

# An Appraisal of False Confession within the Criminal Justice System of Cameroon

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**Abstract:** *Confessions play a critical role in the criminal justice system of Cameroon. Self-incriminations are often the determining factor influencing case outcomes in both public and private sector. However, confessions, like many other aspects of our justice system, can be fraught with errors. At worst, false confessions have been used to convict and punish the innocent. The question is, why would an innocent person confess to a crime they did not commit? A number of factors may be contributing to this paradoxical problem. In understanding the legal implications of the incidence of false confession within the criminal justice system of Cameroon, this article examines the role Cameroon lawsplay in tackling the issue of false confessions, bringing out the various legal instruments, principles, and case law that address this phenomenon. Through an analysis of key international rights instruments, Cameroon adheres to such as the International Covenant on Civil and Political Rights and the United Nations Convention against Torture. The article highlights the legal protections enshrined to safeguard individuals from coerced or involuntary confessions. It further discusses the importance of implementing safeguards during interrogations, training law enforcement personnel, and establishing independent oversight mechanisms to prevent and rectify false confessions. Finally, this paper points out the position of Cameroonian Laws, whether the desire of the government to maintain a certain degree of fair trial has been attained. By illuminating the role of Cameroonian laws in mitigating this issue, the article contributes to the ongoing efforts in creating fair and equitable criminal justice systems that uphold the fundamental rights of all individuals in the country.*

**Keywords:** Confessions, false confession, Justice, Criminal Justice System, Cameroon, Criminal procedure

## 1. Introduction: understanding the notion of false confession

A confession has traditionally been viewed as the most influential type of evidence in criminal proceedings<sup>1</sup>. In Simulated Juror Studies, confession evidence has demonstrated a stronger impact on verdicts than eyewitness testimony or character evidence<sup>2</sup>. A confession is a statement made at any time by an accused in which he admits that he committed the offence with which he is charged<sup>3</sup>. For it to be admissible, it must be voluntary, that is (i.e.) made by the free will of the author or maker. The question is, why would an innocent person confess to a crime he or she did not commit? A false confession refers to a statement made by an individual admitting guilt for a crime they did not commit. Under criminal law, false confession can be voluntary, persuaded and complaint<sup>4</sup>.

There is a growing literature on false confessions showing that even well-educated adults succumb to police pressure during interrogations and make false confessions to acts they did not perform<sup>5</sup>. The Journal of the American Academy of Psychiatry and the Law<sup>6</sup> provides four ways to prove that a

confession is false: When it can be established that the subject confessed to a crime that did not happen, likely when a presumed victim is found alive; When it can be established that the subject could not have committed the crime because it was impossible for them to have done so, like if they were in another state at the time of the crime; When the true perpetrator is identified and their guilt is objectively established; and When scientific evidence exonerates the subject, like DNA evidence. Examples of false confession can be seen in the following external cases: one of the most publicised cases on false confession is that of the Central Park Five case. In 1989, Kevin Bailey and Corey Batchelor were both 19-years old when they were incarcerated for the murder of Lula Mae Woods<sup>7</sup>. Chicago police obtained a confession from the two that implicated them in the murder. Twenty-eight (28) years later, evidence, mostly DNA evidence, exonerated the two. Bailey walked free after serving 28 years for a crime he did not commit; Batchelor, after 15 years. This is all because two were coerced into confessing. The interrogation lasted multiple hours and resorted to physical abuse to coerce the boys into confessing. Batchelor was interrogated for more than 24 hours straight and ended up confessing after he was “choked, kicked and slammed against the wall by detectives.” Bailey was interrogated for more than 12 hours and he confessed after a detective assaulted him and threatened him. When asked about the interrogations, Batchelor stated that it was “just the good cop, bad cop type of thing” and that he maintained his innocence until the

<sup>1</sup> McCormick, 1972; Wigmore, 1970.

<sup>2</sup> Kassir & Neumann, 1997.

<sup>3</sup> Sect 315 of the 2005 Cameroon Criminal Procedure Code.

<sup>4</sup> Woody White Law Firm PLLC, Three main types of false Confession available online at <http://www.woodywhitelaw.com>. (accessed 23/09/2023).

<sup>5</sup> False Confessions: Some Developmental and Forensic Considerations Steven A. Drizin Northwestern University School of Law.

<sup>6</sup> Beth Harrell M. (2021), “Why do People make False Confession? Online at <http://marybethharrell.com>>blog (accessed 10/08/2023).

<sup>7</sup> Kevin Bailey, Innocence Project,

<https://www.innocenceproject.org/cases/kevin-bailey/> (accessed 22/09/2023).

interrogators threatened to kill him<sup>8</sup>. Then, he falsely confessed<sup>9</sup>. The confessions made by the teenagers were both inconsistent with each other and the details of the crime. Nonetheless, these confessions alone convicted them to more than a decade behind bars.

