

**“I ASK THE CHILD, ‘DID YOU STEAL?’”:
TRADITIONAL CHIEFS’ RESPONSES TO CHILDREN IN
CONFLICT WITH THE LAW IN CAMEROON**

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Abstract: In this article, I inquire into how traditional chiefs in Cameroon dispense justice in response to children in conflict with the law. By discussing the shortcomings of the formal justice system’s response to children accused of wrongdoing, I present an in depth discussion of Cameroonian traditional chiefs’ actions concerning child justice. Based on interview data, I record the chiefs’ recommendations concerning how to better incorporate their work into the state’s justice regime. Chiefs’ experiences dealing with children in conflict with the law serve as a lens through which to explore the complex relationships between citizens, chiefs, and the state.

Keywords: Cameroon, traditional chiefs, children, juvenile justice, child justice, traditional justice

Introduction

A [12 year old] child went to school, scaled a wall and stole a ball and a few old books from the library. When we looked into the issue, there were not good surroundings at home. His father was not around, and his mother was not doing well alone...His mother and father were responsible. The child did not have a book, and he went to school to get a book. We did two things. First, we had the parents buy cement to fix the hole the child made in the school. Second, because we could not send the child to prison or make him pay for the cement, we sent him to learn how to make bricks with the mason (interview with Michel Djoufack, Dschang, July 16, 2012).

When a child is accused of wrongdoing in many places in West Africa, the victim and community generally do not first call the police, an act that would trigger the state-level justice system’s response to socially unwanted behavior. Instead, most people—the regional estimate is up to 80% (Bissell 2012:3)—attempt to handle the issue in the community either by themselves, or with the assistance of a community member, often a traditional chief. This community-oriented response occurs in the Republic of Cameroon, even though the state does not recognize traditional chiefs’ jurisdiction to handle criminal cases.

In this article, I focus on traditional chiefs in Cameroon and the manner in which they dispense justice in their communities. Chiefs’ experiences dealing with children in conflict with the law acts as a lens through which to explore the complex relationships between citizens, chiefs, and the state. I structure the article as follows: I first discuss the literature on chiefs’ role in the community as dispensers of justice. Second, I introduce the Cameroon case study and discuss the shortcomings of the formal justice system’s response to children in conflict with the law. Third, I present Cameroonian traditional chiefs’ actions concerning child justice based on interview data, and ends with chiefs’ recommendations concerning how to better incorporate traditional chiefs’ work into the state’s justice regime.

I use the term ‘traditional chief’ in this article primarily because this is the term that the chiefs use to describe themselves (“*chefs traditionnels*”). Chiefs’ actions are not solely “traditional” or based solely on “customary law.” The chiefs make dynamic decisions based on evolving values and norms, including indigenous knowledge and global themes. I do not suggest that there is a binary between the chiefs’ knowledge and actions and that of the state, and I later describe interactions and fluidity of case movement between these two systems.

Chiefs as Justice Actors

Traditional chiefs and other non-state justice mechanisms have gained increased attention in recent years from both academics and policymakers. Some individual countries have received attention from legal anthropologists, as well as from those interested in “access to justice” (see, e.g. Kane 2005; Wanyama Chemonges 2010:164). Most attention within the rule of law sector is paid to formal justice system reform, though there is growing interest in customary law and dispute settlement among donors (Ubink & van Rooij 2011:8). It has been argued that customary law can incorporate restorative justice principles better than formal justice systems (Kane, et al. 2005:11). Furthermore, there is extensive literature concerning the role of community justice mechanisms in transitional

justice after widespread violence or genocide perpetrated by a large number of actors (Baines 2007).

Some indigenous traditional customs and practices that regulate disputes practices are now considered as forms of restorative justice (Banks 2011:168). Policy makers in states with already existing indigenous dispute resolution processes must decide to what extent to appropriate and enact indigenous models, or to “apply restorative practices and procedures designed in the West which have been incorporated into international restorative justice instruments, or both” (Banks 2011). I build on earlier findings that a large majority of problems facing children (including child protection and petty crime), are resolved at the family level first, and then at the community level, with the customary chief (or other community leader) playing a mediating role if families cannot resolve issues internally (Child Frontiers 2010:5).

Justice dispensed by chiefs is not without critique and has been accused of, *inter alia*, elite capture, a lack of recognition of human rights standards, and unreliability of outcome, which can have dampening effects on economic growth models that rely on certainty (Ubink & van Rooij 2011:9–10; Kane, et al. 2005:9–15). Dispensing justice is only one role chiefs play, and a chief’s power is determined in part by the “level of collaboration” with state elites, and by “anticipation of or failure to attract state-driven development efforts in their chiefdoms” (Cheka 2008:69). In other words, chiefs’ decisions are restrained by state power elites, and must be viewed in the context of local and national state development agendas.

