



CAMEROON PENAL CODE

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PENAL CODE

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BOOK 1

CRIMINAL LAW

PART ONE

APPLICATION OF CRIMINAL LAW

CHAPTER I PRELIMINARY

Section 1—No Exception

All persons shall be subject to the criminal law

Section 2—General and Special Application

(1) This code and every provision of criminal law shall be subject to the rules of international law and to all treaties duly promulgated and published.

(2) The first book of this code shall govern all other criminal law unless special provision has been made, even before the entry into force of this book, concerning particularly the exclusion of suspension and the exclusion or limitation of mitigation circumstances by a law or by regulation possessing force of law. This subsection shall apply actively from the first of October 1966 inclusive.

(3) Any other general provision shall be subject to any special provision on the same matter, save otherwise provided.

CHAPTER II APPLICATION IN TIME

Section 3—No Retrospection

No criminal law shall apply to acts or omissions committed before its coming into force or in respect of which judgement has not been delivered before its repeal or expiry.

Section 4—Less Severe Law

(1) A new provision of criminal law shall, if less severe, apply to any offence in respect of which judgement has not been delivered before its coming into force.

(2) Where the new provision is more severe, the old law shall continue to apply to offences committed before its coming into force.

Section 5—New Preventive Measure

A new law authorising a preventive measure shall apply to any case where judgement has not become final before its coming into force.

Section 6—Abolition of Offences, Penalty or Measure

Any penalty or preventive measure shall cease to be enforceable:

(a) From the moment when the act or omission in respect of which it was imposed is no longer an offence;

(b) On the abolition of the penalty or measure generally.

CHAPTER III APPLICATION IN SPACE

Section 7—Offences within the Territory

(1) The criminal law of the Republic shall apply to any act done or omitted within its territory.

(2) The territory of the Republic shall include its territorial waters and the air space above the said territory and waters, and all vessels and aircraft registered in the Republic;

Provided that no member of the crew of a foreign vessel or aircraft may be tried for an offence committed against another member of the same crew on board that vessel or aircraft, though within the territorial waters or air space of the Republic, unless the assistance of the local authorities shall have been invoked or public order shall have been disturbed.

Section 8—Offence Partly or Wholly Abroad

The criminal law of the Republic shall apply:

(a) To any offence of which any ingredients has taken place within its territory;

(b) To any offence against the security of the state or of the counterfeiting of the great Seal or the current money of the state wherever committed:

Provided that no foreigner may be tried for an offence to which the law of the Republic applies solely by virtue of this subsection unless he has been arrested within the territory of the Republic or has been extradited to it.

Section 9—Abetment, Conspiracy and Attempt

The criminal law of the Republic shall apply:

(a) To any act or omission within its territory constituting abetment, conspiracy or attempt with a view to an offence without the territory; Provided that said offence is also punishable by the law of the place of commission;

(b) To any such act or omission without its territory with a view to an offence within that territory.

Section 10—Offence Abroad by Citizen or Resident

(1) The criminal law of the Republic shall apply to any act or omission abroad by a citizen or resident which is punishable by the law of the place of commission and is defined as a felony or as a misdemeanour by the law of the Republic;

Provided that the sentence passed may not be more severe than that provided by the foreign law.

(2) No citizen or resident may be tried for misdemeanour against a private party to which the law of the Republic applies solely by virtue of this section except at the instance of the authority controlling prosecution after private complaint or after official request to the Government of the Republic by the Government of the place of commission.

Section 11—International Offences

The criminal law of the Republic shall apply to piracy, traffic in person, the slave trade and traffic in narcotics committed within or without the territory of the Republic;

Provided that no foreigner may be tried for such an offence committed abroad unless he has been arrested in the Republic and has not been extradited, and except at the instance of the authority controlling prosecution.

Section 12—General Jurisdiction

Subject to exceptions contained in this chapter, the courts of the Republic shall have jurisdiction to try any offence to which its criminal law is applicable.

CHAPTER FOUR

FOREIGN CRIMINAL LAW AND JUDGEMENTS

Section 13—Exclusion of Foreign Law

Subject to sections 9 and 10 of this code and to this chapter, no foreign criminal law shall have any effect in the courts of the Republic.

Section 14—Foreign Judgements

No foreign criminal judgement against any person shall have effect within the territory of the Republic unless:

(a) The act or omission in question is defined by the law of the Republic as a felony or misdemeanour under the ordinary law; and

(b) The regularity of the judgement, its finality and its conformity with the public policy of the Republic shall have been ascertained either by the court trying the person in question or by the Court of Appeal of his residence at the instance of the authority controlling prosecution.

Section 15—Effect of Foreign Judgement

Such judgement shall:

(a) Be taken into consideration as a previous conviction for the purpose of aggravation of sentence, of preventive confinement, of suspension of sentence or revocation of such suspension, of revocation of release on licence, of rehabilitation, and of amnesty; and

(b) Found a good plea in the courts of the Republic of autrefois convict or acquit:

Provided that in the case of conviction the accused shall have served his sentence or satisfied it by prescription or pardon.

Section 16—Execution of Foreign Judgement

(1) Any such judgement as is contemplated by section 14 and is ascertained to conform to that section, if passed against a citizen or against a resident, and not enforced elsewhere, shall be capable of enforcement within the territory of the republic, unless enforcement shall have been barred by release on licence, pardon, amnesty or prescription.

(2) Enforcement shall require the order of the court contemplated by section 14, which may also, in a fit case, impose the preventive measures attracted according to the law of the Republic by the offence in question.

PART TWO

PUNISHMENT AND PREVENTION

CHAPTER I

PRELIMINARY

Section 17—Penalties and Offences to be Prescribed

No penalty or measure shall be imposed unless provided by law, and except in respect of an offence lawfully defined.

Section 18—Principal Penalties

The following shall be principal penalties;

- Death
- Imprisonment
- Fines

Section 19—Accessory Penalties

The following shall be accessory penalties:

- Forfeiture
- Publication of the judgement
- Closure of an establishment
- Confiscation

Section 20—Preventive Measures

The following are preventive measures:

- Ban on occupation
- Preventive confinement
- Post-penal supervision and assistance
- Confinement in a special health institution
- Confiscation.

Section 21—classification of offence

CHAPTER II

PRINCIPAL PENALTIES

A—Death

Section 22—Condition Precedent to Execution

(1) Every sentence of death shall be submitted to the President of the Republic for his decision on commutation.

(2) No death sentence may be executed until the President shall have signified his decision not to commute.

(3) No woman with child may be executed until after her delivery

(4) No execution may take place on Sunday or on a public holiday.

Section 23—Execution

(1) Execution of the death sentence shall be by shooting or by hanging as may be ordered by the judgement, and shall be public unless otherwise ordered in the decision not to commute.

(2) The bodies of persons executed shall be returned to their families at their request, but on condition of a quiet funeral.

(3) Nothing may be published by the press beyond the official record of the execution and any official communiqué that may be released.

(4) The detailed application of this section shall be prescribed by decree.

B—Imprisonment

Section 24—Imprisonment

Imprisonment shall mean loss of liberty during which the offender shall be obliged to work, subject to any contrary of the court for reasons to be recorded in the judgement.

Section 25—Prisoner's Fund

(1) The proceed from every prisoner's work shall be allocated as follow:

2/3 to the treasury;

1/3 to the building up of a reserve fund for the prisoner.

(2) The condition governing the application of this section, particularly those with regards to the management of the fund, shall be determined by decree.

C—Detention

Section 26

The penalty of detention shall be replaced by imprisonment wherever such penalty is provided by the law.

D—Loss of Liberty, Common Provisions

Section 27—Commencement of Sentence

(1) Where the offender has not been in custody pending trial, and where no warrant of arrest or remand is issued against him at the time of judgement in the circumstances authorised by the Criminal Procedure Code, no sentence of loss of liberty may be enforced until it has become final.

(2) No woman who is with child or who has been recently delivered may begin to serve her sentence until six weeks after delivery.

(3) A woman with child already in custody pending trial shall continue until the expiry of the said period to be in custody as if awaiting trial.

(4) Where a husband and wife has been sentenced for the same or different offences to imprisonment for less than a year, and are not in custody at the time of sentence, and show that they have a fixed common residence and a child under the age of eighteen supported by them and under their charge, the sentence on one may be suspended until expiry of the sentence on the other.

Section 28—Calculation of Sentence

(1) In a sentence of loss of liberty expressed in days, each day shall mean 24 hours

(2) Sentence of one month shall mean thirty days

(3) Sentence expressed in months or years shall be reckoned by calendar dates

(4) Subject to section 53, the duration of the sentence shall include and run from:

(a) The day on which the offender was taken into custody under that sentence; or

(b) In the case of concurrent sentence passed on different dates, the day on which he was first taken into custody under any such sentence.

(5) In case of escape, the period of unlawful liberty shall not be counted in the duration of the sentence.

Section 29—Separation of Minors

An offender under the age of eighteen shall serve his sentence in a special establishment, or, failing such establishment, shall be separated from offenders over that age.

CHAPTER III

ACCESSORY PENALTIES

A—Forfeitures

Section 30—Definition

The forfeitures applicable under this code shall be the following;

- (1) Removal and exclusion from any public service, employment or office;
- (2) Incapacity to be a juror, assessor, expert referee, or sworn expert;
- (3) Incapacity to be guardian, curator, deputy guardian or committee, save of the offenders own children, or member of a family council
- (4) Prohibition on wearing any decoration;
- (5) Prohibition on serving in the armed forces;
- (6) Prohibition on keeping a school, on teaching in any educational establishment, and in general on holding any post connected with the education or care of children.

Section 31—Where Applicable

(1) A life sentence shall carry with it for life the forfeitures prescribed by the last preceding section.

(2) Any other sentence for felony shall carry with it the same forfeitures for the duration of the sentence and for the ten years following its expiry or released on licence unrevoked.

(3) The court may in any case covered by the last preceding subsection, for reasons to be recorded in the judgement, relieve from one or more of the said forfeitures, or reduce their duration to no less than two years.

(4) To a sentence for misdemeanour, and where so authorised by law the court may, for reasons to be recorded in the judgement, add, for not more than five years, one or more of the forfeitures prescribed by the last preceding section.

Section 32—Forfeitures in Absence

Where sentence for felony is passed in the absence of the accused, any forfeiture shall take effect from the date of the publication of

the notice prescribed by the Criminal Procedure Code.

B—Other Accessory Penalties

Section 33—Publication of Judgement

(1) Where the court may order publication of its judgement, it shall be posted in a manner to be prescribed by decree for up to two months in the case of felony or misdemeanour or fifteen days for simple offence.

(2) In such case the court may order publication of its decision in such newspaper as it may appoint, on radio or television.

(3) Any such publication shall be at the expense of the offender.

(4) Nothing in this section shall restrict publication by press, or radio or television or any fair comment.

Section 34—Closure of Establishment

Where the court may order closure of a business or industrial establishment, or of any other premises devoted to gainful activity, which was used for the commission of an offence, such closure shall imply a ban on the exercise of the same business or industry or activity in the same premises, whether by the offender or by any other to whom he may sell, transfer or let the establishment or premises.

Section 35—Confiscation

(1) On conviction for any felony or misdemeanour, the court may order confiscation of any property, moveable or immoveable, belonging to the offender and attached, which was used as an instrument of its commission, or is the proceed of the offence.

(2) Such confiscation may not be ordered on conviction for a simple offence unless specially authorised by law.

CHAPTER IV

PREVENTIVE MEASURES

A—Banned Occupation.

Section 36—Banned Occupation

(1) Upon conviction for a felony or misdemeanour under the ordinary law, the court may, for reasons to be recorded in the judgement, forbid the offender to continue to follow any occupation found to stand in a direct relation to the offence, and his continuation in which will give grave reason to apprehend a repetition.

(2) Subject to any contrary provision of the law, the ban may not be for less than a year nor for more than five years after completion of service of the principal sentence.

(3) On subsequent conviction attracting the first subsection and section 88 for felony or misdemeanour of the same kind, the ban shall be extended for life.

B—Preventive Confinement

Section 37—Definition

(1) Preventive confinement shall mean confinement for from five to twenty years under a programme of work and social reformation, during which the offender shall, in default of a separate establishment, be confined separately from convicts serving a sentence of imprisonment.

(2) The internal working of the establishment, the programme for its inmates, the details of their work, and the manner of their reformation shall be prescribed by decree.

Section 38—Offenders not Liable

No sentence of preventive confinement may be passed on a person who will be age less than thirty-five or more than sixty years at the expiry of his principal sentence.

Section 39—Where Applicable

(1) Sentence of preventive confinement may be passed on any offender subject to section 88 of this code by reason of the following convictions, including that accompanying the sentence, within the space of ten years exclusive of any sentence served and any preventive measure involving personal restraint:

(a) Two convictions for felony punished with imprisonment or with death commuted first in to imprisonment; or

(b) One such conviction for felony and two for misdemeanour, each punished with more than one year of imprisonment; or

(c) Four convictions for misdemeanour, each punished with more than one year of imprisonment.

(2) The said space of ten years shall be counted back from the date of the latest relevant offence.

(3) To be counted for the purpose of preventive confinement a conviction must have been final and must have been for an offence committed after the preceding conviction to be counted has become final.

(4) Previous convictions the sentences for which have been commuted, pardoned or remitted shall be taken in to account.

(5) Previous convictions expunged by rehabilitation or by amnesty shall not be taken in to account.

(6) Previous convictions for offences committed by persons under the age of eighteen shall not be taken in to account.

C—Post Penal Supervision and Assistance

Section 40—Definition and Duration

(1) Every offender sentenced to loss of liberty for more than a may on conviction, where the circumstances warrant and for reasons to be recorded in the judgement, be subjected by the court for up to five years to post penal supervision and assistance, consisting of general obligation, and, in a fit case, of added special obligations

(2) The offender's compliance with his obligation shall be superintended by a Magistrate nominated in that behalf with the assistance of salaried or honorary supervisors; Provided that where the conviction is for felony or the offender was sentenced under section 88 of this Code for misdemeanour, his compliance shall be superintended by the police.

(3) The detailed application of this section shall be prescribed by decree.

Section 41—General Obligation

The obligations to which the offender shall always be subject shall be:

(1) To establish his residence in a given place

- (2) To appear when called by the authority in charge of supervision and assistance;
- (3) To receive visits from the supervisor and give him all information and papers useful for the verification of his means of support;
- (4) To inform the supervisor in advance, and explain the reason to him, of any change of employment or residence;
- (5) To inform the supervisor in advance of any absence over fifteen days, and inform him of his return;
- (6) To obtain the previous permission of the authority in charge before any departure abroad.

Section 42—Special Obligations

In addition to the general obligations prescribed by the last preceding section, the court may impose upon the offender any one or more of the following special obligations:

- (1) To take up residence in one or more specified places;
- (2) Not to be present without special and temporary permission in specified places;
- (3) To remain in employment or follow a course of instruction or vocational training;
- (4) To submit to measures of control or of treatment, including treatment in hospital, and in particular with a view to curing an addiction to alcohol or drugs;
- (5) To contribute to the family expenses or to pay regularly any maintenance due from him;
- (6) To compensate any damage caused by his offence;
- (7) Not to drive any class of motor vehicle, defined in terms of the classification in force for the purpose of driving licence;
- (8) To avoid specified places, such as bars, race-courses, gaming houses;
- (9) Not to wager;
- (10) To abstain from undue consumption of alcohol;
- (11) To avoid the company of specified offenders, in particular his co-offenders or the accessories to the offence;

(12) Not to receive or lodge at his residence specified persons.