It should be noted that not every false confession goes to this extreme. Use of intense interrogation tactics can lead to false confessions even if they do not escalate to physical abuse. The story of Christopher Tapp illustrates how officers can use deceptive interrogation techniques to obtain a confession, even when the other physical evidence in a case may point elsewhere. In 2017, Christopher Tapp was released from custody after serving 19 years for a rape and murder he confessed to, but did not commit<sup>10</sup>. Back in 1997, Tapp was originally interviewed when the police suspected his friend, Benjamin Hobbs, to have been involved in the crime. Tapp originally stated that neither he nor his friends had anything to do with this crime. However, the officers “falsely told Tapp that Hobbs had already placed Tapp at the crime scene, and that they could help Tapp if he cooperated<sup>11</sup>.” As the interviews went on, and the pressure mounted by the officers increased, so did Tapp’s involvement in this case. Tapp entered into an agreement with the prosecutors that if Tapp gave an honest account of the events, he would only be charged with aiding and abetting an aggravated battery.

Officers then threw out the immunity agreement and attempted to pin this murder on Tapp, despite the fact that the DNA found at the crime scene did not match Tapp, Hobbs, or their third friend Sargis<sup>12</sup>. Before taking his fifth polygraph test, police told Tapp that he could get a lighter sentence if he explained that he acted in fear for his life (the alternate option of the Reid Technique). During the polygraph, Tapp said that Hobbs murdered the victim, but he joined Hobbs in stabbing her, but only because Hobbs had threatened to kill him. Tapp was charged with first-degree murder and rape. Hobbs was never charged with anything relating to this crime. Although the interviews with Tapp were recorded, not all of them were presented at trial. Specially, three of the seven recordings of Tapp’s polygraph videotapes that showed coercion and deception were not presented. DNA testing of the semen found at the crime scene eventually linked a man named Brian Dripps to the crime. Dripps eventually confessed to the crime and admitted that he acted alone and did not know Tapp. Tapp’s conviction was fully vacated in 2019<sup>13</sup>.

From the cases above, it is seen that false confessions not only devastate lives but destroy, delay cases and keep the

<sup>8</sup>Wrongful Convictions and False Confessions: Why an Innocent Person Might Actually Confess to a Crime *Photo by Bill Oxford on Unsplash* Katie Basalla, Associate Member, University of Cincinnati Law Review.

<sup>9</sup>*Ibid.*

<sup>10</sup>Christopher Tapp, Innocence Project, <https://www.innocenceproject.org/cases/christopher-tapp/> (accessed 22/09/2023).

<sup>11</sup>*Ibid.*

<sup>12</sup>*Ibid.*

<sup>13</sup>*Ibid.*

true perpetrators of terrible crimes from being brought on time to justice<sup>14</sup>. False confession is an admission by an innocent person to a crime he or she did not commit, often accompanied by a narrative indicating the particulars of how the crime was committed and why. As first noted by Hugo Munsterberg<sup>15</sup> innocent people may confess for a variety of reasons, both dispositional and situational. This paper identifies and examines the phenomenon of false confessions within Cameroon, the various factors that lead to false confessions, the existing legal safeguards and mechanisms aim at protecting the rights of suspects, defendants and accused; implications of false confessions on individuals, the criminal justice system, and society as a whole, recommendations to help minimize the occurrence of false confessions in the country.

## 2. How do False Confessions arise?

There is no single cause of false confession, and of course there is no single logic or type of false confession. False confessions are caused due to a multistep process in which the factors include police interrogation techniques (police-induced false confession), suspect mental stability and stress capacity. Police (Judicial Police Officers) are important actors in the criminal justice system in Cameroon, who are supposed to respect the right to a fair trial of accused or suspects, but they cause them most at times to be criminals without crimes by making them confess falsely.<sup>16</sup>

### 2.1 Police-induced false confessions

Confession starts when a suspect is arrested by a police officer. After arrest, the suspect is taken to police custody. It follows that after taking the arrested person in custody, investigations have to be conducted to determine whether such a person should be released or remanded in custody. Of course, the decision to release or remand in custody would ultimately depend on the statements recorded from other arrested persons and from potential witnesses. The purpose of police custody is to carry further investigation and gather more information related to the offence.<sup>17</sup> Police-induced false confessions are among the leading causes of wrongful conviction. Police-induced false confessions result from a multistep process and sequence of influence, persuasion, and compliance and usually involve psychological coercion<sup>18</sup>. Police are more likely to elicit false confessions during

<sup>14</sup>Richard A. Leo (2009), “False Confessions: Causes, Consequences, and Implications” *Journal of the American Academy of Psychiatry and the Law*, Vol. 37, Issue 3, pp. 332-343.

<sup>15</sup>1908

<sup>16</sup>Ndi R. (2019), “Reflection on Police Power of Arrest, Detention and The Treatment of Suspects Under the Cameroonian Criminal Procedure Code and Extra-National Laws: Human Right Digest.” *National Journal of Criminal Law*. Vol. 2, Issue 1, pp. 4-21.