Methods

The interview data for this article comes from a research trip to Cameroon in June and July 2012. This was my fourth trip to Cameroon, with almost 12 months total time spent in country since the year 2000. All of the interviewees are men (14 chiefs and 3 government officials), and initial interviews were made through the author’s existing contacts, and using snowball referrals. I analyze the chiefs’ reflections through discourse analysis. The chiefs ranged in age from their early 20s to early 80s, and all were literate in French or English. Some chiefs were recently installed on the throne, while others had been on the throne for almost 50 years. Their professions (as being a first-degree chief provides little or no income) include teacher, university student, electrician, farmer, and government bureaucrat. Nowhere in Cameroon are women given a place of power in the typically traditional structure and the chieftaincy is passed hereditarily, per

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the 1977 Presidential decree on Traditional Chiefs. This article represents one small part of the larger socio-political puzzle in Cameroon, and further research merits discussions and interviews with community members, including men, women, boys and girls.

Justice in Cameroon: a tale of overlapping systems

Reflecting its unique bifurcated colonial history, Cameroon’s legal system is a classic mixed jurisdiction. Cameroonian law incorporates French and English colonial¹ legacies as well as traditional law elements. Decree 72 of the 26th August 1972 expands upon Article 68 of the Constitution in organizing the judiciary in a bijural manner. But Fombad (1997:216) characterizes Article 68’s language as weak concerning Cameroon’s bijural nature, while Palmer discusses the pervasiveness of mixed legal systems that adopt factual, rather than normative or prescriptive criteria. Based within the criminal justice realm, I address public, rather than private law, and avoid the problem of “using private law as the proxy for judging entire legal systems” (Palmer 2007:1209).

The Cameroonian state’s justice mechanism

Within the context of a state with weak institutions, Cameroon’s formal criminal justice system favors punishment in the form of deprivation of liberty and fines, and is best characterized as retributive in nature. Restorative justice principles, wherein the victim/survivor, offender, and community members “participate actively together in the resolution of matters arising from the crime” do not play a role in the administration of this system (UNICEF Toolkit Glossary). Victims rarely show up to court, which makes their inclusion in a restorative justice process quite difficult. By contrast, traditional leaders routinely involve both parties in informal reconciliation and mediation efforts. The integration of customary law into the modern state remains a challenge in the region (see, e.g. Nwauche 2010).

The 2005 Criminal Procedure Code (CPC) is the first attempt at unified criminal procedure legislation since Cameroon’s independence in 1960. Prior to 2007, when the CPC came into effect, criminal procedure in the two Anglophone regions followed Nigerian common law (Njungwe 2008:67, note 57). Likewise, criminal procedure in the eight Francophone regions followed civil law, as passed by the Cameroonian legislature, incorporating French colonial decrees. The CPC,

¹ Officially, Cameroon was under ‘trusteeship’ rule

however, represents the first unified criminal procedure code in Cameroon, and is in effect in the entire country. The CPC is based primarily on the French civil law system with some British common law influences, such as habeas corpus relief (Cameroon National Assembly 2005:Art. 584).

Strong traditional forms of dispute settlement

Cameroon boasts more than 200 ethnicities, each with some form of traditional power structure. Cameroonian law recognizes 227 Customary Courts (*Tribunal Coutumier*), that operate under the auspices of the Ministry of Justice, and whose decisions have the same force of law as those emanating from the First Instance Courts (Institut National de la Statistique 2006:197). Customary Courts generally handle questions of “marriage, conflicts concerning management of land parcels, conflicts on succession land disputes” (interview with Guie Bay, July 16, 2012). The Customary Courts are usually made up of seven people, each of whom is named by the Minister of Justice (interview with Guie Bay, July 16, 2012).

While the Customary Courts apply traditional law, these institutions do not represent the only voice of traditional authorities, as there also exists a hierarchy of traditional chiefs or leaders. A 1977 presidential decree makes all traditional leaders “auxiliaries of the administration,” and organizes chiefs into three levels: first, second, and third-degree (Presidency of Cameroon 1977). Decisions from first-degree chiefs can be ‘appealed’ to second degree chiefs, and so on. The government must ratify a chief’s installation before he can exercise any official role. While second and third degree chiefs receive a small salary from the state, the divisional officer can also discipline chiefs.