D—Health Institution

Section 43—Insane Persons

(1) Upon acquittal for insanity on a charge of felony or misdemeanour punishable with two years imprisonment or more and where the liberty of the accused shall have been found by the court to be a public danger, the court shall order his confinement in a special institution.

(2) Such confinement may be terminated only by the same court upon evidence by the competent medical authority that the liberty of the confined person is no longer a public danger.

Section 44—Addict or Partially Insane

(1) Where an addict to alcohol or drugs, or a person suffering from medical sickness is convicted of a felony or misdemeanour punishable with two years imprisonment or more and related to his addiction or mental condition, and where his liberty shall have been found to be a public danger, the court may order his confinement in a special health institution.

(2) Such confinement shall not exceed two years in the case of an addict to alcohol or drugs, nor five years in the case of the mentally sick.

(3) Such confinement may be earlier terminated by the court upon evidence by the competent medical authority that the liberty of the confined person is no longer a public danger.

E—Confiscation

Section 45—Confiscation

The confiscation of anything whose manufacture, custody, sale or use is unlawful shall be ordered even if not belonging to the offender, and even if the prosecution does not result in conviction.

CHAPTER V

RECOGNISANCE

Section 46—Where Applicable

(1) Any person who by his conduct or by his utterances shall have exhibited an unambiguous intention to commit an offence which may disturb the public peace may be required by the President of the District Court to enter into a recognisance with or without solvent sureties in such a sum as may be therein fixed to refrain from commission of any offence of the like nature for the duration of the period therein specified.

(2) The sum shall be fixed having regards to the resources of the person bound over.

Section 47—Period

Where the person required to enter into a recognisance is a habitual offender, the period of the recognisance may extend to three years, but shall not otherwise exceed one year.

Section 48—Recognisance by Parents

Where a person under the age of eighteen shall have committed any act defined as an offence, The President of the District Court may require his parents, guardian or person responsible under customary law to enter into the recognisance described by section 46, to be forfeited if the said person shall commit any similar act within the space of one year, unless the obligor shall prove that he took all reasonable steps to avoid the minor's committing the offence.

Section 49—Non Compliance

(1) Where a person required to enter into a recognisance does not do so, or fails to find the sureties required, he may be immediately taken into custody until he shall have complied with the order; but such custody may not exceed the period for which the recognisance was required.

(2) Except under section 48, the obligations described in section 42 (1) and (2) may be substituted for custody.

Section 50—Breach of Recognisance

(1) Upon conviction of an offence covered by the recognisance, the District Court shall without prejudice to any penalty incurred for

the offence order forfeiture of the sum therein fixed.

(2) Payment of the said sum shall be enforced as against the person bound over in like manner as if it were a fine and as against the sureties by any civil process.

CHAPTER VI

CONCURRENT AND CONSECUTIVE SENTENCES

Section 51—Concurrent Sentences; the Rule

(1) Where a person is convicted on several charges of felony or misdemeanour tried jointly, or of simple offences tried with either, only one sentence may be passed, not exceeding the maximum prescribed for the most severely punished offence.

(2) Where any person is convicted on several such charges tried separately, any sentence later passed may be ordered to run concurrently with, or in the case of fines, to be merged in, any earlier sentence; and where it is not so ordered, the aggregate of the sentences may not exceed the maximum prescribed for the most severely punished offence.

(3) In the calculation of such aggregate, an earlier sentence reduced by remission shall be counted at its reduced and not at its original length.

(4) No sentence may be ordered to run concurrently with, or to be merged in, a sentence which had already become final before the act or omission in respect of which the second sentence is passed.

(5) In respect of simple offences sentences shall not be concurrent or merged unless the court shall so order.

(6) Subject to any contrary order of the court, several sentences other than to principal penalty shall be consecutive as between themselves.

Section 52—Consecutive Sentences

(1) Sentence of loss of liberty shall be enforced in the chronological order in which the imprisonment warrant were notified to the offender.

(2) Accessory penalties and confinement under section 43 of this Code shall run from the date when the sentence becomes final, while other preventive measures shall commence from the expiry or suspension of the principal sentence.

(3) Several consecutive preventive measures shall be enforced in the following order:

- (a) Confinement in a health institution
- (b) Preventive confinement
- (c) Post-penal supervision and assistance

(4) Where during the currency of any such measure the offender is sentenced to loss of liberty for another felony or misdemeanour, the preventive measure shall be suspended until the new sentence shall have been served out.

Section 53—Custody Awaiting Trial

(1) Where the offender has been in custody awaiting trial, the duration of such custody shall be wholly deducted from the computation of a sentence of loss of liberty.

(2) Where the offender, after having been in custody awaiting trial is sentenced to a fine only, the court may relieve him wholly or in part of the said fine.

CHAPTER VII

SUSPENSION AND REMISSION OF SENTENCE

A—Suspended Sentence

Section 54—Application and Effect

(1) Subject to any contrary provision of law, upon conviction for felony or misdemeanour of an offender not previously sentenced to imprisonment, or where after such sentence his conviction has been expunged, the court may, for reasons to be recorded in the judgement, suspend for a period of from three to five years the enforcement of any sentence of imprisonment for five years or less, or for fine not imposed under section 92(2) of this Code.

(2) Such suspension shall not affect any accessory penalty or preventive measure resulting from the conviction.

(3) Where within the period so fixed, calculated from the date when the judgement becomes final, the offender commits a further felony or misdemeanour for which he is sentenced to imprisonment and where such sentence is not suspended on probation, both sentences shall be served consecutively, that which has been suspended under this section being served first.

(4) The expiry of the said period shall otherwise produce the effects described by section 69 of this Code.

(5) This section shall not apply as between successive sentences of detention.

B—Probation

Section 55—Where Applicable

(1) In any case where a sentence of six months or more of imprisonment may be suspended, suspension may be combined with probation.

(2) When combined with probation suspension may also be granted to an offender with a previous sentence of imprisonment suspended without probation or with a previous sentence of imprisonment for less than six months not suspended.

(3) The period of probation may not be less than three nor more than five years.

(4) Subject to subsection (1) and (2), section 54 of this Code shall apply to suspension on probation.

Section 56—Meaning of Probation

(1) Probation shall mean the subjection of the offender to general, and in a fit case, to added special obligations of supervision and assistance.

(2) The offender's compliance with his obligations shall be superintended by a Magistrate nominated in that behalf, with the assistance of salaried or honorary probation officers.

(3) The probation officer shall be chosen, and may be replaced by the Magistrate in charge.

(4) The Magistrate in charge at the offender's residence may at any time for reasons to be recorded in writing suspend all or any of the special obligations or vary them, but not so as to make them more burdensome.

Section 57—General Obligations

An offender on probation shall always be subject to the general obligations described by section 41 of this Code, save that for the supervisor shall be substituted by the probation officer.

Section 58—Special Obligations

In addition to the general obligations prescribed by the last preceding section, the judgement may subject the offender to one or more of the special obligations described by section 42.

Section 59—Duties of Probation Officer

(1) The probation officer shall be bound to satisfy himself that the offender observes the general and special obligations of his probation, and in addition to stimulate and encourage the offender's efforts in the direction of reform, in particular his family and occupational re-adaptation.

(2) He shall be bound to afford the offender all moral support in his power, and it shall be his duty, where the offender is in need of financial support, to apply to the magistrate in charge to approach any social assistance organisation with a view to a grant.

(3) He shall report regularly to the said magistrate on the progress of his task, and shall refer to him in case of difficulty.

Section 60—Breach of Obligation

(1) Where during the period of probation the offender shall have broken any general or special obligation, the court which suspended the sentence may order its enforcement.

(2) Such order shall not carry with it revocation of any previous suspension without probation.

(3) The expiry of the period without any such order, and without any further conviction carrying with it revocation under section 54 of this Code, shall produce the effects described by section 69.

C—Release on Licence

Section 61—Definition

(1) Release on licence shall mean the premature release of a person sentenced to

loss of liberty, whether as a penalty or as preventive measure.

(2) Both grant and revocation of such licence shall be by decree.

(3) The general condition and detailed procedure for grant and revocation of licence shall be prescribed by decree.

(4) Release on licence not revoked shall become definite on expiry of the term of the sentence.

Section 62—Suspension of Measures

(1) The decree granting release on licence also suspends enforcement of any order of confinement in a special health establishment, or of preventive confinement, or of post-penal supervision and assistance, or of banned occupation which will follow on release from the principal penalty.

(2) Such suspension shall become definitive five years after the expiry of the principal penalty.

Section 63—Time of Grant

(1) Release on licence from a principal penalty may not be granted before service of half the sentence or of the aggregate of consecutive sentences, regard being had to remissions if any.

(2) In the case of an offender sentenced under section 88 of this Code, release may not be granted before service of two-third of the sentence or sentences.

(3) Release on licence from preventive detention may not be granted before service of five years of the sentence.

Section 64—Revocation

(1) Release on licence may be revoked on conviction for felony or misdemeanour later committed or for breach of any of the general or special conditions of the licence.

(2) In case of revocation, the period of liberty shall not be counted in the duration of the sentence.

D—Suspension of Post Penal Measures

Section 65—Suspension of Post-Measures

(1) On the proposal of the authority contemplated by section 40(2), the court which

had ordered post-penal measures may at any time, for reasons to be recorded in the order, suspend all or any of the special obligations imposed, or vary them, but not so as to make them burdensome.

(2) Such suspension may at any time in like manner be revoked.

(3) The duration of such suspension, whether or not revoked, shall be counted in the duration of the measures.

E—Pardon – Prescription – Death.

Section 66—Pardon

Pardon shall mean the commutation or remission, in whole or in part and with or without conditions, of a penalty or preventive measure or of the obligations of a probative order.

Section 67—Prescription

(1) Where a principal penalty has remained unenforced for the following periods after judgment has become final, neither it nor any accessory penalty or preventive measure accompanying it may any longer be enforced.

- a) for felony: twenty years;
- b) for misdemeanour and simple offence tried with misdemeanour: five years;
- c) for other simple offences: two years

(2) The running of time shall be suspended while enforcement of the sentence is prevented by any consideration of law or of fact apart from the offender's will.

(3) Time shall begin to run again on enforcement to any extent before completion of the period.

(4) No person convicted in his absence may appear to set aside the judgement after time has run in his favour.

Section 68—Death

The offender's death shall not prevent enforcement of pecuniary sentence against his estate of closure of an establishment.

CHAPTER VIII

EXPUNGEMENT OF THE CONVICTION

A – Rehabilitation

Section 69—Definition and Effect

(1) Rehabilitation, whether by laps of time or by judicial order, shall expunge a conviction for felony or misdemeanour, and put an end to any accessory penalty or preventive measure, save only confinement in a health institution and closure of an establishment.

(2) Where the same person has been the subject of more than one conviction not yet expunged, he may not be rehabilitated from each singly, but only from all together.

(3) There may be no rehabilitation without discharge of all expenses due to the Treasury and of any civil judgement giving in the criminal proceedings.

(4) Rehabilitation shall not affect the right of the Treasury to any sums already collected in satisfaction of civil judgement, expenses, fines or confiscation.

(5) It shall of itself neither restore any decoration nor restore to any order forfeited.

(6) It shall not of itself restore to any public service, employment or office, and shall give no right to restoration to the position in a public service which, but for the conviction, would have been attained.

(7) It shall be no bar to an application for revision with a view to establish innocence in fact.

Section 70—Laps of Time

(1) An offender who has not suffered any further sentence of imprisonment or detention for felony or misdemeanour shall be without more rehabilitated by the expiry of the following periods:

- Sentence of fine: five years;
- Single sentence of imprisonment or detention for up to six months: ten years;
- Single sentence for up to two years: fifteen years;
- Single sentence of up to five years: twenty years.

(2) For more than one sentence the period shall be fifteen years for an aggregate of one year or less and twenty years for an aggregate of over one year but not more than two years.

(3) Sentences ordered to run concurrently shall be counted as a single sentence.

(4) The said periods shall run, in the case of a sentence of fine, from the date of payment or of prescription, and, in the case of loss of liberty, from the date of expiry of the sentence, regard being had to any remission, or of prescription.

Section 71—Rehabilitation by Court

(1) An offender may apply to the court for rehabilitation from a conviction for felony after five years or from a conviction for misdemeanour after three years.

(2) The said period shall run from the date of release from loss of liberty, and of payment in the case of fine.

(3) For an offender sentenced under section 88 of this Code, or who has avoided enforcement of his sentence by prescription, the periods prescribed by this section shall be doubled, and in the case of prescription shall run from the date of prescription.

Section 72—After Death

(1) Within one year of an offender's death, his spouse, ascendant or descendant may revive or present an application for his rehabilitation, provided that the other conditions shall have been complied with.

(2) An application already presented may be continued by the authority controlling prosecution.

B—Amnesty

Section 73—Effects of Amnesty

(1) Without prejudice to any civil right an amnesty shall expunge a conviction and shall put an end to the enforcement of all penalties pronounced in consequence of the conviction, save confinement in a health institution and closure of an establishment.

(2) Unless otherwise expressed, an amnesty shall bar the commencement or continuation of any prosecution.

(3) Unless so expressed, an amnesty shall not relieve of the liability for any expense due to the Treasury in respect of a conviction which has become final.

(4) Unless so expressed, it shall not affect the right of the Treasury to any sums already collected in satisfaction of expenses, fine or confiscation.

(5) Unless so expressed, it shall of itself neither restore to any decoration nor restore to any order forfeited.

(6) Unless so expressed, it shall not of itself restore to any public service, employment or office, and shall give no right to restoration to the position in public service which, but for the conviction, would have been attained.

(7) It shall be no bar to an application for revision with a view to establish innocence in fact.

PART THREE

CRIMINAL RESPONSIBILITY

CHAPTER I

PRELIMINARY

Section 74—Punishment and Responsibility

(1) No penalty may be imposed except on a person criminally responsible.

(2) Criminal responsibility shall lie on him who intentionally commits each of the ingredient acts or omission of an offence with the intention of causing the result which completes it.

(3) Except as otherwise provided by law, no criminal responsibility shall arise from the result, though intended, of an omission.

(4) Except as otherwise provided by law, there shall be no criminal responsibility unless subsection 2 of this section has been satisfied: Provided that responsibility for a simple offence shall not require any intention to act or omit or to cause the result.

Section 75—Ignorance of Law and Motive

Neither ignorance of the law nor motive shall be material in criminal responsibility.

Section 76—Execution of the Law

No act or omission in execution of the law or authorised by law, and performed in

accordance with the conditions prescribed by law, shall constitute an offence.

CHAPTER II

IRRESPONSIBILITY AND DIMINISHED RESPONSIBILITY

Section 77—Accident and Physical Compulsion

No criminal responsibility shall arise from accident or from irresistible physical compulsion.