<sup>17</sup>Chamboli Oke, C. (2019), “Guilty Without Trial: Assessing the due Process Rights of Suspects under the Cameroonian Criminal Law and Procedure.” *International Journal of Science and Research (IJSR)* ISSN: 2319-7064 SJIF (2019): 7.583, p. 257 of pp. 254-262.

<sup>18</sup> Zimbardo P: Coercion and compliance: the psychology of police confessions, in *The Triple Revolution*. Edited by Perruci C, Pilisuk M. Boston: Little, Brown, 1971, pp 492-508

interrogation. Persuasion and confession eliciting techniques and their severity plays an important role in the formation of the conditions which lead to a suspect giving a false confession. Therefore, in order to understand how the interrogating techniques can cause a suspect to give a false confession, we must understand what errors lead to such a situation. Confessions are mostly caused due to three sequential errors<sup>19</sup>. Law enforcement firstly misclassify an innocent person as guilty, then they project on him/her a guilty presumptive and use bluffing, false evidence and promise of reward to illicit a false statement<sup>20</sup>. Then they jointly with the suspect vividly shape the happening of the crime, using the suspects memories and concocting them to fit in their presumptive facts of the case. These are the three causes/errors which lead to false confession. These have been referred to as the misclassification error, the coercion error, and the contamination error<sup>21</sup>.

The **misclassification error**, which is fundamental in police coerced false confessions, occurs when detectives erroneously decide that an innocent person is guilty. As Davis and Leo<sup>22</sup> point out, “the path to false confession begins, as it must, when police target an innocent suspect. Once specific suspects are targeted, police interviews and interrogations are thereafter guided by the presumption of guilt”, This method of interrogation contradicts the provision of the Cameroon Criminal Procedure Code (CCPC) which provides that:

- “Any person suspected of having committed an offence shall be presumed innocent until his guilt has been legally established in the course of a trial where he shall be given all necessary guarantees for his defence.

(2) The presumption of innocence shall apply to every suspect, defendant and accused<sup>23</sup>.

This error commonly occurs in many jurisdictions because of misleading education or the false belief that officers can reliably tell, through verbal/non-verbal signs, when the person interviewed is “lying,” or they rely on some “gut feeling” or “sixth sense”<sup>24</sup>. For example, law enforcement will classify a person based on how he/she averts his gaze, slouches, shifts his/her body posture, touches his/her nose, adjusts or cleans his/her glasses, chews his/her fingernails

etc. They use these behavioural markers as a way to decide if someone is guilty or not<sup>25</sup>.

However, social science has reiterated many a times in a number of researches that humans are very poor lie detectors and thus are prone to a bad judgement in deciding guilt of a person based on behavioural markers. Even trained individuals cannot correctly identify a lying person on more than 50% of instances. As a matter of fact, if police did not erroneously interrogate innocent people, they would never elicit false confessions. Because misclassifying innocent suspects is a necessary condition for all false confessions and wrongful convictions, it is both the first and the most consequential error that police make<sup>26</sup>.

### The Coercion Error

The tendency is that once detectives misclassify an innocent person as a guilty suspect, they often subject him to an accusatorial interrogation. During the interrogation, police use techniques that break down a suspect’s resistance to admitting guilt. Police often lie about the existence of persuasive evidence against the suspect in order to persuade the suspect that there is no way out and confessing will improve the situation. Interrogators can communicate to the suspect that the suspect will receive a higher charge or harsher punishment if he does not confess or lesser if he does confess. The interrogator may also wear down or distress the suspect to the point where he believes he has no choice but to confess. This is known as psychologically coercive. This method of interrogation contradicts the provision of the 2005 Cameroon Criminal Procedure Code which prohibits torture of all kind be it bodily or psychological just to obtain confession from the suspects.<sup>27</sup>

The psychologically coercive interrogation techniques include some examples of the old third degree, such as deprivations (of food, sleep, water, or access to bathroom facilities, for example), incommunicado interrogation, and induction of extreme exhaustion and fatigue. In the modern era, however, these techniques are rare in domestic police interrogations. Instead, when today’s police interrogators employ psychologically coercive techniques, they usually consist of (implicit or express) promises of leniency and threats of harsher treatment. This is especially the case in high profile and homicide cases as in such cases, there is public pressure and little to no actual evidence. There is typically no evidence against a misclassified individual and therefore it is not surprising that the highest number of false confessions are solicited in capital crimes and high-profile cases<sup>28</sup>.

<sup>19</sup> Chapman Frances, E. (2014), “Coerced Internalized False Confessions and Police Interrogations: The Power of Coercion” SSRN Electronic Journal.

<sup>20</sup> Praduta Vaghela, S. & Hurkat, M.G. False Confessions Induced by Police: An Analysis, National Law University, *Indian Journal of Integrated Research in Law*. Volume II, Issue I | ISSN: 2583-0538.