Chiefs are responsible for, *inter alia*: (1) transmitting the directives of the administrative authorities to their people and ensuring that such directives are implemented; (2) helping, as directed by the competent administrative authorities, in the maintenance of law and order; and (3) collecting taxes and fees for the state and other local authorities (Presidency of Cameroon 1977:Art. 20). The “bureaucratization” of the chieftaincies has “demystified the sacred nature of royalty and seriously curtailed the powers of the chiefs” (Ubink 2011:19). Cheka points out the disconnect between the 1977 decree, which allots traditional authority based on territory, and what he calls the “realities of the extraterritoriality of traditional power” wherein a chief’s authority moves along with his subjects wherever they go (Cheka 2008:83). Cheka also summarizes the historical treatment of chiefs in different parts of Cameroon:

[P]owerful and centralized chiefdoms . . . in the Bamenda region of Cameroon date back over 400 years. These were not dismantled by the British colonial policy of indirect rule. By contrast, in the segmentary southern half of the Cameroonian territory, a region without a tradition of central government, the French colonial masters created ‘warrant chiefs’ and sought to reform it by . . . defining the status of indigenous chiefs. [Cheka 2008:85; internal citations removed]

The 1977 decree only provides jurisdiction to chiefs for certain private (i.e. civil) law matters, and specifically not criminal matters. That said, the *de facto* status is that chiefs regularly decide cases before them, including criminal cases. I make reference to the decree to provide background for understanding the current relationship between the chiefs and the state, and also because many of the chiefs find the decree important as a guiding text.

The text of the 1977 decree subjects all chiefs to uniform legislation, but also exemplifies the inherent challenges in making national policy in such a heterogeneous context. The decree dates from the presidential reign of Ahmadou Ahidjo who was from the north of the country, and the law sets as national policy certain elements of tradition that derive from the north. For example, the law provides that only descendants of the chief can become chief. While this follows the traditions of the Fulani from the north, as well as the Bamiléké and Grassfields from the West and North West Regions respectively, this is not the tradition for many ethnic groups from the Center or South. Among the Yambassa people from the Center Region, the village chooses a new chief by election (interview with Ngama, July 11, 2012). In the village of Ningwan (near Ombessa), before 1970, the community rose up against the chief because he was a drunk and they replaced him with someone from a different family (interview with Ngama, July 11, 2012). This sort of uprising is not possible under the 1977 law because a descendant of the deposed chief would successfully challenge the naming of another chief in the state court.

Traditional justice mechanisms and practices in Cameroon

This section describes traditional chiefs’ management of children accused of wrongdoing in three geographic areas in Cameroon: Ombessa/Bafia, Dschang, and Grassfields (North-West Region). First, the Ombessa/Bafia area of Center Region, 90 kilometres northwest of Yaoundé is known as having relatively weak

traditional power structures. As one chief in the Center stated, “Here in the Center and South, they [the government authorities] threaten the chiefs. They menace us verbally. Here, the chief does not have a power” (interview with Anonymous, 13 July 2012). By contrast, the Bamiléké region or the West Region and the Grassland region of the North West region are both known as having a highly structured traditional leadership with strong moral authority. As one chief from a village near Dschang stated, “Here in the West [Region], it is perfect. In other places, there are other small systems, but it is not as strong as here” (interview with Armel Fébazé Kana, 15 July 2012). One chief in the North West region stated that disputes are first handled at the family level, then if that does not succeed, at the community level with a quarter-head. If that is not successful, the case then goes to the ‘traditional councils’ and then finally to the Fon’s² court. As the Fon of Bamendankwe in the North West Region put it, the Chief . . . “is like the supreme Court” (interview with Fon Forsuh Fongwa II, 17 July 2012). Thus, the regions covered provide comparative perspective on robust and weaker chieftaincies. Lacking from these cases is an example from the northern, predominantly Muslim zone (including Adamawa, North, and Extreme North Regions), where there also exists strong traditional power structures. Also, the data presented here excludes the two major cities of Yaoundé and Douala, both of which represent a more cosmopolitan, multi-ethnic view of conflict management as well as relatively stronger state institutions.

The traditional justice system is wrapped up in the ontology of the village, and the treatment of children in the justice system reflects how children are viewed in the community. There is a sense in Cameroon that during a bygone era a child was raised—and therefore could be sanctioned—by the entire village. “In the past (*à époque*), if a child did something stupid (*a fait une betise*), all adults in the community would have the right to sanction or beat the child. Now, that has changed. Most adults would just let the child go” (interview with Bienvenu Ngama, 11 July 2012).

The Chief’s Role in the Community and Derivation of Authority

Many chiefs interviewed for this article agreed that the role of chief in the community is generally one of bringing the population together in peace. The following statements were made in terms of the role of the chief:

² The terms “Fon” in the North West and “Fo” in the West Region refer to the chief.