Section 78—Insanity

(1) No criminal responsibility shall arise from the act or omission of a person suffering from mental illness which deprives him of all will-power or of the knowledge that what he does is blameworthy.

(2) Mental illness whose consequences are only partial shall diminish responsibility.

Section 79—Intoxication

Involuntary intoxication shall have the same effect as mental illness.

Section 80—Infancy

(1) No criminal responsibility shall arise from the act or omission of a person age less than ten years.

(2) An offence committed by a person aged not more than ten years and not less than fourteen years may attract only such special measures as may by law be provided.

(3) For an offence committed by a person aged over fourteen and under eighteen years, responsibility shall be diminished.

(4) A person aged eighteen years or over shall be responsible as an adult.

(5) The age relevant to this section shall be that attained at the date of commission.

Section 81—Threats

(1) No criminal responsibility shall arise from submission to threats, not otherwise avoidable, of immediate death or of grievous harm as defined by this Code:

Provided that where the act committed is defined as an offence punishable with death or has resulted in death or in grievous harm, the

responsibility of the person committing the act shall be merely diminished.

(2) This section shall not apply to a person who has voluntarily exposed himself to the risk of such threats.

Section 82—Respect

Responsibility shall be diminished for an offence committed:

- (a) by a person aged less than eighteen under the compulsion of his parents or of the person having charge of him, or responsible for him under customary law;
- (b) by an employee or subordinate under the compulsion of his employer or superior.

Section 83—Obedience to Lawful Authority

(1) No criminal responsibility shall arise from an act performed on the orders of a competent authority to whom obedience is lawfully due.

(2) This section shall not apply where the order is manifestly unlawful.

Section 84—Lawful Defence

(1) No criminal responsibility shall arise from an act dictated by the immediate necessity of defence of the person acting or of any other person, or any right of himself or of any other, against an unlawful infringement:

Provided that the means of defence is proportionate to the seriousness of the infringement threatened.

(2) Intentional killing shall be proportionate to an attack causing a reasonable apprehension of death, of grievous harm as defined by this Code, of rape or sodomy.

Section 85—Provocation

(1) Responsibility shall be diminished for an offence immediately provoked by the unlawful act of another against the offender or, in his presence, against his spouse, descendant or ascendant, brother or sister, master or servant, or a minor or incapable in his charge:

Provided that the reaction be proportionate to the provocation.

(2) Intentional killing or wounding shall be proportionate to a provocation by violent blows or injuries.

(3) Intentional killing or wounding of a spouse or of his or her lover shall be proportionate to the provocation of finding them in the act of adultery.

(4) In order to diminish responsibility provocation must be of a kind to deprive an ordinary person of self control.

Section 86—State of Necessity

No criminal responsibility shall arise from an attempt on the right of property (.... .)

Section 87—Effect of Diminished Responsibility

(1) Wherever responsibility is by law diminished, the penalty provided for the offence shall be reduced as follows:

(a) The penalty of death or loss of liberty for life shall be reduced to loss of liberty for from two to ten years;

(b) Any other penalty for felony shall be reduced to loss of liberty for from one to five years;

(c) The maximum penalty for misdemeanour, whether of loss of liberty or of fine, shall be reduced by half, and the minimum to that provided by section 92(1) of this Code.

(2) Where responsibility is reduced for more than one reason or where there are in addition mitigating circumstances, the minimum shall be that provided by section 92(1).

CHAPTER III

AGGRAVATION OF RESPONSIBILITY

Section 88—Previous Conviction

(1)(a) Whether a new offence defined as a felony or misdemeanour is committed within a period of time running from the date of the final conviction and expiring within five years of release from or prescription against a sentence of felony or misdemeanour, the maximum penalty provided, if of limited duration shall be doubled.

(b) Wherever a new simple offence is committed within a period of time running from the date of the final conviction and expiry within twelve months of release from or prescription against a sentence for a simple

offence – the maximum penalty provided, if of limited duration, shall be doubled.

(2) This section shall apply as between successive sentences of detention.

Section 89—Public Servant

(1) Subject to any special penalties provided for felonies or misdemeanours committed by public servants, the fact of being a public servant established or otherwise shall aggravate the responsibility of any such person guilty of any other felony or misdemeanour against which it is his duty to guard or to take action.

(2) The penalty in such a case shall be increased as under the last preceding section.

CHAPTER IV

MITIGATION AND SELECTION OF SENTENCE

Section 90—Mitigation

The benefit of mitigating circumstances may be given, for reasons to be recorded in the judgement, save where they are by law expressly excluded.

Section 91—Mitigation in case of Felony

(1) Upon finding of mitigating circumstances in favour of any person convicted of felony, the sentence may be reduced for no less than ten years' loss of liberty if the offence is punishable with death, to not less than five if it be punishable with loss of liberty for life, and not less than one year in any other case.

(2) Where the penalty is reduced under the last preceding subsection to ten years or less the court may add a fine of up to two million francs.

Section 92—Mitigation in Other Cases

(1) Upon finding of mitigating circumstances after conviction of misdemeanour or of a simple offence, the court may reduce to five days any sentence of loss of liberty, and any sentence of fine to one franc, and may pass sentence of one such penalty only.

(2) Where the offence is by law punishable with loss of liberty only, the court may

substitute a fine of up to one million for misdemeanour or up to twenty-five thousands francs for a simple offence.

Section 93—Selection of Sentence.

Sentence of penalty or measure shall vary, within such limits as may be prescribed or authorised by law, according to the circumstances of the offender and to the likelihood of his reformation, and to the practical means of carrying out.

CHAPTER V

ATTEMPT AND CONSPIRACY

Section 94—Attempt

(1) An attempt to commit a felony or misdemeanour shall mean the performance of any act towards its commission unambiguously indicating an irrevocable intention to commit it, and shall be treated, where execution has been arrested or has failed solely by reason of circumstances independent of the offender's will, as the commission of the felony or misdemeanour attempted.

(2) An attempt shall be punishable notwithstanding that complete execution was impossible by reason of a circumstance of fact unknown to the offender.

(3) Mere preparation shall not constitute an offence.

Section 95—Conspiracy

(1) Conspiracy shall mean the resolve concerted and determined between two or more persons to commit an offence.

(2) There can be no conspiracy between husband and wife.

(3) Conspiracy to commit a felony or misdemeanour shall be treated, where execution has failed solely by reason of circumstances independent of the conspirator's joint will, as the commission of the felony or misdemeanour resolved.

(4) The responsibility of a conspirator voluntarily withdrawing from the conspiracy before execution has commenced shall be diminished.

(5) No penalty may be imposed on a conspirator who prevents the execution of the offence resolved or who before any attempt at execution informs the administrative or judicial authorities of the conspiracy.

CHAPTER VI

PARTICIPATION

Section 96—Co-offenders

A co-offender shall mean a person who, in agreement with another, takes part with him in the commission of an offence.

Section 97—Accessories

(1) An accessory shall mean a person who abets the commission of a felony or misdemeanour, that is:

(a) Who orders or in any manner causes the commission of an act or omission so defined; or

(b) Who aids or facilitates the preparation or the commission of such an offence

(2) Attempted abetment shall be treated as abetment.

Section 98—Punishment of Co-offenders and Accessories

(1) Subject to any special provision of law, a co-offender and accessory shall be punishable in like manner as a sole or principal offender.

(2) Circumstances resulting in the irresponsibility of any person, or in his exemption from punishment or reduction or increase of his punishment, shall, where personal, affect only the person concerned.

(3) Circumstances other than personal shall affect any co-offender or accessory who could have foreseen them.

Section 99—Foreseeable Consequences

(1) Any co-offender or accessory to the commission or attempted commission of a felony or misdemeanour shall also be responsible in respect of any other offence committed or attempted as a foreseeable consequence of the agreement or abetment.

(2) Any person habitually furnishing places of refuge or assembly to malefactors of whose

felonious conduct he is aware shall also be liable to punishment as their accessory.

Section 100—Accessory After the Fact

(1) An accessory after the fact shall mean a person who after the commission of a felony or misdemeanour shelters an offender or his accessories from arrest or from investigation, or who has custody of or disposes of anything taken, misappropriated or otherwise obtained by means of the offence.

(2) This section shall not apply as between husband and wife.

(3) An accessory after the fact shall be punished under special provision of law.

PART IV

STATE LAWS

Section 101—Breach of State Laws or Orders

(1) Where any law of either the Federated state expressly so provide, any breach of such law which is not defined or punishable under this Code or any other federated law shall be punished with imprisonment for up to one year or with fine of from twenty-five thousands to five hundred francs or with both such imprisonment and fine.

(2) Breach of any order lawfully issued under such law shall constitute a simple offence.

BOOK TWO

PARTICULAR CRIMES

On reduction of the penalty provided by section 102 and 103, any loss of liberty shall be imprisonment.

PART ONE

**FELONIES AND MISDEMEANOURS
AGAINST THE STATE**

CHAPTER I

THE SECURITY OF THE STATE

A—External Security

Section 102—Hostilities Against the Fatherland

Any citizen:

- (a) Taking part in hostilities against the Republic; or
- (b) Assisting or offering to assist the said hostilities – shall be guilty of treason and punished with death.

Section 103—Other Felonies Punishable with Death

Whoever—

- (a) instigate a foreign power to undertake hostilities against the Republic; or
- (b) surrenders or offers to surrender to a foreign power or to its agents any troops, territory, installations or equipment employed in the defence of the nation, or any defence secret, or who in whatever manner acquires such a secret with intent to surrender it to a foreign power; or
- (c) with intent to injure the defence of the nation, damages any construction installation or equipment, or commits any malpractice liable to prevent their normal working or lead to an accident,
- shall, if a citizen, be guilty of treason and, if a foreigner, be guilty of espionage, and shall in either case be punished with death.

Section 104—Penalties of Ordinary Law

Section 105—Prejudice Punishable with Ten Years

Whoever in time of peace –

(1) Otherwise than to surrender to a foreign power, acquires a defence secret, or reveals such a secret to a person not entitled to know it; or

(2) With intent to surrender them to a foreign power collects information, articles, documents or processes where advantage could be taken of such collection to injure the defence of the nation; or

(3) Intrudes by any deceitful means into any installation, ship, aircraft or vehicle employed in the defence of the nation; or

(4) Carries out any drawing, survey, or photographic or topographical operation within any defence installation or within any prohibited area around it as laid down by the defence authorities and without their permission; or

(5) Loiters within a fixed distance prohibited by competent authority around a defence installation; or

(6) Flies without authorisation in a foreign aircraft over the territory of the Republic; or

(7) Sets up secretly a means of correspondence or of long distance transmission liable to injure the defence of the nation; or

(8) By any activity not approved by the Government expose the Republic to reprisal –

Shall be punished with imprisonment for from one to ten years or with fine of from one hundred thousands to ten million francs, or with both such imprisonment and fine.

“(9) (Law no 70-LF-9 of the 20th May 1970) – Enlist or undertake training, without prior permission of the competent Cameroon authorities, in the armed forces or police forces of a foreign country and engages in activities injurious to the defence of the nation or in activities capable of eventually exposing the Republic to a rebellion or an insurrection.”

Section 106—Prejudices Punishable with Five Years

Whoever in time of peace—

(1) Carries on with the agents of a foreign power a course of communication liable to injure the defence or diplomatic position of the Republic; or

(2) Within the territory of the Republic and without the permission of the Government recruits or enlist any person for any foreign armed forces; or

(3) By any activity not approved by the Government exposes citizens to reprisals; or

(4) Without permission from the Government surrenders or communicates to a foreign power or its agents any invention connected with the defence of the nation, or any information, study or process regarding such an invention, or any industrial application connected with the defence of the nation; or

(5) By rashness, carelessness or breach of any regulation, permits the removal or observation, whether in whole or in part, and for however short a time, of any article, equipment, document or information entrusted to him or in his care, and knowledge of which is liable to lead to the discovery of a defence secret; or

(6) By rashness, carelessness or breach of any regulation permits the damage or destruction of any object, equipment, or document entrusted to him or in his care, where such damage or destruction is prejudicial to the defence of the nation; or

(7) Being in control of any supplies, concern or undertaking on behalf of the armed forces, or being agent for any supplier or a subcontractor, causes the service to fail or to be delayed be it merely by carelessness; or

(8) Being in control of any supplies, concern or undertaking on behalf of the armed forces commits a fraud in respect of the description, the quality or the amount of works, of labour or of articles supplied –

Shall be punished with imprisonment for from one to five years or with fine of from fifty thousands to five million francs or with both such imprisonment and fine.

“(9) (Law no. 70-LF-9 of 20th May 1970) Enlist or undertakes training without prior permission of the competent Cameroon authorities in the armed forces or police forces of a foreign country”.

Section 107—Failure to Report

Any citizen who in time of peace fails to inform the defence, administrative or legal authorities, so soon as he comes to know it, of any activity liable to injure the defence of the nation, shall be punished as under the last forgoing section.

Section 108—War Time

(1) Any citizen or resident who in time of war and without permission from the proper authority—

(a) Carries on any correspondence or relation with the subjects or agents of the enemy; or

(b) Concludes directly or indirectly, any business transactions with a subject or agent of the enemy, or with any person residing in his territory –

Shall be punished with imprisonment for from ten to twenty years

(2) Whoever in time of war—

(a) Joins in any undertaking to spread alarm and despondency in the defence forces or in the nation, with intent thereby to injure the defence of the nation; or

(b) Commits any offence described by sections 105, 106 or 107 –

Shall be punished with imprisonment for from ten to twenty years.

(3) Whoever in time of war commits any act of any kind liable to injure the defence of the nation, shall, if no higher penalty be provided, be punished with imprisonment for from one to five years, or with fine of from fifty thousands to five millions francs, or with both such imprisonment and fine.

“(4)(Law No. 70-LF-9 of the 20th of May 1970) For the purposes of subsection 2 and 3 of this section, any state of emergency, mobilisation or siege shall be treated as time of war”.

Section 109 – ‘Defence Secret’

For the purposes of this Code a defence secret shall mean any information of whatever kind liable to assist hostile undertakings against the Republic and not already made public.

Section 110 – Extension to Foreign Powers

The provisions of the forgoing section may be extended by decree so as to apply in like

manner to acts committed against foreign powers.

B – Internal Security

Section 111 (New) (Law No. 91-007 of 30th July 1991) – Secession

(1) Whoever undertakes in what ever manner to infringe the territorial integrity of the Republic shall be punished with imprisonment for life.

(2) In time of war, or in time of state of emergency or siege, the penalty shall be death.

Section 112 – Civil War

Whoever provokes civil war by arming the people, or by inciting them to take arms against each other, shall be punished with death.

Section 113 – (new) (Law No. 90-61 of 19-12-90) – Propagation of False Information.

Whoever sends out or propagates false information liable to injure public authorities or national unity shall be punished with imprisonment for from three months to three years and with fine of from 100,000 to 2,000,000 francs.

On reduction of the penalty provided by section 111(2) and 112, any loss of liberty shall be imprisonment.

Section 114 – Revolution

Whoever by force attempts to alter the laws comprising the Constitution, or to overturn the political authorities set up by the said laws or to render them incapable of exercising their powers shall be punished with imprisonment for life.