<sup>21</sup> Richard A. Leo (2009), “False Confessions: Causes, Consequences, and Implications,” *The Journal of the American Academy of Psychiatry and the Law*, Volume 37, Number 3.

<sup>22</sup> The three errors: pathways to false confession and wrongful conviction, available online at: <https://ssrn.com/abstract=1542901>. (Accessed on 16/08/2023).

<sup>23</sup> Section 8 of the 2005 Cameroon Criminal Procedure Code.

<sup>24</sup> (Leo, 1996; Vrij et al., 2014).

<sup>25</sup> Praduta Singh Vaghela & Megha Hurkat, Gujarat National Law University, FALSE CONFESSIONS INDUCED BY POLICE: AN ANALYSIS, *Indian Journal of Integrated Research in Law*. Volume II Issue I | ISSN: 2583-0538.

<sup>26</sup> Richard A. Leo (2009), “False Confessions: Causes, Consequences, and Implications” *Journal of the American Academy of Psychiatry and the Law*, Vol. 37, Issue 3, pp. 332-343.

<sup>27</sup> Section 30(4) of the Cameroon Criminal Procedure Code.

<sup>28</sup> Ralston, J. et al. (2019), “False Confessions: An Experimental Study of The Innocence Problem” *Electronic Journal SSRN*.

### The Contamination Errors

Psychologically Coercive police methods of investigation take the innocent suspect from denial to admission but with an admission, a factual back story corroborated with the suspect is also required<sup>29</sup>. A subsequent narrative is required to contextualize the confession. This is also called the 'post admission phase' of the interrogation. These use influence and compliance techniques to shape and gave a blueprint to the suspect's narrative. The goal here is to concoct such a narrative which reflects on the confession thus, leading to conviction<sup>30</sup>. After the suspect had to the offence, the police help create a narrative of the crime that includes facts that an innocent person would not know. That is to say police shape the suspect's statements and provide details to the confession (including crime facts and plausible motives) to make the statements as persuasive as possible. Police often do this by subtly motivating suspects to provide "correct" answers to their questions.

The post admission narrative makes the story appear, at least on its face, to be a compelling account of the suspect's guilt. The content of and rhetorical force of a suspect's post admission narrative explains, in part, why confessions are treated as such powerful evidence of guilt and sometimes lead to the prosecution and conviction of the innocent<sup>31</sup>. Police detectives understand the importance of the post admission phase of interrogation. They use it to influence, shape, and sometimes even script the suspect's narrative. The detective's goal is to elicit a persuasive account that successfully incriminates suspects and leads to their conviction. A persuasive post admission narrative requires a convincing story line; it must tell, or provide the elements of, a story that will cohere and make sense to the audience evaluating it. Either implicitly or explicitly, a persuasive post admission narrative must have a believable plotline. Especially important is an explanation of the suspect's motive or motives for committing the crime. Interrogators are adept at inventing, suggesting, or eliciting an account of the suspect's motivation; indeed, the theme development technique is simply a method of attributing a motive to the suspect-typically one that minimizes his or her culpability-that the suspect agrees to and then repeats back, even if it is completely inaccurate. To incriminate the suspect, it is more important that the story be believable than that it be reliable (Leo, 2008). To bolster the believability and persuasiveness of confessions, detectives will seek to make the confession seem credible and authentic. They will encourage the suspect to attribute the decision to confess as an act of conscience, to express remorse about committing the crime, and to provide vivid scene details that appear to corroborate the suspect's guilty knowledge and thus confirm his or her culpability. Interrogators will also try to make the admission appear to be voluntarily given, portraying the suspect as the

agent of his or her own confession and themselves merely as its passive recipients.

The contamination of the suspect's post admission narrative is thus the third mistake in the trilogy of police errors that cumulatively lead to the elicitation and construction of a persuasive false confession.

### 2.2 Suspect mental stability and stress capacity

While this risk factor seems to encompass a wide and diverse breadth of the population, several studies conducted in recent years indicate that disorders such as depression and attention deficit hyperactivity disorder (ADHD) increase the likelihood that an offender will false confess to a crime. Studies have shown that most of those accused of homicide gave false confession. 81 percent of those with mental illness or disability also gave false confession. Lack of complete and present capacity can be a huge factor in false confessions. People with mental disabilities may be easier to coerce into a confession, especially by law enforcement not train to deal with those with disabilities<sup>32</sup>.

### 3. Admissibility of false confession in court

Generally, false confessions are not admissible in court. If a confession is proven to be false, the statement will very definitely be struck from the record. If a false confession was obtained by coercion or violence, the statement would be untrustworthy in court. Involuntary confessions, whether true or false, are not admissible. This is expressly stated in the Cameroon Criminal Procedure Code which provides that "a confession shall not be admissible in evidence if it is obtained through duress, violation, intimidation or in exchange of a promise for any benefit whatsoever or by any other means contrary to the freewill of the maker of the confession"<sup>33</sup>. Thus, for a confession to be admissible, it must be a voluntary admission of commission of the offence. The test to ascertain the genuineness of a confession was highlighted in the case of *The People Vs Tanyi Samuel Mbiangor*<sup>34</sup> as follows:

*The test to be applied to a man's confession are: whether there is anything outside it to show that it is true; whether it is corroborated; whether the person Making it had the opportunity of committing the offence to which he confesses; and whether it is consistent with other facts which have been proved*<sup>35</sup>.