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- “The goal of the chief is the family; it is social consolidation. That is why the chief is the preacher, the mediator, and the judge as well” (interview with Armel Fébazé Kana, 15 July 2012).
- “He arranges village conflicts with his neighborhood chiefs and his notables” (interview with Jean Claude Ortumé, 12 July 2012).
- “Our role is to assure that our residents can live in peace and harmony” (interview with anonymous representative at Biabeyakan, 14 July 2012).
- “[T]he first role of the traditional leader . . . is to keep the society intact. . . . [T]he traditional leaders is there to create a harmonious environment for his subjects” (interview with Martin Fobuzie II, 18 July 2012).

These statements show how social stability is of the utmost importance for chiefs, which has both positive and negative implications. This approach lends itself to the application of restorative justice, because the chief is interested in a long-term solution that takes into account the needs of the victim, as well as addressing the alleged perpetrator. “After a resolution of a conflict at the chieftaincy, the peace between the families continues. . . . Always at the end of the process, we sit together and have kola nuts and a wine to say ‘the problem is over’” (interview with Armel Fébazé Kana, 15 July 2012). Another chief from the West Region explained that: “If people go to the police to resolve a problem, afterwards, the families may still have a problem, and they will then take it to the chieftaincy, and we will start from zero to address it and come to a solution” (interview with Denis Ngoutsop, 15 July 2012).

The chief also acts as intermediary between the government and the people. By far the most frequent statement about the chief’s role is that he is “auxiliary to the administration,” language that comes directly from the 1977 decree defining the relationship between the government and the traditional chiefs. One chief from the Center Region expressed that: “The chief is uniquely poised to analyze the problems in the community, and to take the word of the people to the government and from the government to the people” (interview with Jean Claude Ortumé, 12 July 2012). In short, chiefs in Cameroon serve several functions including as preserver of social cohesion, and as an intermediary between the population and the government.

A chief’s authority derives primarily from culturally based power arrangements over time, which has an effect on the manner in which his decisions may be viewed. A North West Region chief stated that “because he is a divine ruler and because he is supposedly put there by the ancestors, his judgments and

decisions on conflicts are usually considered to have divine backing. Therefore, most of the time his decisions are accepted in good faith for better or for worse” (interview with Fon Martin Fobuzie II, 18 July 2012).

The level of ethnic uniformity in an area where a chief presides plays an important role in whether that chief is respected. The chief has power over those within a geographic area, but “outsiders” or non-ethnic autochthones may have allegiance to their own chief (or to no chief at all), and may not care to follow the chief’s recommendations. Rural chiefs see the multi-ethnicity that comes with urbanization as a threat, and at least one spoke of trying to control the phenomenon. Chief Kana finds that “urbanization is a danger for us. I try to do what I can to keep village land from being sold to foreigners [i.e. people not from his village]” (interview, 15 July 2012). He explained that “if there is an issue with a neighboring village that has different customs, we have to go to the gendarmes” (interview with Armel Fébazé Kana, 15 July 2012). By contrast, another chief in the West Region from the town of Dschang whose chieftaincy includes the multi-ethnic University of Dschang, stated that, “I don’t even know 95 percent of the students that live in my village. The university students are scared to enter the chieftaincy” (interview with Denis Ngoutsop, 15 July 2012). A chief who lives in an urban area with multiple ethnicities and a more transient population may not have the same level of moral authority over his subjects than a chief who lives in an area with a sedentary, ethnically homogenous population. That said, the statement about students’ fear of entering the chief’s palace derives from the perception of Bamiléké chiefs’ use of magic, which suggests that a certain level of respect for the chief does still exist.

The chief’s authority also derives from his own personal actions and reputation. A Center Region interviewee explained that: “When the chief excels in alcohol, he is not respected. If he always goes to the bars, then he is not respected. But a chief that works every day in the field and who speaks well, he gets some respect. And then people bring issues to him” (interview with Emile Louis Guie Bay, 13 July 2012). Another Center Region chief explained that: “A chief cannot be a bandit, or be arrested, or go out with married women. This is the question of morality” (interview with anonymous chief, 13 July 2012). In sum, a chief derives his authority from his role as a traditional leader in a place that values the institution of the chieftaincy. This authority is mediated by the level of ethnic diversity within the community, and chiefs’ actions are expected to conform to certain behavior codes.