Section 115 – Armed Band

(1) Whoever, with intent to commit a felony defined by sections 111, 112 or 114, or to hinder the operation of the forces of order against those committing any such felony, forms an armed band, or holds any office or command in it, or joins in such bands' commission of, or attempt to commit such felony shall be punished with imprisonment for life.

(2) Any other member of such a band shall be punished with imprisonment for from ten to twenty years.

(3) For the purpose of this section, an armed band shall mean any gathering of five or more persons of whom anyone bears any arm open or concealed.

(4) The provision of section 95(5) of this Code shall apply to this section.

Section 116 – Insurrection

Whoever during an insurrection –

(a) Instigate or encourage by whatever means the gathering of insurgents; or

(b) Hinders by whatever means the summoning, the assembly or the operation of the forces of order, or usurps their command; or

(c) Invades or destroy any public or private building; or

(d) Holds or seizes any weapon, ammunition or explosives; or

(e) Wears any official uniform, garb or emblem, whether civil or military –

Shall be punished with imprisonment from ten to twenty years.

Section 117 – “Weapons”

For the purpose of the forgoing section, a weapon shall include both an arm properly so called and any other article carried with intent thereby to inflict bodily harm or material damage.

C – Accessory Penalties

Section 118 – Specific Confiscation

On conviction for any felony or misdemeanour defined in this chapter, the confiscation prescribed by section 35 of this Code shall be ordered and may also be extended to property not belonging to the offender.

Section 119 – Confiscation of Unlawful Property

(1) Upon conviction for any felony or misdemeanour defined by this chapter, the court may order confiscation of the offender's property, of what ever nature and whether or

not held jointly, to which he can show no lawful title.

(2) In time of war such confiscation shall always be ordered.

Section 120 – General Confiscation

Upon conviction for felony defined by this chapter, the court may in addition order the confiscation of all or part of the offender's property lawfully acquired.

Section 121 – Forfeiture

(1) Upon conviction for a felony defined by this chapter the duration of the confiscation described in section 30 may not be reduced below five years.

(2) Upon conviction for a misdemeanour and sentence under this chapter to loss of liberty the court may order such forfeiture for not less than five nor more than ten years.

(3) The duration of the post-penal measures described in section 40 may be extended to ten years.

(4) Where the offender, in case either of felony or misdemeanour, is an officer or official of the public service or a member of the armed forces, the disqualification from service may be for life.

(c) Having been deprived of the right to vote participates in the election;

(d) Records a vote either by virtue of being fraudulently registered or by impersonating a registered elector;

(e) By reason of the fact that his name appears on more than one register of electors votes more than once;

(f) Being responsible at the pools for the receiving, counting or verifying of the envelopes containing the ballot papers withdraws, adds to or alter any ballot paper or reads a name other than the name actually appearing thereon;

(g) By spreading false news, false rumours or by other fraudulent devices reduce the number of votes or misappropriates same and influence an elector or electors to refrain from voting;

(h) In any of the commissions provided in this law, either in a polling station or in a Government office before, during or after election, by disregards of the laws and regulations or by any other fraudulent device, violates the secrecy of the ballot, affects the genuineness of the election, obstructs the counting of votes or alters the result thereof;

(i) Is guilty of fraud in the issue or production of a certificate showing that the name of a person is entered on or has been struck off the register of electors;

(j) On the day of election either as principal offender or accomplice, whether or not with force, fraudulently removes or takes away a ballot box –

Shall be liable to the penalties laid down under section 122 of the Penal Code.

(2) Whoever by wilful disregard of law or regulation causes unintentionally the like result shall be punished with imprisonment for from one month to one year, or with fine of from five thousands to fifty thousands francs or with both such imprisonment and fine.

(3) Where the offender or his accomplice is a public servant within the meaning of section 131 of the Penal Code, he shall be liable to the penalties laid down under section 141 of the Penal Code.

(4) Prosecution shall be barred by the laps of four months from commission of the offence or from the last step in preparing prosecution.

CHAPTER II

THE CONSTITUTION

A—Electoral Offences

Section 122 (new) (Law No. 91-007 of 30-7-1991) – Electoral Fraud

(1) Whoever in a federal, federated or local election:

(a) causes his name to be entered into a register of electors under a false identity and, on causing himself to be registered conceals a disqualification provided for by this law or claims the entry of his name on two or more registers;

(b) Causes his name to be improperly entered on a register of electors by means of fraudulent statements or false certificates, or by similar device wrongly enters on or strikes off a register of electors the name of any citizen;

Section 123 – Corruption and Violence

(1) Whoever –

(a) By unlawful assembly, riots or threatening demonstration, disrupts electoral activities or interferes with the exercise of the right to vote or with the freedom of voting;

(b) On the day of election, is guilty of contempt or assault on the local polling commission or on any member thereof, or by interference or by threat of any kind, delays or prevents the conduct of the polling operations;

(c) Directly or by any other person on his behalf, makes any gift, donation, promise or grant of employment, whether in public or private sector, or other individual benefits in order to influence the vote of an elector or electors and has obtained the vote of such elector or electors;

(d) Directly or by any other person on his behalf, solicits or accepts from the candidate any gift, donation favour or benefits referred to in sub-section (c) hereinabove;

(e) By interference, force or threat upon or against an elector, influences his vote by threatening to make such elector loss his employment or by threatening damage to his person, family or property,--

Shall be punished with imprisonment for from three months to two years, or with fine of from ten thousand to one hundred thousand francs, or with both such imprisonment and fine.

(2) Where the vote influenced is that of an electoral college or constituency or of any section thereof, the detention shall not be less than six months and the fine not less than twenty thousand francs.

B – Concert

Section 124 – Against the Law, the Operation of Public Service, or the Security of the State.

(1) Any person in whom is vested any part of the public authority, and any public servant, who with any other such person concert or determines:

(a) Any measure contrary to law or to any regulation lawfully issued thereunder; or

(b) Any measure, including collective resignation, designed primarily to obstruct or to interrupt the carrying on of a public service

– shall be punished with detention for from six months to three years.

(2) Where the concert is between the civil and military authorities, the punishment shall be detention for from one to two years.

(3) Where the object of the concert described in the last preceding subsection is a felony against the security of the state, the punishment shall be death.

C – Trespass

Section 125 – On Legislature

Any public servant who:

(a) Assumes the exercise of legislative power; or

(b) Refuses to enforce any provision of law – Shall be punished with imprisonment for from six months to five years.

Section 126 – By Executive and Judiciary Reciprocally.

Whoever:

(a) Being the representative of the executive authority, issues any order or prohibition to any Court; or

(b) Being a legal or judicial officer, issues any order or prohibition to any executive or administrative authority, --

Shall be punished with imprisonment for from six months to five years.

Section 127 – By Judiciary On Particular Immunities

Any judicial, legal or investigating police officer who contrary to any law conferring immunity prosecute, arrest or tries a member of the federal or a federated Government, or of the federal or federated Assembly, -- Shall be punished with imprisonment for from one to five years.

C – Misuse of Public Force

Section 128 – Unlawful Use of Force

Whoever requires or orders the intervention or the use of public force against the enforcement of any provision of the law or regulation, or against a lawful order, whether judicial or administrative, shall be punished with imprisonment for from three to ten years,

or with fine of from twenty thousand to two hundred thousand francs.

Section 129 – Non Compliance with Requisition

Any commander of the public force who does not comply with a lawful requisition for its use by the civil authorities shall be punished with imprisonment for from six months to two years.

E – Accessory Penalties

Section 130—Forfeitures

On conviction for any misdemeanour under this chapter the court may impose for from five to ten years the forfeitures described by section 30 of this Code.

CHAPTER III

OFFENCES BY PUBLIC SERVANTS AS SUCH

A – Preliminary

Section 131 (Law No. 77-23 of 6th Dec. 1977) – Definition of Public Servant

For the purpose of any criminal law, a public servant shall include any judicial or legal officer, any law official, any employee or official of the State or of any other body corporate governed by public law, or of a corporation or semi-public corporation, of a law official, any armed forces or gendarmerie serviceman, any employee of the national security or prison administration, and any person charged, whether continuously or occasionally with any public duty, mission or task, while acting in the discharge of his office or in relation to the said office.

Section 132—Aggravation for Public Servants

(1) Any public servant who uses force to any person shall be punished, where no heavier punishment is provided, with imprisonment for from six months to five years.

(2) The punishment provided by section 189 (copying government papers); 206 (licenses etc.); 207 (official certificates); 291(1) (false arrest); 292 (forced labour); 299(invasion of

residence); 300(tampering with correspondence);310(professional confidence); 315(forged certificate); shall be doubled where the offender is a public servant.

Section 132; (a) (new) (Law No. 97-009 of 30th Jan. 1997) – Torture

(1) Where torture results in the unintentional death of the victim, it shall be punished with life imprisonment.

(2) Where, as a result of torture, the victim is permanently deprived of the use of the whole or any part of a limb, organ or sense, the punishment shall be imprisonment for from ten to twenty years.

(3) Where torture results in illness or industrial disablement of more than 30 days, the punishment shall be imprisonment for from five to ten years and a fine of from 100,000 to 1,000,000 francs.

(4) Where torture results in illness or industrial disablement of up to 30 days, or in mental or moral pain and suffering, the punishment shall be imprisonment for from two to five years and a fine of from 50,000 to 200,000 francs.

(5) “Torture” shall within the context of this Code mean any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official or with his express or tacit consent on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or putting pressure on him or a third person, or for any other motive based on any form of discrimination whatsoever.

Torture shall not include pain or suffering arising from, inherent in, or incidental to lawful sanctions.

(6) Exceptional circumstances such as a state of war, internal political instability or any other public emergency may not be invoked as justification of torture.

(7) The orders of a superior or public authority may not be invoked as justification of torture.

(8) The conditions provided for under section 10(1) of this Code shall not apply to torture.

Section 133 (Law No. 77-23 of 6th Dec. 1977) – Forfeitures, Confiscation and Publicity

(1) Upon conviction for any offence defined in this chapter, or sentence under section 89 of this Code, the court may impose on the public servant found guilty the forfeitures described by section 30 of this Code.

Provided that the court shall be bound to impose the forfeiture listed in section 30 in the cases covered by section 134, 134(a), 135, 136 and 161 if this Code.

(2) Where sentence is passed for any offence referred to in section 134, 134(a), 135, 136 and 161 of this Code, the court shall be bound to order the confiscation provided for in section 35 and that its decision be made known by print media, by radio or by television.

B – Illegal Advantage

Section 134 (Law No. 77-23 of 6 Dec. 1977) – Corruption

(1) Any public servant or government employee who, for himself or for a third party solicits, accepts or receives any offer, promise, gift or present in order to perform, refrain from performing or postpone any act of his office shall be punished with imprisonment for from five to ten years and with fine of from two hundred thousand to two million francs.

(2) The term of imprisonment shall be for from one to five years and the fine from one hundred thousand to one million francs where the act does not lie within the competence of the person corrupted but was however facilitated by his office.

(3) Any public servant or government employee who solicits or accepts any reward in money or find for himself or for a third party as remuneration for having already performed or refrained from any such act shall be punished in like manner as under the forgoing subsection (2).

Section 134(a) (Law No. 77-23 of 6th Dec.) –

(1) Whoever makes promises, offers, gifts and presents or yields to request liable to result in corruption in order to obtain either the performance, postponement or abstention from an act one of the favours or benefits defined in the forgoing section shall be

punished in like manner as under the forgoing section 134(1) whether the corruption produced its effect or not.

(2) Whoever makes gifts and presents and yields to request for the remuneration of an act which has or has not been performed shall be punished in like manner as under the forgoing section 134(2).

Section 135 (Law No. 77-23 of 6th Dec. 1977) – Interest in Grant

(1) Any public servant or government employee who takes or accepts any interest, direct or indirect:

(a) In any grant, contract or selection of tenders subject to his opinion or which he supervised, controlled, administered or drew up;

(b) In any private concern, cooperative, semi-public corporation or corporation in which the state has shares, in any authority or occasion subject to his supervision or control;

(c) In contract or agreement signed on behalf of the state or a local authority with a natural person or body corporate;

(d) In any business in which it is his duty authorise payment or liquidation –

Shall be punished with imprisonment for from one to five years and a fine of from two hundred thousand to two million francs.

(2) The provision of this section shall be applicable to former public servants as defined by section 131 of this Code who, within five years from cessation of duties as a result of resignation, dismissal, leave, placement on reserve or retirement, or for any other reason, shall take any kind of interest in any grant, operation or concern mentioned above and previously subject to their supervision, control and administration or for whose payment or liquidation they were responsible.

Section 136 – Interest in Concern

(1) Any public servant whose duties include the supervision of any concern, undertaking or concession, or the expression of an opinion on its operations, and who in any manner assists or shares in its financing or operation, shall be punished with imprisonment for from six months to two years and with fine of from twenty thousand to two million francs.

(2) The like assistance or sharing, except by way of shares inherited, within five years from the cessation of such duties shall be punished in like manner.

C – Against the Public Interest

Section 137 – Indulgence

Any public servant who grants exemption from any fee, due, duty, tax or contribution, or who delivers at a lesser price than that prescribed, any produce of a government department, of a cooperative, or of any authority or corporation either public or subject to the administrative control of the state, or in which the state holds directly or indirectly the majority of the shares shall be punished with imprisonment for from two to ten years and with fine of from twenty thousand to two million francs.

Section 138 – Failure to Report Deficiency

Any public servant having knowledge of any cash or book deficiency in the accounts of a public official under his orders or supervision, and not reporting the deficiency to the legal authorities or to his immediate superior, shall be punished with imprisonment for from one to five years,

Section 139 – Negligent Custody

Any custodian who by negligence permits –

(1) Destruction, defacement or abstraction of any property described by section 187 of this Code shall be punished with imprisonment for from one month to one year and with fine of from ten thousand to fifty thousand francs;

(2) Abstraction, removal or destruction within the meaning of section 188 – Shall be punished with imprisonment for from three months to one year and with fine of from ten thousand to fifty thousand francs;

(3) Breach of seals as described by section 191 – Shall be punished with imprisonment for from six days to six months;

(4) Escape or rescue within the meaning of section 193 – Shall be punished with imprisonment for from two months to two years.

D – Against Private Interest

Section 140 – Oppression

(1) Any public servant who takes advantage of his position to infringe any private right or interest shall be punished with imprisonment for from three months to one year, or with fine of from five thousand to fifty thousand francs, or with both such imprisonment and fine.

(2) Where the offence is committed with intent to procure for the offender or for another any gain of any kind, the imprisonment shall be for from three months to three years, and the fine of from fifty thousand to one million francs.

Section 141 – Against Civic Rights

Any public servant who obstructs the exercise by a citizen of his electoral rights, or his exercise or enjoyment of the rights mentioned in section 30 (1),(2),(4) or (5) of this Code, shall be punished with imprisonment for from one to five years.

Section 142 – Undue Demand

Any public servant, notary, auctioneer, bailiff or process-server or representative of any such, who demands any fee, due, duty or tax which is not due, or material benefit otherwise than on payment of the proper price, shall be punished with imprisonment for from two to ten years and with fine of from twenty thousand to two million francs.