The person who made the false confession might face further penalties for lying in court.

<sup>29</sup> Praduta, S.V.& Hurkat, M. "False Confessions Induced by Police: An Analysis," Gujarat National Law University, *Indian Journal of Integrated Research in Law Volume II Issue I* | ISSN: pp. 2583-0538.

<sup>30</sup> *Ibid.*

<sup>31</sup> Richard A. Leo & Steven A. Drizin, (2012), "The three errors: pathways to false confession and wrongful conviction." *University of San Francisco Law Research Paper* No. 04. Electronic copy available at: <https://ssrn.com> (accessed 27/08/2023).

<sup>32</sup> The law office of Anthony B CANTRELL available online at <https://www.anthonycantrell.com> (footnote) accessed 31/08/2023 at 12:14pm.

<sup>33</sup> Sect 315 of the CCPC.

<sup>34</sup> Judgment in suit No. BCA/6C/80 of 14 July 1980 (1997 1CCLR part 1 at 77).

<sup>35</sup> Per Nyoh Wakai CJ.

#### 4. Identification of some legal implications of false confession

The issue of false confessions raises several significant concerns related to human rights, the right to a fair trial, and the integrity of the justice system. Here are some key issues associated with false confessions:

##### 4.1 Violation of the rules of law on the protection of certain procedural and constitutional rights of suspect

###### 4.1.1 Disruption of the fundamental principle of Presumption of Innocence

The fundamental principle underlying the criminal justice system in Cameroon is that the accused person is innocent until proven guilty.<sup>36</sup> The principle of presumption of innocence was forcefully affirmed by the United Nations Declaration of the Rights of Man and Citizen<sup>37</sup> and in the Universal Declaration of Human Rights of December 10th, 1948. The presumption of innocence is an essential feature of the Cameroon criminal justice system and it is a right that has been enshrined in the 1996 Constitution of Cameroon amending the 1972 Constitution<sup>38</sup> in favour of any person accused of a criminal offence when it states that:

*“Every accused person is presumed innocent until found guilty during a hearing conducted in strict compliance with the rights of defence”.*

The criminal justice system of Cameroon places on the prosecution the duty to prove the offender's guilt. The principle in *dubio pro reo*<sup>39</sup> ensures that a failure to establish any significant element in the offence will result in an acquittal. Doubt must be construed in favour of the defence. The Cameroon Criminal Procedure Code has equally codified this fundamental principle of criminal justice administration when it provides that: “any person suspected of having committed an offence is presumed innocent until his guilt has been legally established in the course of a trial where he shall be given all necessary guarantees for his defence, the presumption of innocence shall apply to every suspect, defendant and accused”<sup>40</sup> As such false confessions erode the principle of “presumption of innocence. When a false confession is introduced as evidence, it can significantly impact the perception of guilt and prejudice the outcome of a trial.

<sup>36</sup>Chamboli Oke, C. (2021), “Justice and its Administration under the Criminal Procedure Code of Cameroon: An Appraisal.” (Ph.D. Thesis in Law, English Law, Faculty of Law and Political Science, University of Dschang, Unpublished), P. 225.

<sup>37</sup> Article 9 of the Declaration of the Rights of Man and Citizen of 27 October 1989.

<sup>38</sup> The preamble of the 1996 Cameroon Constitution.

<sup>39</sup> Hatchard, J., Huber, B. & Vogler, R. (2008) “Comparative Criminal Procedure”, The British Institute of International and Comparative Law. Cambridge University Press. p. 28.

<sup>40</sup> Section 8 of the 2005 Criminal Procedure Code.

##### 4.1.2 The right against torture and inhumane treatment is undermined

The prohibition against torture and other forms of ill-treatment is well established as one of the few absolute human rights which must be respected. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 defines torture as:

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

Article 6 of the African Charter on Human and Peoples' Rights provides that:

“Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.”

The International Covenant on Civil and Political Rights (ICCPR) (1976), Article 7 is also to the effect that “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*”

Simply adhering to these international law instruments, the Cameroon Constitution in its Preamble equally provides for this fundamental human right of accused persons when it provides that “every person has a right to life, to physical and moral integrity and to humane treatment in all circumstances. Under no circumstances shall any person be subjected to torture, to cruel, I inhumane or degrading treatment”. The Cameroon Criminal Procedure Code (CCPC) on its part states that upon arrest of a suspect, no bodily or psychological harm shall be cause on him or her. The suspect shall not be subjected to any physical or mental constraints, or to torture, violence, threats or any pressure whatsoever...<sup>41</sup>

False confessions often occur as a result of coercion, including physical or psychological torture, threats, or other forms of improper pressure applied during interrogations. These practices are strictly prohibited by international law, including the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading.