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Chief performance and community preferences

The traditional chiefs in Cameroon are under pressure from the community and the state to do their work well. First, chiefs recognize that they sometimes act as a judge, and “must be neutral so that people do not think that you are seen to be on one side of the other” (interview with Simon Fossokeng Solefack II, West Region, 16 July 2012). Secondly, chiefs must sometimes act quickly based upon inculpatory information about another person, otherwise the chief becomes responsible both to the community and to the state if that person goes free. “The tradition will condemn me if I expose a member of the family to a ‘public verdict;’ that is to say when someone yells ‘Thief!’ and the population attacks them (interview with Armel Fébazé Kana, 15 July 2012).” Here, this West Region chief feels obligated to the community to avoid allowing a person to be beaten. Chief Ngoutsop from the West Region explained:

When the community arrests a thief, people will carry out ‘popular justice’ and beat him. Generally, I do all that I can to avoid that he is subject to popular justice. It is very dangerous when they do it in my presence. I can even go to prison if I see a person being subject to popular justice.

Here, the chief can be liable to the state (through arrest) if his inaction allows for ‘popular justice’ to be held. These stories show the strong community response to wrongdoing when state structures are neither close nor trusted. The chief in this case acts to mediate between the state’s justice system and the community’s vigilante justice.

Many Cameroonians prefer going to the chief than to the police, in part because the chief is permanently in the village and is answerable to the community. The following statement suggest that chiefs recognize the gravity of their making decisions that will work for the long-term good of the community:

When a traditional ruler takes a decision, or he handles a matter and makes his decision public, he is there forever. . . . If he took a wrong decision, the wrong decision will come back to him; it will keep hovering around him. (Interview with Martin Fobuzie II, North West Region, 18 July 2012)

There are several perceived advantages that a community member may seek when deciding to bring a minor criminal matter to the chiefs rather than to the police. Chief Kana explained that chiefs’ outcomes are more likely to lead to peace between the families, are less expensive than the formal system, and are

quicker. (Chief Kana does not ask for money to *convoque* (or subpoena) the parties, nor for investigation.) By contrast even travelling to the gendarmes or prosecutor can be costly, as Chief Kana explains:

At the police, it is costly and slow. You go to them and they ask you to come back another day. If the accuser asks for an investigation, they have to go to the brigade many times. . . . Also, even if they do an investigation, when it is finished, they send the case to the prosecutor. It costs money to travel to the prosecutor's office to follow the case. (Interview with Armel Fébazé Kana, 15 July 2012)

When a weak state cannot provide meaningful security and justice services in a timely and cost effective manner, the populace understandably seeks alternatives. Furthermore, strong internal pressures exist for community members to keep cases out of the formal justice system, as referring a case to formal authorities is like committing “treason” against the community (interview with Armel Fébazé Kana, 15 July 2012). In sum, community members generally prefer to handle disputes outside the state system due to cost, proximity, and speed.

Traditional chiefs' handling of children

Traditional chiefs show a strong preference for handling problems with children within the family or community, and avoiding going to the police. As one retired police commissioner from the Center Region explained, “It is very rare that people will go to the court or the police with a problem that the child has done.” (interview with Bienvenu Ngama, 11 July 2012). One Center Region chief provided an example: “If I find a child who has stolen a telephone, I call the parents and tell them that they need to reimburse the victim for the telephone. If the family accepts to pay the restitution, I will let the child go home” (interview with Anonymous, 13 July 2012).

Many chiefs employ a nuanced approach to handling children in conflict with the law, categorizing children based on their moral culpability. For example, chiefs differentiate between crimes of poverty and crimes committed as part of a criminal lifestyle.

If a person did a reprehensible act because he enjoyed it, you must come down hard on him. If someone does something because he does not have information that it was wrong, we consider it an act done out of ignorance. (Interview with Simon Fossokeng Solefack II, West Region, 16 July 2012).

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This reasoning belies both a detailed understanding of human behavior and of the need to differentiate between motivations for criminal conduct that on the surface may appear similar. Such analysis by the chiefs also shows that they consider context and character in meting out punishment, something they are uniquely positioned to do because they are not facing sentencing regulations that guide the state criminal justice system. Chief Ngoutsop from the West Region differentiated the context of the crimes in determining the degree of punishment:

[Some] children steal fruit off the farm; maybe mangos or guavas. We threaten the child and let it go. But, if a child steals fruit that has already arrived in the market, this is already an aggravated offense. This is another level of theft. . . . We can get the parents to pay the price of this amount of fruit. (Interview with Denis Ngoutsop, 15 July 2012)

Here, stealing fruit from a tree is treated less seriously than stealing fruit that someone else had already harvested, perhaps as a recognition of the work to take products to market. One chief from rural West Region observed that:

When we see delinquency, the first thing we do is first to understand what is going on. Maybe a child arrived at a situation to steal because he lacks food in the family. We have to look at the family situation. Did he steal because he is hungry? The chief must first search to understand the lack. (Interview with Michel Djoufack, 16 July 2012)

In all of the cases above, we see chiefs making decisions about how to morally classify different acts.

