as in matters of misappropriation of public property. With the benefit of mitigating circumstances, the Judge may convict and give an offender a suspended sentence or a simple fine.

In addition to mitigating circumstances, there are also reasons for mitigation which are a source of reduction of penalties as provided for

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[32] In court practice, it has been observed that unfortunately, Judges do not deliver penalties below the legal minimum after having raised mitigating circumstances. The Supreme Court uses such situation as a ground for quashing the lower court judgment.

by law. In such case, the Judge has to verify if the conditions of the excuse are met. Some of the reasons include **defence of provocation** and **being a minor**.[33]

Alternative punishment is new in our judicial landscape but it is another way of overcoming the difficulties encountered in the execution of imprisonment terms.

It is obvious that a prison is not a hotel where the Judge should book for a room before convicting and sentencing an offender. However, the increasing number of inmates in our prisons requires Judges to properly use such new alternative punishment that have proven their worth in other countries.

Section 26 of the Penal Code of 12 July 2016 provides for community service and reparatory sentence as alternative punishment. Provision for reparatory sentence simply means we are gearing towards criminal mediation.[34]

Besides, **section 565 of CPC** lays down special rules of clemency or can be said to provide a premium to the youth, the elderly and to marriage as it provides: "**An order of imprisonment in default of payment shall not be passed against a person less than eighteen (18) years of age or more than sixty (60) years old, or against pregnant women at the time of execution.**"[35]

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33 These are grounds for reduction of criminal penalty.

34 Alternative punishment show the elastic efficiency of classical criminal penalties.

35 The Cameroon legislator willingly protects minors, the elderly, pregnant women and couples.

Furthermore, it shall not be executed simultaneously against husband and wife. It is obvious that the law is requiring the Judge to be indulgent and vigilant. Of course, this is a clear indication that our criminal law has a human face.

Your Excellencies,

Ladies and Gentlemen,

Curiously, the spirit of forgiveness may also stem from the victim of the offence. While society is expecting a strong reaction through prosecution of a criminal, his victim may refrain from initiating any criminal proceedings. In this light, in paraphrasing an author, it is observed that "**the law of forgiveness stands against the law of retaliation**" that advocates "**an eye for an eye, a tooth for a tooth, foot for foot, fracture for fracture and even life for life**" (in Deuteronomy 19).[36]

However, Machiavelli, while drawing inspiration from the violence of man, is against forgiveness: "**Whoever intends to make a career of being good will only fall and continue to fall.**"[37]

Let us acknowledge with **Machiavelli** that some form of violence is necessary to recover one's rights and fight against injustice. However, before resorting to repression, make sure that all peaceful means have been exhausted to no avail.

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36 In Deuteronomy XIX, quoted by Yves Jeanclos, p.102
37 MACHIAVEL, in le Prince, Librio p.79

That is the reason why the victim initiates criminal proceedings and later applies for discontinuance of same.

In our criminal law, there are offences for which the victim must first lodge a complaint before prosecution commences. Such offences include defamation, indecency, insults, adultery, abandonment of the matrimonial home, etc.

In all such cases, once the victim files a notice of discontinuance, the criminal action is discontinued; and where the victim abandons the criminal action, the court also abandons and grants same.

However, the notice of discontinuance by the victim has no effect on an offence that does not require prior complaint. In such case, initiation of criminal action is incumbent on the Legal Department.

For offences of theft, rape, murder, simple harm, destruction, etc, forgiveness by the victim has no effect on the criminal action.

Many victims are surprised that the withdrawal of their complaint has no effect on the criminal proceedings. This is because criminal proceedings are not necessarily initiated by the parties as is the case with civil proceedings.

Your Excellencies,

Ladies and Gentlemen,

What conclusion can be drawn from the spirit of forgiveness in our criminal justice policy?

It is obvious that in our criminal justice system, the spirit of forgiveness is omnipresent at all phases of the criminal proceedings.

Forgiveness from the legislature,

Forgiveness from the Judge, and

Forgiveness from the victim.

Forgiveness, the true right of mercy and pity constitutes, in the language of repression, re-adaptation, an instrument to give a human face to our criminal justice.

It is an alternative to quell the "**anger of repression**".

Of course, the goal of the legal arsenal comprising the Penal Code, the Criminal Procedure Code, the Code of Military Justice and many other laws is to restore social order whenever it is disturbed by an offence.

There is no doubt that criminal repression is essential to guaranteeing the security of persons and property in our country. Such a Herculean task is conferred on Judicial and Legal Officers, who are sometimes criticized by public opinion that sits like a true judge and behaves as if their decision should be the "**subject of a referendum**"[38]. The Judge should apply the criminal law with firmness, but at the same time he should respect the rights of the offender.

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(38) Laurent Esso, Procureur General at the Court of Appeal, West Province, during the installation of Heads of Court, Upper Nkam Division, Bafang, on 14 November 1981.

However, criminal repression alone is not enough to guarantee social peace. In this light, Professor Emeritus **Stanislas Melone** held that: **No one has ever linked the success of a criminal justice policy to intimidation alone**". [39]

A real culture of forgiveness should be developed at all phases of criminal proceedings and during the execution of criminal penalties.

It is only in this way that our criminal justice can serve as a true instrument of peace and development.

And one can only acknowledge **Stefani and Levasseur** who held that: "**forgiveness constitutes a safety valve technically indispensable to the functioning of repressive institutions so as to cushion the extremely severe legal regime.**"[40]

I thank you for your kind attention.

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(39) STANISLAS MELONE, article précité R.C.D n° 7 p.39
Most recently, Sophie Lavagua Bouhnik, Lawyer at Monaco, who, in her PhD theses entitled ***le Pardon en Droit Pénal*** and defended on 6 December 2004, concluded that repression alone cannot push forward criminal law for, there is need for a real philosophy of forgiveness.
(40) Stefani et Levasseur, Droit Pénal Général et Procédure Pénale, T.I, Dalloz Paris, 1968 P.437