<sup>41</sup>Sections 30 (4) and 122(2) of the CCPC.

### 4.1.3 Violates of the right to a defensive lawyer

Regardless of the legal rights citizens command at trial, without legal counsel to aid them, they would be rendered defenceless before the law. Everyone charged with a crime is entitled to defend himself in person or, at his own expense, by a legal practitioner of his own choice and in the event the defendant cannot pay for representative, the State has to provide free legal services. This fundamental right of all charged with a crime is expressly provided in the Preamble of the Cameroon Constitution and in the CCPC<sup>42</sup> counsel for the defendant shall have the right to defend his client whenever he appears before the Examining Magistrate.<sup>43</sup>

### 4.1.4 The Right to a Fair Trial is at stake as a result of false confession

Every person accused of an offence has the right to a fair and public trial. The Preamble to the Cameroonian Constitution provides that the law shall ensure the right of every person to a fair hearing. This includes the right to be heard in an open court. This provision, which is also reflected in the CCPC<sup>44</sup> gives effect to a basic principle, that the searching light of public opinion provides the most effective safeguard against the danger of an arbitrary and despotic judiciary. False confessions undermine the right to a fair trial, which is a fundamental principle enshrined in the Cameroon Constitution and in international human rights instruments to which Cameroon is a Party. When individuals are coerced or manipulated into confessing to crimes they did not commit, their ability to present a proper defence and challenge the evidence against them is compromised.

## 4.2 The implication of Wrongful Convictions

Almost every major academic study of wrongful convictions has pointed to false confessions as an important contributing factor.<sup>45</sup> False confessions contribute to wrongful convictions, where innocent individuals are found guilty and imprisoned for crimes they did not commit. Such miscarriages of justice not only result in the loss of liberty for the wrongly convicted but generally are a major barrier to the administration of justice. The process through which a false confession results in a wrongful conviction is far more complicated and less well understood than the processes through which police elicit and construct false confessions, for it involves multiple actors-not just police and suspects,

<sup>42</sup>Sections 37, 116 (2), 122(3), 172(1), 352 of the CCPC.

<sup>43</sup>Section 172: (1) of the Cameroon Criminal Procedure Code.

<sup>44</sup>Section 302 of the CCPC.

<sup>45</sup> For instance, see C. Ronald Huff, Arye Rattner & Edward Sagarin, *Convicted But Innocent: Wrongful Conviction and Public Policy* (Thousand Oaks, California: Sage Publications, 1996) at 111-41 [Convicted But Innocent]; Clive Walker, "Miscarriages of Justice in Principle and Practice" in Clive Walker & Keir Starmer, eds., *Miscarriages of Justice A Review of Justice in Error* (London: Blackstone Press Ltd., 1999) at 54; Michael L. Radelet, Hugo Adam Bedau & Constance E. Putnam, *In Spite of Innocence: Erroneous Convictions in Capital Cases* (Boston: Northeastern University Press, 1992); and Jim Dwyer, Peter Neufeld & Barry Scheck, *Actual Innocence: Five Days to Execution and Other Dispatches from the Wrongfully Convicted* (New York: Doubleday, 2000).

but prosecutors, defence attorneys, judges, and juries and thus multiple<sup>46</sup> (psychological, sociological, and institutional) causes and errors. For a wrongful conviction based on a false confession to occur,

- The police must misclassify an innocent person as a guilty suspect;
- The police must subject that individual to an interrogation that results in a false confess suspect-
- The prosecution must decide to file charges against the false confessor, usually despite the lack of any other evidence against him;
- The prosecution must convince a judge that probable cause exists to believe the innocent defendant committed the crime or crimes of which he stands accused;
- The prosecution's case against the false confessor must survive any pretrial motions by the defence for exclusion of the confession evidence; and 6. assuming that the defense does not initiate or accept a plea bargain, a jury must unanimously agree that the innocent defendant is guilty beyond any reasonable doubt.

And for the wrongfully 'convicted false confessor to remain incarcerated, appellate courts must reject his postconviction counsel's procedural challenges to the erroneous verdict<sup>47</sup>.