The overwhelming response by fourteen chiefs in Cameroon was that issues of children come to them quite frequently. By contrast, only two said that they rarely had youth getting in trouble, and these were very rural villages where chiefs said that children are mostly busy in the fields with their parents.

Like many other aspects of traditional power structures, the procedure by which a traditional chief investigates, questions, and handles a hearing varies widely between individual chiefs. At least two chiefs spoke of receiving only written complaints, while one said that all decisions were documented in a statement that can be sent to state authorities if necessary. One chief showed me his calendar book in which he had summarised a recent case that he had heard, including the decision.

The traditional hearings are generally open for any community members who wish to attend (interviews with Jean Claude Ortumé, 12 July 2012 & Joseph Mbogning, 15 July 2012). The public nature of hearings concerning children

appears to contradict the privacy generally required of cases involving children (United Nations 1989:Art. 16). That said, it could be argued that given the restorative justice basis of traditional justice mechanisms, it is important for the community at large (not just the individual victim) to be involved and see the justice process unfold.

Chiefs often include their notables (village elders) in the judgment process, whose role it is to elicit the story of what happened from the children through questioning the parties (interview with anonymous representative of Chief in Biabeyakan, Center Region, 14 July 2012). Chiefs call the parties to present their story, deliberate with the notables and, as one West Region chief said, “come to a decision to satisfy the parties” (interview with Michel Djoufack, 16 July 2012).

Under international law, a child gets a chance to be heard in proceedings (United Nations 1989:Art. 12; United Nations 1985:Art. 14(2)). All of the chiefs interviewed said that they do give a chance for the accused child to speak during a judgment. Chief Kana provided a compelling summary of how he approaches the procedure of judgment:

When a young person is apprehended in the village (a delinquent or bandit); I am called (*saisi*). I act as mediator. My role is to judge the intellectual and moral capacity of the youth. That is to say: what led him to steal? Why did he do this? Then, I call (*convoque*) the youth and their family. When they arrive here, I listen to the parties, and I am assisted by notables. The notables assist in the mission. Everyone speaks: “I am the mother of X... It is true that he came to my aunt’s house... etc.” The youth will then plead guilty or not guilty. If he pleads not guilty, I am obliged to ask everyone to leave the room, and I have a one-to-one meeting with the child. This meeting is not to threaten him. It is to search for the truth. “Tell me the truth; what happened.” If he says that it is him, I will then call in the victim, and I am transformed into a mediator.

In sum, there is great variability between chiefs—even chiefs in the same region—in how judgments are handled. That said, most chiefs allow the child to speak, seek assistance in making decisions from the group of notables, and hold public hearings.

Chiefs and the state justice system

There is wide variation in the manner in which chiefs view their relationship to the government’s justice system. The majority of chiefs seemed to

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recognize that their own decisions were eventually subject to Cameroonian law. As one chief told me, “The law of Cameroon is above the law of the community. Community law can never be above the law of the country” (interview with Tekouh Simon Mungmah III, 18 July 2012). Yet some chiefs view their role as being more important than that of the police, as one North West Region chief explained:

We make up our own laws and we do not follow the government rules. In the grassfields, we have our set-ups and own ways of administration. The government does not interfere with our activities. Criminal cases, like murder, we refer to government. Cases of divorce, we can handle at the local level. . . . I am like the supreme authority of all the institutions of the village. All orders come from me. They [police/gendarmes] only aid me to work. When they have difficult cases, they run for advice from me. (Interview with Fongwa II, 17 July 2012)

The chiefs all had different limits for when they would transfer a case to the police. However, there are a few trends. When a child is in trouble for the first time, he or she is more likely to be handled by the chief; if the item stolen has a low monetary value, and if the act of stealing does not have an aggravating factor (such as breaking into a house by causing damage), the child is more likely to be handled at the community level. There is general agreement that a crime of murder should go straight to the police. “When you have a crime, if someone has killed someone in the village, the chief must first announce to the administrative authorities [police] that this has happened” (interview with Emile Louis Guie Bay, 13 July 2012). One West Region chief stated that a case “that deals with the integrity of the state” goes “directly to the gendarmes. If, for example, there is cocaine production, I will send the issue directly to the state authorities. Or mercenaries” (interview with Armel Fébazé Kana, 15 July 2012).

The chiefs’ views of the police and formal government authorities is not generally positive.

When someone is arrested by the public and they bring him to the chieftaincy, we call the police and turn him over. Often, six days later, we find the guy is out on the street. . . This is a fundamental problem. (Interview with anonymous Center Region chief’s representative, 14 July 2012).