Section 143 –Favour

(1) Any public servant who decides between parties from favour or ill-will, shall be punished with imprisonment for from one year to five year.

(2) Where the public servant is a judicial or legal officer or federal inspector or senior divisional officer, the penalty shall be doubled.

Section 144 –Forgery of Official Act

Any public servant, notary, auctioneer, bailiff or process-server who falsely makes or alters, whether in its substance or in the dates, signatures of parties or witnesses, any deed entry or other writing which it is his duty to draw up, record, certify or serve, shall be punished with imprisonment for from ten to twenty years.

E – Culpable Abstention

Section 145 – Failure to Suppress Riot

Any public servant having the power, the duty and the means so to do, refrains from dispersing a riot within the meaning of section 232 of this Code, shall be punished with imprisonment for from three months to two years.

Section 146 – Failure to Protect Private Rights

Any public servant who having the power, the duty and the means so to do refrains from preventing the use of force against any person, or his deprivation of liberty or any obstruction to the exercise of his civic rights within the meaning of section 141 of this Code, shall be punished as an accessory.

Section 147 – Denial of Justice

Any person exercising judicial functions who declines, after having been duly moved in that behalf, to issue a decision, shall be punished with imprisonment for from three months to two years.

Section 148 – Refusal of Service

Any public servant, notary auctioneer, bailiff or process-server who, after having been lawfully required, refrain from performance of any duty of his office, shall be punished with imprisonment for from three months to two years.

Section 149 – Neglect of Preliminaries to Marriage

(1) Any registrar of birth, marriage and death who registers a marriage celebrated by himself:

(a) Without checking that all consent required for its validity have been given; or

(b) Before the expiry of such time as may be prescribed in case the wife has already been married, shall be punished with imprisonment for from three months to one year and with fine of from five thousand to seventy thousand francs.

(2) The consequences of the irregularity in civil law shall be immaterial to the applicability to this section.

Section 150 – Birth, Marriage and Death Registers

Any registrar of birth, marriage and death who makes any entry elsewhere than in the registers prescribed in that behalf, or who fails to enter any such birth, marriage or death, shall be punished with imprisonment for from one to three months and with fine of from two thousands to forty thousand francs.

Section 151 – Persistent Neglect

(1) Any public servant whose persistent obstruction or neglect is the cause of procrastination, delay or confusion, or who persistently refrains from performing any duty of his office, shall be punished with imprisonment for from one to three months and with fine of from two thousand to twenty-five thousand francs.

(2) No prosecution may be commenced without the complaint of the relevant Minister or Secretary of state.

CHAPTER IV

PUBLIC AUTHORITY

A – Contempt and Assault

Section 152 – “Contempt”

(1) A contempt shall mean any defamation, abuse or threat conveyed by gesture, word or cry uttered in any place open to the public, or by any procedure intended to reach the public.

(2) The exceptions defined by section 306 shall be applicable to contempt.

(3) Prosecution shall be barred by the laps of four months from commission of the offence or from the last step in preparation or prosecution.

Section 153 – Contempt of President and Other Dignitaries

(1) Whoever commits a contempt of the President of the Republic or of the Vice President of the Republic, of any person exercising the whole or a part of prerogative, or of any foreign Head of State, shall be punished with imprisonment for from one to five years, or with fine of from twenty

thousand to twenty million francs, or with both such imprisonment and fine.

(2) Whoever commits a contempt of any Head of Government, or of any foreign minister of a foreign Government, or of a diplomatic representative accredited to the Government of the Republic shall be punished with imprisonment for from six months to two years, or with fine of from twenty thousand to twenty million francs, or with both such imprisonment and fine.

(3) The truth of the defamatory matter may never be proved.

Section 154 (new) (Law No. 90-61 of 19 Dec. 1990) – Contempt of Public Bodies and Public Servants

(1) Whoever commits a contempt:

(a) Of any court, of the armed forces, or of any public body or public administration, or

(b) In relation to his office or position, of any member of the Government or of the National Assembly, or of any public servant, shall be punished, unless, in the case of defamation, be proved the truth of the defamatory matter, with imprisonment for from three months to three years, or with fine of from one hundred thousand to two million francs, or with both such imprisonment and fine.

(2) Whoever whether in speech or in writing intended for the public, incites to revolt against the Government or institutions of the Republic shall be punished with the penalties provided in subsection (1) above.

Section 155 – Where not Public

Where any defamation, abuse or threat has been committed otherwise than publicly against any person defined by either of the last two forgoing sections, the punishment, whether of loss of liberty or of fine shall be halved.

Section 156 – Assault on Public Servant

(1) Whoever uses force to a public servant or otherwise interferes with him, shall be punished with imprisonment for from one month to three years and with fine of from five thousand to one hundred thousand francs.

(2) Where the force or interference is premeditated, or where it results intentionally

or otherwise, in harm within the meaning of section 277 or 280 of this Code, the punishment shall be imprisonment for from five to ten years, and fine of from twenty thousand to five hundred thousand francs.

(3) The court may in any case impose the forfeitures described by section 30 of this Code.

(4) Where the force or interference results unintentionally in death, the punishment shall be imprisonment for life.

(5) If the force or interference is intended to cause death, the punishment shall be death.

B – Resistance

Section 157 (new) (Law No. 90-61 of 12 Dec. 1990) – Resistance

(1) Whoever:

(a) By any means whatever incites to the obstruction of the execution of any law, regulation, or lawful order of the public authority,

(b) By force or other interference obstructs the performance of lawful duty by any person engaged in the execution of any law, regulation, decision in the administration of justice or other lawful order, shall be punished with imprisonment for from three months to four years.

(2) In the case provided by subsection (1) (b) above, the punishment shall be for from one to five years if the offender or any co-offender is armed.

Section 158 – Collective Resistance

(1) Where the offence described in the last forgoing section is committed by five or more persons together the punishment shall be imprisonment for from one to three years, and where any two of them openly bear arms, the imprisonment shall be for from five to fifteen years.

(2) Any co-offender who himself bear arms, open or concealed, shall be punished with imprisonment for from five to fifteen years.

Section 159 (Repealed) (Law No. 91-007 of 30th July 1991) -- Political Resistance.

The penalty of detention shall be replaced by imprisonment wherever such penalty is provided by the law.

C—Influence and Fraud

Section 160 – Compulsion of Public Servant

Whoever by interference or threat procures a public servant improperly to perform or to refrain from any act of his office, shall be punished with imprisonment for from two to ten years and with fine of from twenty thousand to one million francs.

Section 161 (Law No. 77-23 of 6th Dec. 1977)—Procuring Influence

(1) Whoever by assault or threat or by gift or promise corrupts a person having any influence, real or supposed, with interest to procure any advantage from any public authority, shall be punished in like manner as under section 160.

(2) Any public servant who for himself or a third party solicits, receives or accepts any offer, promise or gift to procure any advantage from any public authority or body placed under the control of the public authority, any contract, operation or other benefit arising from agreement concluded with public authority or a body placed under the control of the public authority and in this way taking undue advantage of the real or supposed influence that his status or office has conferred upon him, shall be punished in like manner as under section 160 of this Code.

Section 162 – Misleading Public Servant

(1) Whoever by any false statement influences the conduct of a public servant shall be punished with imprisonment for from fifteen days to three months and with fine of from five thousand to fifty thousand francs.

(2) Where the statement is a report relating to the registration of any birth, marriage or death, the imprisonment shall be for from three months to three years.

(3) Where the statement is made on oath the imprisonment shall be from one to five years

(4) Whoever by any means procures the entry in the criminal record of any one person

of the conviction of any other shall be punished with imprisonment for from one to five years.

(5) Whoever by any means procures the improper issue to himself of an extract from the criminal record of another person shall be punished with imprisonment for from one month to one year.

Section 163 – Fraud at Examinations

Whoever commits any fraud at an examination or competition with intent thereby to procure his entry into any public service, or any degree certificate or qualification issued by the state or by a public service, whether national or foreign, shall be punished with imprisonment for from one month to three years, or with fine of from twenty five thousand to two million, or with both such imprisonment and fine.

D – Perversion of Justice

Section 164 – Perjury

(1) Whoever in any proceeding gives on oath or affirmation false evidence capable of influencing the decision, shall be punished, where he may no longer alter it:

(a) Where the proceeding terminates in an order of discharge, with imprisonment for from three months to one year and with fine of from five thousand francs,

(b) Where the proceeding is a criminal trial and the charge is:

-- Of simple offence, with imprisonment for from six months to three years and with fine of from five thousand to one hundred thousand francs

-- Of misdemeanour, with imprisonment for from one to five years and with fine of from ten thousand to five hundred thousand francs

-- Of felony with imprisonment for from five to ten years and with fine of from fifty thousand to two million francs

-- Of felony punishable with death, with imprisonment for life

(c) In the case of any other proceeding with imprisonment for from one to five years and with fine of from ten thousand to five hundred thousand francs.

(2) Where the false witness has received any gift or accepted any promise, any penalty of

limited duration and any fine shall be doubled, and any such gift shall be confiscated.

(3) Any interpreter who in any proceeding distorts the meaning of any word or writing which he is bound to translate shall be punished in like manner as if he had committed perjury.

Section 165 – False Expert Report

Any expert referee making a false report which he may no longer alter shall be punished as provided by section 164(2).

Section 166 – False Oath

Any party to judicial proceedings other than criminal who swears falsely to any point the truth of which has been committed to his oath, shall be punished with imprisonment for from one to five years and with fine of from ten thousand to five hundred thousand francs.

Section 167 – Concealment of Proceeding

Any party to judicial proceedings who keeps his opponent, by any false pretence within the meaning of section 318(1)(c), in ignorance of any step against him shall be punished with imprisonment for from three months to two years or with fine of from twenty thousand to one million francs, or with both such imprisonment and fine.

Section 168 – Concealment and Falsification of Evidence

(1) Whoever with intent to influence any judicial proceedings –

(a) Destroys or conceals any physical evidence or obstructs the attendance of a witness; or

(b) Fabricates or uses false physical evidence or mislead a witness –

Shall be punished in like manner as if he had committed perjury, according to the distinction drawn by section 164

(2) Whoever obtains from any person a promise not to report a felony or misdemeanour, or not to give evidence, shall be punished in like manner:

Provided that this subsection shall not apply to a promise obtained without the aid of the means described by section 161 from the

victim of a misdemeanour or his legal representative.

Section 169 – Prejudicial Comment

(1) Whoever refers publicly to any judicial proceedings not yet terminated by final judgement in a manner liable to influence, whether intentionally or not, the opinion of any person for or against any party, shall be punished with imprisonment for from fifteen days to three months and with fine of from ten thousand to one hundred thousand francs.

(2) Nothing in this section shall apply to an account in good faith of proceedings in open court.

(3) Where the offence is committed through the print media, radio or television, the imprisonment shall be from three months to two years and the fine from one hundred thousand to five million francs.

Section 170 – Forfeitures

Upon conviction under any of the last five foregoing sections, the court may impose the forfeitures described by section 30 of this Code.

E – Refusal to Assist Justice

Section 171 – Non Intervention

Whoever, being able so to do by his own immediate action and without risk to himself or to any other person, refrains from preventing the commission of a felony or of a misdemeanour against the bodily integrity of any person, shall be punished with imprisonment for from one month to three years or with fine of from twenty thousand to two million, or with both such imprisonment and fine.

Section 172 – Refusal to Clear

Whoever, being able so to do without incriminating himself, his spouse or any ascendant or descendant, refrains from communicating to the judicial or police authorities evidence of the innocence of any person in custody awaiting trial for felony or misdemeanour, or, notwithstanding that the judgment may not be final, convicted of felony or misdemeanour, shall be punished with

imprisonment for from one months to three years or with fine of from twenty thousand to one million francs, or with both such imprisonment and fine.

Section 173 – Defaulting Witness

(1) Any person regularly summoned as a witness in any proceeding who without just cause fails to appear or declines to take oath or to affirm, or to give evidence, shall be punished with imprisonment for from six days to three months and with fine of from one thousand to fifty thousand francs.

(2) Whoever, having publicly referred to a felony or misdemeanour and publicly proclaimed his knowledge of the offender or of his accessories, refuses to answer or evades the questions on such points of the judicial or legal officer having jurisdiction, shall be punished with imprisonment for from six days to one year or with fine of from twenty thousand to four hundred thousand francs, or with both such imprisonment and fine.

Section 174 – Defaulting Expert

Any person whose assistance has been regularly required as expert, any medical practitioner or interpreter by any judicial or legal authority and who without just cause declines to furnish it shall be punished with fine of from twenty thousand to five hundred thousand francs.

Section 175 – Defaulting Juror or Assessor

Any person summoned as juror or assessor who without just cause fails to appear or to take oath or to affirm as required by law, or withdraws before the termination of his duties, shall be punished with imprisonment for from six days to three months and with fine of from five thousand to fifty thousand francs.

Section 176 – False Excuse

Whoever falsely excuses himself under any of the last three forgoing sections shall be punished with imprisonment for from one to three months.

F – Disobedience to Judicial Orders

Section 177 – Banned Resistance

Whoever appears in any place from which he has been banned, or removes from any place to which he has been restricted, under section 42 of this Code, shall be punished with imprisonment for from one month to one year.

Section 178 – Other Penalties and Measures

Whoever –

(a) Follows an occupation which has been forbidden him under section 36 of this Code; or

(b) Reopens any premises closed under section 34 of this Code; or

(c) Infringes any forfeitures or obligation not covered by the last forgoing section which has been imposed upon him under sections 31, 41, or 42 – shall be punished with imprisonment for from fifteen days to six months and with fine of from ten thousand to one hundred thousand francs.

Section 179 – Custody of Minor

(1) Whoever fails to surrender a minor to the person to whom his custody has been granted by order, whether permanent or temporary, of a court, shall be punished with imprisonment for from one month to one year and with fine of from five thousand to one million francs.

(2) Where the offender has been deprived of parental power, the imprisonment may extend to three years.

Section 180 – Maintenance

(1) Whoever lets pass two months without paying in full any maintenance which he has been ordered by a court to pay to his spouse, ascendant or descendant, shall be punished with imprisonment for from one month to one year or with fine of from twenty thousand to four hundred thousand francs, or with both such imprisonment and fine.

(2) Any such default shall be presumed to have been intentional, nor shall any inability to pay arising from drunkenness or other habitual misconduct be a defence.

Section 181 – Wilful Insolvency

Whoever, after the decision of any court, final or otherwise, ordering payment of a sum of money, contrive to be insolvent, shall be punished imprisonment for from one to five years.

Section 182 – Re-entry on Immoveable Property

Whoever within three months of execution of or submission to an order against him for possession of any immovable property, retakes possession from the party to whom it has been awarded by the court, shall be punished with imprisonment for from fifteen days to six months.

G – Obstruction of Public Service

Section 183 – Refusal of Tax

(1) Whoever by any means organises a collective refusal to pay any tax shall be punished with imprisonment for from three months to two years and with fine of from two hundred thousand to two million francs.

(2) Whoever instigates the public to refuse or to delay the payment of any tax shall be punished with imprisonment for from six months to one year and with fine of from fifty thousand to one million francs.