## 5. Consequences and sanctions for false confessors

A false confession happens when a person acknowledges guilt while they are not the perpetrator of the crime several reasons may be accountable for that. Under the Cameroon Criminal Procedure Code, any confession which is obtained through duress, violence, or intimidation or in exchange of a promise for any benefit whatsoever or by any other means contrary to the free will of the maker of the confession is inadmissible<sup>48</sup> false confession brings with it some consequences: generally, False confessions are a major barrier to the administration of justice and may result in fines and possible jail or prison term.<sup>49</sup> In addition, the person who made the false confession may face additional penalties for lying in court. This is known as perjury as defined in the Cameroon Penal Code<sup>50</sup>

## 6. Recommendations for prevention of false confession

To prevent false confessions from leading to a wrongful conviction, we are actively advocating for the following

There should be adequate respect for the provisions of law on procedural rights of suspects and accused. A police interrogation can be an intimidating and overwhelming

<sup>46</sup> Richard A. Leo & Steven A. Drizin "THE THREE ERRORS: PATHWAYS TO FALSE CONFESSION AND WRONGFUL CONVICTION" University of San Francisco School of Law University of San Francisco Law Research Paper No. 2012-04

<sup>47</sup>*Ibid.*

<sup>48</sup> See Section 315(2) of the CCPC.

<sup>49</sup> See sections 164(2) 168 and 97 of the Cameroon Penal Code.

<sup>50</sup>Section 164(1) of the Cameroon Penal Code.

experience. Therefore, suspects are protected by laws and they have rights during the whole process. Interrogations are conducted with the intent of finding answers to a crime that has been committed. Therefore, the law dictates that before an interrogation, an individual has to be informed of their constitutional and procedural rights before being presented with questions (Turner: 2019, Ndi: 2019, Chamboli: 2021). A victim should be informed of the right to have a counsel during the whole process as well as the consequences of the answers given. An individual has the right to remain silent<sup>51</sup> during an interrogation since anything said can be used against them in a court of law (De Young: 2014). States should adopt robust legal frameworks that explicitly prohibit the use of torture, cruel, inhuman, or degrading treatment or punishment, and ensure the right to a fair trial. The police offer carrying out the interrogation or investigations must ensure that the individual is informed of his allegations and avoid using harsh methods, like intimidation, subjecting him to inhumane treatment both psychologically and physically just to obtain his testimonies. The CCPC is to the effect that, the suspect shall immediately be informed of the allegations against him, and shall be treated humanely both morally and materially. He shall be given reasonable time to rest fully in the course of the investigation. The period of rest shall be mentioned in the police report. The suspect shall not be subjected to any physical or mental constraints, or to torture, violence, threats or any pressure whatsoever, or to deceit, insidious manoeuvres, false proposals, prolonged questioning, hypnosis, the administration of drugs or to any other method which is likely to compromise or limit his freedom of action or decision, or his memory or sense of judgment. The person on remand may at any time within the period of detention and during working hours, be visited by his counsel, members of his family, and by any other person following up his treatment while in detention. Whoever violates or fails to comply with the provisions of this section or prevents their compliance with, shall be liable to prosecution without prejudice, where necessary, to disciplinary sanctions.<sup>52</sup> Also, the work recommends the obligatory conduct of preliminary inquiry before confession is admitted.

There should be electronic recording of all interrogations. False confessions present a major challenge to the criminal justice system of Cameroon and one way to reduce it is through the use of video or audio recording. This practice should be common sense in this day and age. Whether in the interview room, on the side of the road, in the back of a patrol car, or at a suspect's residence, every interrogation should be recorded on either video, audio, or both. Authorities should take it as a tradition that they record when interviewing the suspect at the police station, any time the suspect leaves the interview room, the conversation should be captured on audio. An example would be if the suspect is being escorted outside for a cigarette break or driving the suspect to locate a murder weapon, other witnesses, etc. This prevents false allegations from being made by the suspect or the defense, especially if they confess during this time. The purpose for this is to improve

transparency and creates a truthful record of what led up to a confession. This policy of video and audio recording will greatly reduce the incident of false confession given that the police will be conscious of the fact that the judges and juries will eventually see the interrogation, and when they see an improper interrogation, they may exclude the confession from evidence or juries may discount its significance. With these, police will be more likely to avoid overly aggressive or controversial tactics which may lead to false confession.

According to Lassiter (2010), videos as well as audio recording is an important measure to ensure that police interviews and interrogations bring an unparalleled degree of openness to the whole criminal justice system process. Video recording allows all interested parties to agree on the results of an interview or interrogation in a fair as well as a humane criminal justice system. This recording is to preserve information and material gathered so far during investigation which will later on be used at the trial of the parties. The video record resolve or minimize any disputes between the suspect and the interrogators regarding what happened during the interrogation.

It is imperative to training law enforcement personnel. Proper training should be provided to law enforcement officials on interrogation techniques that adhere to human rights standards. This training should emphasize the importance of obtaining voluntary and reliable evidence, rather than relying on coercive methods.