Some state officials in the justice system, including police, have a reputation for releasing arrestees in exchange for money, either for personal gain,

or legitimately if bail is set. One chief from the Center Region has a process for dealing with someone who does not want to come to the chieftaincy to deal with a problem. “I will write a letter three times to get someone to come to me, and then I send the case to the Gendarmes or to Justice” (interview with anonymous chief, 13 July 2012). Sometimes, chiefs reported that the police send cases back to the chief. In sum, the relationship between formal and informal authorities is complex and fluid and depends on the personal relationships.

Outcomes and punishments

In general, traditional chiefs first try to mediate a conflict and come to an amicable agreement between parties, often including payment of some money or performance of labor by the accused for the victim. However, if one of the parties is unhappy with the chief’s solution, that party can go to the formal justice system as well. As one Center Region chief’s representative explained, “We try to find a final solution to arrange. If the parents of the accused are not okay with the solution, it will go to the police” (interview with anonymous, 14 July 2012). This approach has come under a fair amount of criticism in cases of rape, wherein the perpetrator or his family will be seen to have ‘purchased’ the victim. Chiefs in Cameroon are mostly male and their judgments carry an inherent gender bias that may downplay the complex needs of female victims. One chief’s representative from the Center stated that there is no ‘arranging’ at his court: “We don’t exchange money here. We may punish the child. We may say that you had best not get in trouble in the next year. If there is a problem, then we will bring it to the police” (interview with anonymous, 14 July 2012). While Cameroonian law does not grant criminal jurisdiction to traditional chiefs, most chiefs recognize self-imposed limits to their forays into criminal dispute resolution. This was relatively standard across the three regions where I conducted interviews.

As discussed above, many chiefs invoke a bygone era during which time “things were different,” especially concerning the limits of traditional authorities’ ability to punish criminal offenders. In the past, the punishments could be much harsher. “Before, when a child who disobeyed, they could paralyze him by hitting his knees. But he learned; he won’t do it again” (interview with Emile Louis Guie Bay, 13 July 2012). One chief explained that in the West Region, in a previous époque:

[A]ll chieftaincies had prisons inside . . . Cases of assassination or injury could result in capital punishment: they used to bury the person alive. Now, they don’t do that. For less serious crimes, an adult may be chased

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from the community. But we don't do that anymore. (Interview with Simon Fossokeng Solefack II, 16 July 2012).

If, indeed, chiefs previously administered capital punishment, then traditional authorities shared the state's monopoly on legitimate violence. However, most chiefs recognized that their power has reduced in relation to the state, in part due to changing norms and even human rights. When compared to other chiefs who still use labor as a means of punishment, this statement shows the variability in the chiefs' power from region to region.

In addition to trying to mediate and arrange an amicable solution the most common punishments for children mentioned by chiefs include: a fine; forced labor (usually for a day or two) either as restitution for the victim, or for the community (fetching water from the well, etc.); closing a child in a room up to 12 hours; or corporal punishment. Chief Kana explains other options: "Here, we can say, 'you have to go six months without going to the market. This is a punishment. We can isolate you. We can give a fine. We can do forced work, that has a character that is positive for the community. Maybe paint this, or help fix the road'" (interview with Armel Fébazé Kana, 15 July 2012).

Some chiefs openly discussed using corporal punishment against children. The following extended quotation from the West Region shows the multiple roles of corporal punishment in this chief's investigation and judgment.

I call the child's parents. I say, 'your child went to this plantation and stole some fruit.' I call the child and I ask, 'did you steal?' The child may not want to say anything in front of his parents. The man whose fruit was stolen has proof: he says, 'I saw you in the field.' Now, the child is scared. We ask him if it is true. Sometimes the child doesn't say anything. We take a stick and we threaten to hit him (*on cherche à taper sur lui*), and he says, "yes." . . . Now the father will beat him (*le fouette*). The child will say, "I will never do it again." We have found a solution. (Interview with Denis Ngoutsop, 14 July 2012).

Here, there is a threat of violence against the child during the proceeding as well as an application of violence against the child. The violence here is actually carried out by the child's father, which would likely be acceptable under Cameroonian law. It also highlights the role of the child being judged in the family setting, though the story sounds like a forced confession.