Section 184 – Misappropriation of Public Funds

(1) Whoever by any means takes or keeps dishonestly any property, movable or immovable, belonging to, in transition to or entrusted to the United State, or to any authority or corporation either public or subject to the administrative control of the state, or in which the state holds directly or indirectly the majority of the shares, shall be punished:

(a) Where the value of the property is more than half a million francs, with imprisonment for life; and

(b) Where the said value is half a million francs or less, but over one hundred thousand francs, with imprisonment for from fifteen to twenty years;

(c) Where the said amount is one hundred thousand francs or less, with imprisonment for from five to ten years and with fine of from fifty thousand to five hundred thousand francs.

(2) The forgoing punishment may not be reduced, whatever the mitigating circumstances, below ten, five or two years as the case may be nor may its execution be suspended.

(3) Where section 87(2) of this Code is applicable, the punishment may not be reduced below five years, two years or one year, as the case may be, and execution may not be suspended except in the case of diminished responsibility for infancy.

(4) Confiscation under section 35 of this Code shall be ordered in every case, and the forfeitures described in section 30 shall be imposed for from five to ten years.

(5) Publication of the judgment shall be ordered.

(6) This section shall not apply to misappropriation and receiving of military property covered by the Military Justice Codes.

Section 185 – Disturbance

Whoever disturbs the operation of any public service to which he does not belong shall be punished with imprisonment for from six days to one month or with fine of from one thousand to fifty thousand francs.

Section 186 – Resistance to Work

Whoever by assault or threat resists the carrying out of any works lawfully ordered or authorised by public authority, or who destroys, conceals or removes any boundary mark thereto appertaining, shall be punished with imprisonment for from three months to two years and with fine of from ten thousand to fifty thousand francs.

Section 187 – Damage to Public or Protected Property

Whoever destroys or defaces any monument or statue or other property dedicated to public use or adornment and erected by public authority or by leave of the said authority, or any protected immovable or movable object or natural feature or site, shall be punished imprisonment for from one month to two years and with fine of from twenty thousand to one hundred and twenty thousand francs.

Section 188 – Removal and Destruction of Public Records

(1) Whoever abstracts, removes or destroys any document in the custody of any public authority shall be punished with imprisonment

for from one to five years and with fine of from ten thousand to two hundred thousand francs.

(2) Whoever destroys or damages any register, record or other original document of any public authority, shall be punished with imprisonment for from five to ten years and with fine of from twenty-five thousand to two hundred thousand francs.

Section 189 – Copies of Government Papers

Whoever takes, without authority or permission, a copy of any document the property of the Government shall be punished with imprisonment for from one month to one year.

Section 190 – Misappropriation of Attached Property

Whoever misappropriates, destroys or damages any attached or garnished property shall be punished with imprisonment for from one to five years and with fine of from fifty thousand to one million francs.

Section 191 – Breach of Seals

Whoever breaks any seal lawfully affixed shall be punished with imprisonment for from six months to two years and with fine of from fifty thousand to five hundred thousand francs.

Section 192 – Communication with Persons in Custody

Whoever contrary to the rules governing the custody of any person lawfully detained facilitates his relations with any outside party, shall be punished with imprisonment for from fifteen days to six months.

Section 193 – Escape

(1) Whoever escapes from lawful custody, or who, being permitted to work outside prison leaves his place of work without permission, shall be punished with imprisonment for from three months to one year.

(2) Whoever rescues any person from lawful custody shall be punished in like manner.

(3) For escape or rescue effected by force to the person or to property, the punishment shall be imprisonment for from one to five years; and for escape or rescue with arms, the

punishment shall be imprisonment for from five to ten years.

(4) Where the person in custody is charged with felony or has been sentenced to loss of liberty for more than ten years, the punishment shall be imprisonment for from five to ten years.

Section 194 -- Accessory after the Fact by Shelter

(1) An accessory after the fact to felony or misdemeanour by shelter of the offender, whether convicted or not, shall be punished with imprisonment for from two months to two years.

(2) Where the principal offence is punishable with death, the accessory shall be punished with imprisonment for from two to ten years.

(3) No defence absolving from responsibility a principal not yet acquitted shall be available to the accessory.

Section 195 -- Subscription to Fine

Whoever publicly invites subscription for the purpose of indemnifying any person against any pecuniary sentence passed on him by a criminal court shall be punished with imprisonment for from fifteen days to six months or with fine of from five thousand to fifty thousand francs, or with both such imprisonment and fine.

Section 196 – Defacement of Posters

Whoever removes, obliterates or defaces any notice posted under section 33 of this Code shall be punished with imprisonment for from fifteen days to six months or with fine of from five thousand to fifty thousand francs, or with both such imprisonment and fine.

Section 197 – Revenge on Witness

Whoever –

(a) Commits a contempt of a witness by reason of the evidence which he has given, unless, in the case of defamation, he proves the truth of the defamatory matter; or

(b) Causes any loss to a witness by reason of the evidence he has given, shall be punished with imprisonment for from ten days to one year or with fine of from ten thousand to two

hundred thousand francs, or with both such imprisonment and fine.

Section 198 (new) (Law No. 93-013 of 22 Dec. 1993) – Forbidden Publication

(1) Whoever publishes –

(a) Any record of any proceeding of a court or of the Legal Department in respect of a felony or misdemeanour before it has been read out in open court; or

(b) Any account of proceedings in camera or in juvenile court; or

(c) Any conviction of a minor mentioning any particular allowing of his identification; or

(d) Any information on the proceeding of a parliamentary subcommittee before their report has been laid on the table of the House, except a communiqué issued by the subcommittee officers; or

(e) Any information on the proceeding of the federal Judicial Council, except a communiqué issued by the Chairman or Vice Chairman of the Council – shall be punished with fine of from ten thousand to five hundred thousand francs.

(2) Whoever publishes any deliberation in chambers by any court shall be punished with fine of from ten thousand to three million francs.

(3) In case of publication by the print media, radio or television, the punishment shall be doubled.

(4) (Law No. 68-LF-14 of 18th Nov. 1968) – Whoever in Cameroon or in any court proceedings:

(a) Makes any sound recording; or

(b) Takes any photographs whatever, by means of any camera, cinematographic or television process, or any other similar process, shall be liable to the penalties laid down in subsection (2) of this section.

Section 199 – Innkeeper's Register

Any keeper of an inn or common boarding house who, contrary to any regulation, does not register, or registers under a false name, any person staying in the said inn or boarding house shall be punished with imprisonment for from six days to three months and with fine of from ten thousand to one hundred thousand francs.

Section 200 – Illicit Burial

Whoever disposes of a human corps otherwise than as prescribed by law or regulation shall be punished with imprisonment for from six days to three months and with fine of from two thousand to fifteen thousand francs.

CHAPTER V

AGAINST STATE GUARANTEES

A – Forgery and Counterfeiting

Section 201 – Great Seal

(1) Whoever forges the Great Seal or make use of such forged Seal shall be punished with imprisonment for life.

(2) Whoever makes use of the Great Seal improperly procured shall be punished with imprisonment for from ten to twenty years.

Section 202 – Treasury Security

Whoever forges or alters any security issued by the public treasury under its stamp or marks or makes use of any such forged or altered security shall be punished with imprisonment for life.

Section 203 – Signatures, Stamps and Punches

(1) Whoever forges or alters the signature of the President of the Republic, of the Vice President, of either Prime Minister or of any Minister, Deputy Minister or Secretary of State, or any Government stamp or any punch for hall-marking gold or silver, shall be punished with imprisonment for from ten to twenty years.

(2) Whoever makes use of any such forged stamp or punch, or of any document or object bearing such forged or altered signature, stamp or mark shall be punished in like manner.

(3) Whoever makes use of any such stamp or punch or of any document or object bearing such signature, stamp or mark where genuine but improperly procured, shall be punished in like manner.

Section 204 – Marks and Stationery

(1) Whoever forges or alters –

(a) Any seal, stamp or mark of a legislative assembly or of a court or of an administrative office; or

(b) The printed stationery or forms of any legislative assembly, court or administrative office; or

(c) Any punch or mark designed to be placed in the name of the government on weights or measures, or on merchandise; or

(d) Any hammer used for punching government forestry marks; or

(e) Any postage stamp, postmark or reply coupon issued by the postal administration, or any revenue stamp or impress stamp – shall be punished with imprisonment for from one to five years and with fine of from forty thousand to four million francs.

(2) Whoever distributes, sells or makes use of such forged or altered seal, stamp, punch, mark, postmark, paper or coupon, shall be punished in like manner.

(3) Whoever distributes, sells or makes use of such thing where genuine but improperly obtained, shall be punished in like manner.

Section 205 – Public Act, Document or Record

(1) Whoever forges or alters, whether in its substance or in its date, signatures or counter signatures, any act of the legislature, of the executive (including a passport) or of the judiciary, or any document or record drawn up by a person having exclusive authority so to do, shall be punished with imprisonment for from ten to twenty years.

(2) Whoever makes use of any such document or record so forged or altered shall be punished with imprisonment for from five to ten years and with fine of from forty to two million francs.

Section 206 -- Licences and Similar Documents

Whoever –

(a) Forges or alters an identity card, driving licence, game licence, elector's card, family booklet or military booklet; or

(b) Procures the issue for himself or for another of any such document under a wrong name; or

(c) Make use of any such document, whether forged, altered or issued in a wrong name; or

(d) Makes dishonest use of any genuine document of such nature belonging to another – shall be punished with imprisonment for from three months to three years.

Section 207 – Official Certificates

(1) Whoever forges or alters any official certificate shall be punished with imprisonment for from six months to three years.

(2) Whoever makes use of any such certificate shall be punished in like manner.

Section 208 – Postage and Revenue Stamps

Whoever makes use of any postage or revenue stamp already used, or surcharges any postage or revenue stamp, or makes unauthorised use of any postal privilege, shall be punished with imprisonment for from ten days to one year and with fine of from five thousand to fifty thousand francs.

Section 209 – Postal Documents

(1) Whoever forges or alters –

(a) Any postal identity card, whether national or foreign, or any subscription card in respect of post restante; or

(b) Any label, stamp, post-mark or reply coupon issued by a foreign postal administration – shall be punished with imprisonment for from ten days to six months and with fine of from five thousand to fifty thousand francs.

(2) Whoever sells offers for sell or make use of any such matter shall be punished in like manner.

Section 210 – Colourable Resemblance

Whoever manufactures, sells, distributes or makes use of any object or printed matter bearing to any object or printed matter described in the last nine forgoing sections a resemblance liable to facilitate their acceptance in place of the matter or object imitated, or to mislead the public, shall be punished with imprisonment for from ten days to six months and with fine of from twenty thousand to two hundred thousand francs.

Section 211 – Counterfeit Note and Coin

(1) Whoever –

(a) Counterfeits or alters any currency note or any gold or silver coin being legal tender in the Republic; or

(b) Imports in to the Republic any such counterfeit or altered note or coin; or

(c) Utters any such counterfeit note or coin – shall be punished with imprisonment for life

(2) In case of any other currency note or coin, national or foreign, and whether or not legal tender, the punishment shall be imprisonment for from ten to twenty years.

(3) Where the alteration consist of mere colouration of coin, whether or not legal tender in the Republic or abroad, the punishment shall be imprisonment for from six months to five years.

(4) Where the coin or note has been received in ignorance of the fact that it was counterfeit or altered, and uttered after knowledge of the same, the punishment shall be imprisonment for from three months to three years and fine of three times the face value of the said coin or note.

Section 212 – Counterfeiting Equipment

Whoever without authorisation manufactures or posses any instrument, apparatus, machine or material designed for the forgery of the Great Seal, any treasury security, or any punch, stamp or mark, or for the counterfeiting of note or coin, whether national or foreign, shall be punished with imprisonment for from five to ten years and with fine of from fifty thousand to one million francs.

Section 213 – Improper Possession

Whoever without authorisation posses any thing or document described in section 201 to 202 inclusive of this Code shall be punished with imprisonment for from one to five years.

Section 214 – Accessory Penalties

(1) On conviction for any misdemeanour defined in the forgoing thirteen sections, the court may impose the forfeitures described in section 30 of this Code.

(2) On conviction under the said sections, confiscation under section 35 shall be ordered.

B – Usurpation

Section 215 – Striking Money

Whoever without authority:

(a) Strikes coin of whatever form or denomination, or prints any note payable to bearer, or imports or utters such coin or note; or

(b) Manufactures or posses any machine, apparatus, instrument or material capable of use for the striking or printing of any note or coin liable to be mistaken for lawful money – shall be punished with imprisonment for from five to ten year and with fine of from fifty thousand to one hundred and fifty thousands francs.

Section 216 – Usurpation of Office

(1) Whoever assumes any public office, whether civil or military, to which he is not appointed, or performs any act belonging to any such office, shall be punished with imprisonment for from six months to five years

(2) In the case of a public servant continuing to act in an office after official notice of his cessation from the said office, whether temporary or final, the punishment shall be imprisonment for from three months to two years.

(3) On conviction the court may also impose the forfeitures described by section 30 of this Code.

(4) Where the offender takes advantage of his usurpation to commit any offence defined by chapter III of this Part, he shall be punished as if he held the office usurped.

Section 217 – Solemnisation of Marriage

Any minister of religion who –

(1) Not being authorised to perform a civil marriage, solemnises a religious ceremony of marriage without having seen a certificate of marriage already performed by a registrar of births, marriages and deaths; or

(2) Being authorised to perform a civil marriage:

(a) Solemnises only a religious ceremony of marriage; or

(b) Performs a civil marriage without having seen a certificate of no impediment from the said registrar – shall be punished with fine of from five thousand to thirty thousand francs, and on subsequent conviction within the

meaning of section 88 of this Code, with imprisonment for from one to five years.

Section 218 – Usurpation of Uniform or Decoration

Whoever wears in public any uniform or decoration to which he is not entitled, or which bears a colourable resemblance to the same, shall be punished with imprisonment for from three months to two years or with fine of from five thousand to five hundred thousand francs, or with both such imprisonment and fine.

Section 219 – Usurpation of Qualification

Whoever without being entitled thereto makes use of a qualification belonging to a profession legally regulated, or of an official degree, certificate of education or diploma, or of a title governed by public regulation, shall be punished with imprisonment for from three months to two years or with fine of from one hundred thousand to two million francs, or with both such imprisonment and fine.

Section 220 – Title of Honour

Whoever makes public use of any title of honour to which he is not entitled shall be punished with fine of from five thousand to two million francs.

Section 221 – Common Provisions

(1) The three last forgoing sections shall be equally applicable to any foreign uniform, decoration, title or qualification.

(2) The said sections shall not apply to the actors at a public entertainment nor to children's games.

(3) On conviction under any one of the said sections, the court shall order the marginal annotation of the said judgment on any notarial deed or register of births, marriages and deaths in which the titled has been assumed, and may also order publication of its judgement.