Unreliable evidence should be reviewed and excluded. Courts should carefully assess the reliability and voluntariness of confessions before admitting them as evidence. Judges should be vigilant in excluding confessions obtained through torture, duress, or other forms of coercion and should respect the provision of section 535 of the CCPC which should be applied in case of a person who was convicted on false confession.<sup>53</sup>

## 7. Conclusion

Confessions play a critical role in the criminal process and the whole criminal justice system. However, confessions, like many other aspects of our justice system, can be fraught with errors leading to false confession. At worst, false confessions have been used to convict and punish the innocent. The answer to the question why would an innocent person confesses to a crime he or she did not commit has already be examined above. The eradication of the

<sup>53</sup>1) A review of criminal proceedings may be applied for in favour of any person convicted of a felony or misdemeanour in the following circumstances: (a) when, after a conviction for murder fresh evidence is adduced to prove that the alleged victim is still alive; (b) when it is found, after conviction, that the person convicted was innocent even if he was responsible for the error that misled the court; (c) when a person other than the person ; convicted admits before credible witnesses that he committed the felony or misdemeanour and confirms such admission before a judicial police officer; (d) when, after a conviction, new documents or facts have come to light and are of such a nature as to establish the innocence of the person convicted.

<sup>51</sup>Section 116(3) of the Cameroon Criminal Procedure Code.

<sup>52</sup>Section 122 (1,2,3,4,5) of the CCPC.

consequences of false confession stands as a paramount challenge within the realm of criminal justice. As we conclude this exploration of the phenomenon of false confessions within the Cameroon justice system, it becomes evident that there are a good number of provisions protecting the suspect, defendant, and the accused within the justice system. The law recognises the right of everyone suspected of committing a crime to be defended by a lawyer, the right to be free from coercion of any kind during investigation and interrogation and most importantly the right to be presumed innocent until after trial before the competent court. Research shows that most false confessions arise when the provisions of the law are not respected by the authorities in charge especially the police in the course of their investigations and interrogations. Bribing and corruption which is an added factor to most false confessions. It is important to note here the incident of false confession to be reduced or resolved, it requires combine efforts and commitment of the states, police legal practitioners, and civil society to implement and enforce the provisions set forth in legal instruments. By persistently addressing the root causes of false confessions, we pave the way for a future where every individual is afforded the protections and safeguards necessary to ensure the fairness and integrity of the legal process. Only through our collective determination and unwavering adherence to the principles enshrined in international law can we unravel the shadows of false confessions and forge a path towards justice and truth for all.

## References

- [1] Beth Harrell, M. (2021), "Why do People make False Confession? Online at <http://marybethharrell.com>blog> (accessed 10/08/2023).
- [2] Chamboli Oke, C. (2019), "Guilty Without Trial: Assessing the due Process Rights of Suspects under the Cameroonian Criminal Law and Procedure." *International Journal of Science and Research (IJSR)* ISSN: 2319-7064 SJIF (2019): 7.583, p. 257 of pp. 254-262.
- [3] Chamboli Oke, C. (2021), "Justice and its Administration under the Criminal Procedure Code of Cameroon: An Appraisal." (Ph.D. Thesis in Law, English Law, Faculty of Law and Political Science, University of Dschang, Unpublished).
- [4] Chapman, F.E.(2014), "Coerced Internalized False Confessions and Police Interrogations: The Power Of Coercion' SSRN *Electronic Journal*.
- [5] Fonkwe Fongang, J.&Ashu, E. (2019), "Cameroon Criminal Procedure and Practice in Action", *Édition Veritas, Douala. P. 46*.
- [6] Gudjonsson, GH (2021), "The Science-Based Pathways to Understanding False Confessions and Wrongful Convictions". *Journal Frontiers in Psychology February 2021 | Volume 12 | Article 633936*.
- [7] Hatchard, J., Huber, B. and Vogler, R. (2008), "Comparative Criminal Procedure", The British Institute of International and Comparative Law. Cambridge University Press.
- [8] Leo, A.R.& Drizin, S.A. (2014), "The Three Errors: Pathways to false confession and wrongful conviction." *University of San Francisco Law Research Paper No. 2012-04. Electronic copy available at: <https://ssrn.com> (accessed 27/08/2023).*
- [9] Ndi R. (2019), "Reflection on Police Power of Arrest, Detention and The Treatment of Suspects Under the Cameroonian Criminal Procedure Code and Extra-National Laws: Human Right Digest." *National Journal of Criminal Law*. Vol. 2, Issue 1, pp. 4–21.
- [10] Praduta, S. V.& Hurkat, M. Gujarat National Law University, False confessions induced by police: An analysis, *Indian Journal of Integrated Research in Law*. Volume II Issue I | ISSN: 2583-0538.
- [11] Ralston J. and others, (2019), "False Confessions: An Experimental Study of The Innocence Problem" SSRN *Electronic Journal*.
- [12] Richard A. Leo, False Confessions: Causes, Consequences, and Implications, *The Journal of the American Academy of Psychiatry and the Law*, 333 Volume 37, Number 3, 2009
- [13] The three errors: pathways to false confession and wrongful conviction, available online at: <https://ssrn.com/abstract=1542901>. (Accessed on 16/08/2023).
- [14] Zimbardo, P. (1971), "Coercion and compliance: the psychology of police confessions, in *The Triple Revolution*." Edited by Perruci C, Pilisuk M. Boston: Little, Brown, pp 492–508.