The use of corporal punishment proves challenging to those committed to the bodily integrity of and the best interest of the child. While on the one hand, these descriptions are violations of a child's right to bodily integrity, on the other

hand, the alternative (placement in a Cameroonian prison for months as a provisionary measure even before being judged innocent or guilty) could arguably be worse. Children are regularly beaten in police stations and prisons in many countries in Africa, including Cameroon (Dankoff 2011:21–22). In what was the only spontaneous reference to the human rights discourse, a Center Region chief’s representative explained that, “Before, we used to whip the person. But as you know, things are changing in our society. Now, we can no longer do that. We also used to make people work in the chief’s plantation, but we do not do that anymore. That has changed, *with human rights*, and all that, it has changed” (interview with anonymous, 14 July 2012, emphasis mine). In this way, traditional chiefs’ punishment of children is mediated by the proliferation of international human rights discourses, and changing social norms.

The chiefs’ justice should not simply be seen as the ‘lesser of two evils.’ However, neither should the use of corporal punishment by chiefs be a litmus test that, if it used, would justify excluding traditional authorities from discussions of diversion³ and community based protection mechanisms. The next section details the chiefs’ insights into improving working relationships between formal and informal justice mechanisms.

Toward recognition of criminal jurisdictional for traditional chiefs

The traditional chiefs interviewed put forward many ideas for how to improve their relationship with the state and carrying out justice functions. First, they recommended that chiefs have specific jurisdiction for certain minor criminal acts. In recognition that chiefs are often closer to the community, several chiefs pointed out that formal justice officials could be encouraged officially to ask for input from the traditional chiefs. I agree with this point, though I would caution that any new policy that would *require* input from chiefs in criminal cases could place a time burden on chiefs and slow down already glacial criminal processes. These recommendations build from Cheka’s recommendation of formal integration of traditional authorities “into the republican institutional setting by effectively constituting the first level of decentralized institutions of local governance rather than being left in limbo as is the case now” (Cheka 2008:85).

³ Diversion refers to the channeling of children in conflict with the law away from judicial proceedings through procedures, structures and programs that enable many children to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings and a criminal record (UNICEF N.d).

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Several chiefs also stated that the provision of salaries for third degree chiefs (the lowest level) would allow them to carry out their work more effectively. Currently, only chiefs of first and second degree receive a small stipend from the state. One Center Region chief expressed frustration for having to spend personal funds to provide an essential service: “Yesterday, I paid for a motorcycle taxi for some transactions, but I am not paid. The third degree chief. . . renders so many services to the Cameroonian community and we put ourselves out materially and financially” (interview with Anonymous, 13 July 2012).

Finally, multiple chiefs stated that they wanted more collaboration with justice officials, as well as training opportunities. One South West Region chief recommended seminars that included both formal and informal sectors where formal justice actors can learn about the conflict resolution processes that the chiefs use to handle crises (interview with Fonchafac I, 18 July 2012).⁴

Conclusion

In this article, I have documented the manner in which traditional chiefs in three regions of Cameroon currently handle issues of children in conflict with the law. I have advocated stronger state recognition of chiefs’ justice role as it pertains to children in conflict with the law. I have shown that traditional chiefs exercise considerable power, including providing dispute resolution services for minor criminal matters, though this power varies widely by region. A chief’s role depends on his location, the resources available to him, ethnic homogeneity, as well as his own personality and willingness to work with local elites and the government.

Given the wide variation of belief and practice among traditional chiefs in and the ethnic diversity of Cameroon, it remains difficult for the state to implement one national policy toward them. The breadth of traditional justice mechanisms must, however be seen as a national strength, even though the moral authority held by chiefs differs widely from community to community. As Chief Kana eloquently stated, “The cosmopolitan nature of Cameroon is an advantage for world peace. The more ethnicities there are, the more that mentalities are different” (interview with Armel Fébazé Kana, 15 July 2012). Traditional chiefs already have some state recognition, and therefore some state legitimacy, under the imperfect 1977 decree that defines traditional leaders as “auxiliaries” to the

⁴ While this chief is from the South West Region, he indicated that his population follows largely the same customs as the Bamiléké of the West Region.

administration. Traditional chiefs make nuanced decisions, based on the case in front of them. Most importantly, traditional chiefs are already doing the work of community level intervention with children in conflict with the law, and generally have a better reputation at the community level for imputing justice. They should be treated as partners by government and non-governmental actors interested in justice systems.

Notes

Research for this article was generously supported by an award from the Center for the Human Rights of Children at Loyola University Chicago. I have benefited from feedback at a colloquium at the Center for Global Cooperation Research, University of Duisburg-Essen, as well as comments from Tobias Debiel, Markus Böckenförde, Susan Erikson, Mneesha Gellman, and Rosalie Billault. I am deeply indebted to Kem Keleng (DenisNgoutsop), Aloysius Tih, Omer Songwe, Timothé Guidimbé and Luc Nwamekang, who facilitated various parts of my time in Cameroon. All errors are my own.

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