C – Guarantees to the National Economy

Section 222 – Credit of the State

(1) Whoever by any means, with intent to injure the credit of the state:

(a) Spread publicly any false or misleading rumour liable to undermine confidence in the stability of the currency or in the value of any public funds or of the funds of any cooperative, or of any authority or corporation either public or subject to the administrative control of the state, or in which the state holds, directly or indirectly, the majority of the shares; or

(b) Encourages the public to withdraw funds from any public deposit or from any establishment compelled by law to pay in to a public deposit, or to sell any Government loan or other treasury paper, or discourages the public from purchase of or subscription to the same, shall be punished with imprisonment for from three months to two years and with fine of from two hundred thousand to two million francs.

(2) On conviction under this section the court shall order publication of its judgement.

Section 223 – Legal Tender

Whoever refuses any note or coin being legal tender in the Republic and to the extend that it is legal tender, shall be punished with imprisonment for from ten days to three months or with fine of from one thousand to one hundred thousand, or with both such imprisonment and fine.

Section 224 – National Development

Whoever with intent to injure the national development transfers abroad any specialised staff or delivers abroad any industrial or commercial secret, shall be punished with imprisonment for from six months to two years and with fine of from one hundred thousand to five million francs.

Section 225 – Loans and Subsidies

Whoever puts to any use other than that for which it was granted a loan or subsidy from the federal or federated state, from a cooperative, or from an authority or corporation described by section 184, shall be punished with imprisonment for from one to ten years and with fine of from ten thousand to one million francs.

Section 226 – Standards Regulations

Whoever infringes any regulation prescribing standards for any produce to be exported, shall be punished with fine of from fifty thousand to four million francs, and with confiscation of the goods in question.

PART TWO

FELONIES AND MISDEMEANOURS AGAINST THE GENERAL INTEREST

CHAPTER I

PUBLIC SAFETY

Section 227 – Arson and Destruction

(1) Whoever sets fire, directly or indirectly, and notwithstanding that he is the owner:

(a) To any placed used or another man's dwelling; or

(b) To any land sea or air vehicle in which are one or more persons; or

(c) To any working mine or its appurtenances

– Shall be punished with imprisonment for from three to ten years and with fine of from five thousand to one million francs.

(2) Destruction of such property shall be punished in like manner as arson.

Section 228 – Dangerous Activities

(1) Whoever fails properly to provide against risk of bodily harm to any person from his dangerous activities shall be punished with imprisonment for from six days to six months.

(2) Whoever rashly and in a manner liable to cause harm to any person:

(a) makes use of fire, or of any inflammable or explosive matter, or of electricity, or of any machinery; or

(b) Demolishes in whole or in part any construction or any uninhabited building, notwithstanding that he may be the owner; or

(c) Furnishes medical or surgical treatment, or furnishes or administers any drug or other substance; or

(d) Leads, drives, rides, stops or leaves any animal or vehicle on the public highway –

Shall be punished with imprisonment for from three months to three years or with fine

of from five thousand to five hundred thousand francs, or with both such imprisonment and fine.

(3) Whoever drives any vehicle when drunk or under the influence of drugs, shall be punished in like manner.

(4) Upon conviction under subsection (2) (d) in respect of a vehicle, or under subsection (3), the court may add disqualification from holding a driving licence for up to two years.

Section 229 – Explosive Substance

Whoever infringes any regulation governing the manufacture, storage, transport, import or export of, or trade in explosive substances, shall be punished with imprisonment for from one month to one year or with fine of from two thousand to one hundred thousand francs, or with both such imprisonment and fine.

Section 230 – Public Highway

(1) Whoever without lawful permission obstructs the use of any public highway or waterway, or renders passage less convenient, whether by damaging the surface of the highway or diverting the course of the waterway, or by erection, or by excessive use, or by use of his adjacent land, shall be punished with imprisonment for from one month to two years.

(2) Whoever being bound to repair any highway or any work connected with it, refrains from so doing, shall be punished in like manner.

CHAPTER II

PUBLIC PEACE

Section 231 – Unlawful Assembly

Whoever –

(a) Takes part in the arrangement for a meeting, demonstration or procession in any place open to the public without having giving such notice as may be required by law, or before the expiry of such notice, or after service of lawful prohibition; or

(b) Before the giving of such notice or after service of such prohibition, issues by whatever

means any invitation to attend such assembly; or

(c) Gives notice liable to mislead the authorities in respect of the character or purpose of the proposed assembly, --

Shall be punished with imprisonment for from fifteen days to six months and with fine of from five thousand to one hundred thousand francs.

Section 232 – Riot

(1) A riot shall mean an assembly on the public highway of five or more persons in manner liable to disturb the public peace.

(2) Whoever takes part in a riot and does not withdraws on the first call of the proper authority, shall be punished with imprisonment for from fifteen days to six months.

(3) The penalty shall be doubled for any person who continues in the riot until it be dispersed by force.

Section 233 – Armed Riot

(1) Whoever takes part in a riot which is armed within the meaning of sections 155(3) and 117 of this Code, and himself bears any weapon or does not withdraws on the first call of the proper authority, shall be punished with imprisonment for from three months to two years.

(2) The punishment shall be imprisonment for from two to five years for any person who continues in the riot until it be dispersed by force.

(3) The punishment shall be imprisonment for from five to ten years for any person who takes part in the riot at the moment when any such weapon is used.

(4) All punishment under this section shall be doubled where the riot takes place at night.

(5) On conviction under this section, the court may add the forfeitures described by section 30 of this Code.

Section 234 –Where Political

Wherever the offence defined by the last three forgoing sections is of a political nature, the punishment shall be detention in place of imprisonment.

Section 235 – Seditious Cries

Whoever in any place open to the public utters any seditious cry or song shall be punished with imprisonment for from eight days to one month or with fine of from two thousand to fifty thousand francs, or with both such imprisonment and fine.

Section 236 – Depredation by Band

(1) Whoever as a member of an assembly or band, and by open force, plunders or damages any movable or immovable property, shall be punished with imprisonment for from ten to twenty years.

(2) For such felony committed in a state of emergency or siege, the punishment shall be imprisonment for life.

(3) For such felony committed in time of war, the penalty shall be death.

Section 237 – Possession and Carriage of Arms

(1) Whoever without such permission as may be required by law manufactures, exports, imports, keeps, transfers or sells any firearm or ammunition shall be punished with imprisonment for from three months to one year or with fine of from fifty thousand to three hundred thousand francs, or with both such imprisonment and fine.

(2) The punishment shall be doubled for carriage of any such arms outside the offender's residence.

(3) Whoever delivers any such arms or ammunition to any person without ascertaining that he is licence to keep it shall be punished as his accessory.

(4) Confiscation under section 35 of this Code shall be ordered in every case; and on subsequent conviction within the meaning of section 88 the court may impose the forfeitures described by section 30 and order the closure of the establishment to whatever other use it may be put.

Section 238 – Dangerous Carriage of Arms

Whoever whether licensed or not to bear arms shall bear any weapon within the meaning of section 117 of this Code in a place open to the public in a manner liable to disturb the public peace or to alarm any person, shall be punished with imprisonment for from three months to two years or with fine of from fifty

thousand to three hundred thousand francs, or with both such imprisonment and fine.

Section 239 – Disturbance of Quiet Enjoyment

Whoever in a manner liable to disturb public peace enters into land quietly enjoyed by another to whomsoever belonging, shall be punished with imprisonment for from fifteen days to one year.

Section 240 (Law No. 77-3 of 13 July 1977) – False News

(1) Whoever publishes or propagates by any means whatever any news without being able to prove either its truth or that he had good reason to believe it to be true, shall be punished with imprisonment for from one to five years and with a fine of from twenty thousand to ten million francs.

(2) The penalty shall be doubled for anonymous publication or propagation.

Section 241 – Contempt of Race or Religion

(1) Whoever commits a contempt within the meaning of section 152 of this Code, of the race or religion of a number of citizens or residents shall be punished with imprisonment for from six days to six months and with fine of from five thousand to five hundred thousands francs.

(2) Where the offence is committed by means of the press or wireless, the fine may extend to twenty million francs.

(3) Where the offence is committed with intent to arouse hatred or contempt between citizens, the penalties provided by the two forgoing subsections shall be doubled.

Section 242 – Discrimination

Whoever excludes another, by reason of his race or religion from any place open to the public or from any employment, shall be punished with imprisonment for from one month to two years and with fine of from five thousand to five hundred thousand francs.

Section 243 – Public Drunkenness

(1) Whoever –

(a) Commits the offence of public drunkenness within twelve months of a

previous conviction within the meaning of section 88(1)(c) of this Code or;

(b) Being licensed to sell alcoholic beverages, delivers any such beverage on his premises to any person manifestly drunk, --

Shall be punished with imprisonment for from fifteen days to one month and with fine of from two thousand to thirty-five thousand francs.

(2) Where the offender is so licensed the court may order closure of his establishment for up to two years, and order publication of the judgement.

Section 244 – Subsequent Conviction

(1) Section 88(1)(b) of this Code shall apply to any subsequent conviction under the last forgoing section.

(2) The court may add the forfeitures described by section 30 (1) and (2) of this Code.

(3) Where the offender is so licensed the court may order closure of his establishment for up to four years and order publication of the judgement.

Section 245 – Begging

Whoever having means of support, or being able to work to obtain them, begs in any place for alms, shall be punished with imprisonment for from fifteen days to six months.

Section 246 – Aggravated Begging

Whoever whether or not able bodied and having or not means of support, shall beg for alms in any one of the manners following:

- (a) with abuse threat or assault; or
- (b) after entering any dwelling or enclosure there to appurtenant without the occupants permission' or
- (c) feigning sores or disablement; or
- (d) in company, save husband and wife, or father and mother with their young children, or a blind man and his guide – shall be punished with imprisonment for from six months to two years.

Section 247 (Law No. 72-16 of 28th Sept. 1972) – Vagrancy

(1) Whoever is found in a public place being of no fixed abode and with no means of support shall be guilty of vagrancy and

shall be punished with imprisonment for from six months to two years.

(2) The punishment provided above shall be doubled:

(a) Where the vagrant is found in possession of any weapon or any instrument with which an offence may be committed,

(b) Where the vagrant has committed (or attempted to commit) any act of violence against an individual or individuals.

(3) In addition, the measures prescribed under section 42(1), (2) and (3) shall be pronounced.

Section 248 (Ordinance No. 72-16 of 28 Sept. 1972) – Dangerous Preparation

(1) Whoever with intent to commit any felony or misdemeanour carries any instrument fit for the forcing of entry to any immovable property shall be punished with imprisonment for from ten days to one year.

(2) The intent shall be presumed where the facts charged were committed at night.

Section 249 – Gaming and Lotteries

(1) Whoever without such licence as may by law be required offers to the public with intent to engender a hope of gain, whether in money or in kind –

(a) Any wager or lottery; or

(b) Any other game in which chance plays a greater part than skill, --

Shall be punished with imprisonment for from two months to one year, or with fine of from fifty thousand to three million francs, or with both such imprisonment and fine.

(2) No offer confined to the members of one club shall constitute an offer to the public.

(3) On conviction the court may add the forfeitures described by section 30 of this Code, and order closure of offender's establishment notwithstanding that it may also be put to another use.

(4) In addition to confiscation under section 35 of this Code, the court may order confiscation of all furniture and furnishings adapted or decorated for the attraction of customers, and all funds and property, movable or immovable, set aside as prizes for the winners.

Section 250 – Pawnshops

Whoever –

(a) Without such license as may be lawfully required keeps any pawnshop or business of lending on a floating charge; or

(b) Having such license fails to keep such registers as may be prescribed, -- shall be punished with imprisonment for from fifteen days to three months and with fine of from twenty-five thousand to five hundred thousand francs.

Section 251 – Witchcraft

Whoever commits any act of witchcraft, magic or divination liable to disturb public order or tranquillity, or to harm another in his person, property or substance, whether by taking of a reward or otherwise, shall be punished with imprisonment for from two to ten years and with fine of from five thousand to one hundred thousand francs.

CHAPTER III

PUBLIC ECONOMY

Section 252 – False Weights and Measures

Any trader or artificer keeping at his place of trade on work any false weight or measure or other incorrect apparatus used for the weighing or measuring of his wares shall be punished with imprisonment for from fifteen days to six months or with fine of from ten thousand to seven hundred thousand francs, or with both such imprisonment and fine.

Section 253 (new) (Law No. 90-61 of 19th Dec. 1990) – Cheque Without Cover

(a) Whoever issues a cheque on a bank or postal account within or without the Republic and without pre-existing adequate or free cover, or

(b) After issue withdraws, whether within or without the Republic all or part of the cover or stops payment shall be punished with penalties laid down under section 318.

Section 254 – Auctions

Whoever by force or threat, by gift or promise, or by any trick, disturbs the freedom

or interferes with the genuineness of any auction or tender shall be punished with imprisonment for from one to six months and with fine of from fifty thousand to one million francs.

Section 255 – Interference with Labour

Whoever by means of force or threat, or by fraudulent trick causes or prolongs any concerted stoppage of work with intent thereby to compel an increase or decrease of wages, or to affect injuriously the freedom of labour or of industry, shall be punished with imprisonment for from fifteen days to three years or with fine of from five thousand to seven hundred thousand francs, or with both such imprisonment and fine.

Section 256 – Rigging Prices

(1) Whoever by any fraudulent means causes an artificial increase or decrease of the price of goods or public or private securities, shall be punished with imprisonment for from two months to two years and with fine of from four hundred thousand to twenty million francs.

(2) The penalty shall be doubled where the goods in question are foodstuff or subject to standards regulation.

(3) On conviction the court may add the forfeitures described in section 30(1) and (2) of this Code, and order publication of its judgement.

Section 257 – Destruction of Foodstuffs

Whoever with intent thereby to influence the market in foodstuffs whether for human or animal consumption causes or permits them to perish, rot or disappear from circulation, shall be punished with imprisonment for from one to five years and with fine of from fifty thousand to one million francs.

CHAPTER IV

PUBLIC HEALTH

Section 258 – Adulteration of Foodstuffs

(1) Whoever either adulterates any foodstuff, whether for human or animal consumption, or beverage or medical

substance intended to be sold, or keeps any substance designed or fit only for the purpose of effecting such adulteration, shall be punished with imprisonment for from three months to three years and with fine of from five thousand to five hundred thousand francs.

(2) Whoever keeps for sale any foodstuff beverage or medicament adulterated, deteriorated or harmful to human health, shall be punished in like manner.

(3) This section shall not apply to fresh fruit and vegetables which have fermented or become rotten.

(4) Any such foodstuff, beverage or medicament belonging to the offender shall be confiscated; and where not used by the Government, its destruction shall be at the expense of the offender.

(5) The court may order publication of its judgement under section 33 of this Code.

Section 259 – False Medical Certificate

(1) Any physician, surgeon, dresser or nurse, dentist or midwife who for the advantage or disadvantage of any person falsely certifies or conceals the existence of any disease or disability, or falsely certifies the performance of results of an inoculation, or gives misleading information on the origin of a disease, on the duration of a disability, or on the cause of any death, shall be punished with imprisonment for from two months to three years and with fine of from five thousand to one hundred thousand francs.

(2) Where any such person has been corrupted, the punishment shall be imprisonment for from two to ten years

(3) On conviction, the court may impose the forfeitures described by section 30 of this Code.

Section 260 – Infectious Disease

(1) Whoever by his conduct facilitates the communication of any dangerous infection disease shall be punished with imprisonment for from three months to three years.

(2) In the case of an infection dangerous to life of any animal usually intended for human consumption, the punishment shall be imprisonment for from one month to one year.

Section 261 – Pollution of Air and Water

Whoever by his operations:

- (a) Pollutes any drinkable water liable to be used by another; or
- (b) So pollutes the atmosphere as to render it harmful human health, -- Shall be punished with imprisonment for from fifteen days to six months or with fine of from five thousand to one million francs, or with both such imprisonment and fine.

Section 262 – Essential Service

(1) Whoever breaks any contract of service or supply in such circumstances that the foreseeable consequences of such breach is either a grave danger to public health or to the health of patients in hospital or grave bodily injury, or grave danger to property of any nature, or the deprivation of a number of person of electricity or of water, shall be punished with imprisonment for from one to six months.

(2) This section shall not apply to any person who has given notice of seven days or more.

CHAPTER V

PUBLIC DECENCY

Section 263 – Public Indecency

Whoever publicly offends against decency shall be punished with imprisonment for from fifteen days to two years or with fine of from ten thousand to one hundred thousand francs, or with both such imprisonment and fine.

Section 264 – Corruption of Morals

Whoever –

- (a) Publicly utters any immoral song, cry or speech; or
- (b) Draws the attention of the public to any occasion of immorality, -- Shall be punished in like manner.

Section 265 – Obscene Publication

(1) Whoever –

- (a) With a view to trade, manufactures, keeps, imports, transport or exports; or
- (b) Whether or not for gain, and whether or not publicly, exhibits or distributes –

Any writing, picture or object liable to corrupt morals, shall be punished with imprisonment for from one month to two years and with fine of from ten thousand to half a million francs.

(2) On conviction the court may order closure for up to one year of the establishment where the offender manufactures, or keeps any such writing, picture or object.

Section 266 – Other Objectionable Publications

(1) Whoever publishes any account, save the judgement, of any affiliation, divorce or judicial separation proceedings, or of any prosecution for abortion, shall be punished with fine of from twenty thousand to six million.

(2) Whoever without the written permission of the authority responsible for prosecution publishes in any manner the suicide of a person aged under eighteen years shall be punished with fine of from twenty thousand to two million francs and on subsequent conviction within the meaning of section 88 of this Code, may also be punished with imprisonment for from two months to two years.

(3) Whoever infringes section 23(3) of this Code shall be punished with fine of from ten thousand to one million.

(4) Whoever publishes, whether by picture or in any other manner, without the written request of the officer preparing prosecution, the whole or any part of the circumstances of an offence of violence or committed against a child or against morals, shall be punished with fine of from twenty thousand to two hundred thousand francs.

Section 267 – Justification of Crime

Whoever publicly justifies the felonies of murder, depredation, arson, destruction or felonious theft, or any felony or misdemeanour against the security of the state, shall be punished with imprisonment for from one to five years or with fine of from ten thousand to twenty million francs, or with both such imprisonment and fine.

Section 268 – Cruelty to Animals

(1) Whoever causes needless suffering to any animal, whether domestic, tamed or kept in captivity, shall be punished with imprisonment

for from fifteen days to three months or with fine of from five thousand to twenty thousand francs, or with both such imprisonment and fine.

(2) On conviction the court may deprive the offender of ownership of the animal.

(3) Where the condition of the animal renders such an order proper, the court may order its destruction.

CHAPTER VI

PUBLIC WORSHIP

Section 269 – Freedom of Conscience

Whoever by any interference or threat compels or prevents the practice of any form of religion which does not involve the commission of a criminal offence, shall be punished with imprisonment for from one month to one year and with fine of from five thousand to fifty thousand francs.

Section 270 – Contempt of Minister of Religion

Whoever strikes or publicly insults a minister of religion on account of his ministry, shall be punished with imprisonment for from one month to three years.

Section 271 – Violent Obstruction of Ministry

Whoever obstructs by assault or threat the exercise of his ministry by a minister of religion shall be punished in like manner.

Section 272 – Disturbance of Public Worship

Whoever by disturbance or disorder obstructs, delays or interrupts religious worship in the place where it is customarily offered, shall be punished with imprisonment for from fifteen days to one year or with fine of from five thousand to one hundred thousand francs, or with both such imprisonment and fine.

Section 273 – Disturbance of Funeral

Whoever –

(a) Disturbs any funeral ceremony or procession; or

(b) Defaces any funeral monument; or

(c) Fails to perform any duty by which he is bound to bury or burn a corps, --

Shall be punished with imprisonment for from one to six months or with fine of from five thousand to twenty-five thousand francs, or with both such imprisonment and fine.

Section 274 – Violation of Graves and Corpses

(1) Whoever –

(a) Violates any tomb or any place of burial; or

(b) Offers indignity to any human corps or part thereof, whether buried or not –

Shall be punished with imprisonment for from three months to five years and with fine of from ten thousand to one hundred thousand francs.

(2) Nothing in this section shall apply to any dealing with a corps in the interest of science and in accordance with any regulation in force.

PART THREE

FELONIES AND MISDEMEANOURS AGAINST PRIVATE INTEREST

CHAPTER I

THE PERSON

A – Intentional Killing and Harm

Section 275 – Murder

Whoever causes another's death shall be punished with imprisonment for life.

Section 276 – Capital Murder

(1) Whoever commits murder:

(a) After premeditation; or

(b) By poisoning; or

(c) In the preparation, facilitation or commission of a felony or misdemeanour, or to enable the escape, or to procure the impunity of the offender or of an accessory to such felony or misdemeanour, --

Shall be punished with death.

(2) Murder shall be deemed premeditated notwithstanding that the identity of the victim is not decided or that the

enterprise depends on the fulfilment of a condition.

Section 277 – Grievous Harm

Whoever permanently deprives another of the use of the whole or of any part of any member, organ or sense shall be punished with imprisonment for from ten to twenty years.

B – Intentional Force and Interference

Section 278 – Assault Occasioning Death

(1) Whoever by force or interference unintentionally causes another's death shall be punished with imprisonment for from six to twenty years.

(2) Where the force or interference is used in the course of any act of witchcraft, magic or divination the punishment shall be imprisonment for life.

Section 279 – Assault Occasioning Grievous Harm

(1) Whoever by force or interference unintentionally causes to another the injuries described in section 277 of this Code shall be punished with imprisonment for from five to ten years, and in a fit case, with fine of from five thousand to five hundred thousand francs.

(2) Where use is made of a weapon, of any explosive, corrosive or toxic substance, of poison, or of any act of witchcraft, magic or divination, the punishment shall be for from six to fifteen years.

Section 280 – Simple Harm

Whoever by force or interference causes intentionally or unintentionally to another any sickness or inability to work lasting more than thirty days shall be punished with imprisonment for from six months to five years or with fine of from five thousand to two hundred thousand francs, or with both such imprisonment and fine.

Section 281 – Slight Harm

Whoever by force or interference causes intentionally or unintentionally to another any sickness or inability to work lasting for more than eight days and up to thirty days shall be punished with imprisonment for from six days

to two years or with fine of from five thousand to fifty thousand francs or with both such imprisonment and fine.

Section 282 – Desertion of Incapable

(1) Whoever with intent to abandon him removes any person unable to protect himself by reason of his physical or mental condition shall be punished with imprisonment for from one to three years and with fine of from five thousand to twenty-five thousand francs.

(2) Where the abandonment is in a lonely place, the punishment shall be imprisonment for from five to ten years.

(3) Where the offender is an ascendant or any other person having authority over the incapable or having custody of him, whether by law or in fact, the punishment shall be imprisonment for from ten to twenty years.

(4) Upon conviction under this section the court may impose the forfeitures described by section 30 of this Code and may also deprive the offender of parental power for the same period.

Section 283 – Failure to Assist

Whoever fails to render assistance to a person in danger of death or grievous harm, whether by his own endeavours or by calling for help, where such assistance involves no risk to himself or to any other person, shall be punished with imprisonment for from one month to three years or with fine of from twenty thousand to one million francs, or with both such imprisonment and fine.

C – Common Provisions

Section 284 – Mistakes as to Victim

For the purpose of sections 275 to 281 inclusive, the infliction of death or the use of force or interference shall be treated as intentional notwithstanding that it is intended to be inflicted on or used against a different person.

Section 285 – Constructive Force

For the purpose of this Code the following shall be treated as the use of force or as interference:

- (a) The administration of any substance harmful to health;
- (b) Desertion under section 282;
- (c) Deprivation of nourishment or care, to a degree endangering health, by a person having custody in law or in fact of another who is either incapable of withdrawing himself from the said custody or incapable of providing for himself.

Section 286 – Medical Treatment

Sections 277 to 281 inclusive shall not apply to the professional service of any person duly authorised to render them, where performed with the consent either of the patient or of such person as may have custody over him: Provided that where the patient is incapable of consent, his spouse may consent on his behalf, and when communication with the said spouse or person having custody is impossible without risk to the patient, consent shall not be necessary.

Section 287 – Interest of Victim

The infliction of harm and the use of force shall constitute no offence where proved to be justified by the immediate necessity of avoiding greater harm to the victim.

Section 288 – Sport

Sections 278 to 281 inclusive shall not be applicable to anything done in the course of a sport and in accordance with its rules.

D – Unintentional Killing and Harm

Section 289 – Unintentional Killing and Harm

(1) Whoever by lack of due skill, carelessness, rashness or disregards for regulation causes another's death or such harm, sickness or incapacity as is described in section 277 or 280 shall be punished with imprisonment for from three months to five years or with fine of from ten thousand to five hundred thousand francs, or with both such imprisonment and fine.

(2) Where such harm, sickness or incapacity as is described in section 277 or 280 is caused by an offence against section 227 or 228(2)(a) or (b), the imprisonment shall be from six to twenty years.

(3) Where another's death is caused by an offence against section 227 or 228(2)(a) or(b), the punishment shall be imprisonment for life.

(4) Where any offence against this section is committed in the course of driving a vehicle requiring driving license, the court may disqualify the offender for up to three years from holding such license and for any subsequent offence within the meaning of section 88 of this Code, may disqualify him for up to ten years.

Section 290 – Drivers of Vehicle

(1) The punishment provided by section 289(1) shall be doubled for an offence committed by the driver of any vehicle –

- (a) Who is drunk or drugged when driving; or
- (b) Who has not the licence required for driving the vehicle in question; or
- (c) Who with intent to avoid his liability departs before being identified.

(2) Where such harm as is described in section 281 is caused unintentionally in the circumstances of the last forgoing subsection, the driver shall be punished with imprisonment for from six months to four years and with fine of from ten thousand to one hundred thousand francs.

(3) For any offence against this section, the court may disqualify the offender for up to five years from holding a driving licence; and on subsequent conviction within the meaning of section 88 of this Code, may disqualify him for life or for any lesser term.

(4) In any case not covered by subsection (1)(c) of this section, the driver of any vehicle involved in an accident who with intent to avoid his liability departs before being identified shall be punished with imprisonment for from one month to one year and with fine of from twenty thousand to two hundred thousand francs; and the court may disqualify him for up to two years from holding a driving licence.

CHAPTER II

PRIVATE LIBERTY AND TRANQUILLITY

A – Liberty

Section 291 – False Arrest

(1) Whoever in any manner deprives another of his liberty shall be punished with imprisonment for from five to ten years and with fine of from twenty thousand to one million francs.

(2) The punishment shall be imprisonment for from ten to twenty years in any of the following cases:

(a) Where the deprivation of liberty last for more than a month; or

(b) Where it is accompanied with physical or mental torture; or

(c) Where the arrest is effected with the aid of a forged order from a public authority or of a uniform unlawfully worn, or pretending an appointment not held.

Section 292 – Forced Labour

Whoever for his personal advantage compels another to do any work or to render any service which he has not offered of his own free will, shall be punished with imprisonment for from one to five years or with fine of from ten thousand to five hundred thousand francs, or with both such imprisonment and fine.

Section 293 – Slavery

(1) Whoever –

(a) Enslaves any person or keeps him in slavery; or

(b) Engages, whether habitually or otherwise in any traffic in person –

Shall be punished with imprisonment for from ten to twenty years.

(2) Whoever gives or receives any person as security shall be punished with imprisonment for from one to five years and with fine of from ten thousand to one million francs; and the court may in addition impose the forfeitures described in section 30 of this Code.

Section 294 (Ordinance No. 72-16 of 28th Sept. 1972) – Immoral Earning

(1) Whoever procures, aids or facilitates another persons prostitution, or shares in the profit of another's prostitution, whether habitually or otherwise, or who is subsidised by any person engaging in prostitution shall be punished with imprisonment for from six

months to five years and with fine for from twenty thousand to one million francs.

(2) Whoever lives with a person engaging in prostitution shall be presumed to be subsidised by her, unless he shows that his own resources are sufficient to enable him to support himself.

(3) The punishment shall be doubled where:

(a) The offence is accompanied; by coercion or by fraud or where the offender is armed; or where he is the owner, manager or otherwise in charge of an establishment where prostitution is habitually practiced;

(b) Where the offence has been committed to the detriment of any person under the age of twenty-one;

(c) Where the offender is the father or mother; guardian or person with customary responsibility.

(4) In the cases referred to under subsection 3, the provisions of section 48 shall be applied.

(5) The court may impose the forfeitures described in section 30 of this Code and disqualify the offender for the same period from being guardian or curator of any person and from having custody, customary or otherwise, of any person under the age of twenty-one

(6) Upon conviction under subsection 3(a) of this section, the court shall order closure of the establishment to whatever other use it may be put.

(7) The prostitute herself shall not be treated as accessory to any offence under this section.

B – Sexual Offences

Section 295 – Private Indecency

(1) Whoever in any place notwithstanding that it may not be open to the public, commits an indecent act in the presence of any person of either sex and without his consent shall be punished with imprisonment for from fifteen days to two years or with fine of from ten thousand to one hundred thousand francs, or with both such imprisonment and fine.

(2) The punishment shall be doubled where the offence is accompanied by assault.

Section 296 – Rape

Whoever by force or moral ascendancy compels any female whether above or below

the age of puberty to have sexual intercourse with him shall be punished with imprisonment for from five to ten years.

Section 297 – Subsequent Marriage

Marriage freely consented between the offender and the victim if over puberty at the time of commission shall have on any offence under either of the last two forgoing sections the effect of section 73(1) to (4) of this Code.

Section 298 – Aggravation

The penalties prescribed by sections 294, 295 and 296 shall be doubled where the offender –

- (a) Has authority over the victim, or custody of him by law or by custom; or
- (b) Is a public servant or minister of religion; or
- (c) Is helped by one or more others.

C – Personal Tranquillity

Section 299 – Invasion of Residence

(1) Whoever enters or remains in another's residence against his will shall be punished with imprisonment for from ten days to one year or with fine of from five thousand to fifty thousand francs, or with both such imprisonment and fine.

(2) The penalty shall be doubled for an offence committed at night or with the aid of force, threats or other interference.

(3) No prosecution may be commenced without the complaint of the injured party.

Section 300 – Tampering with Correspondence

(1) Whoever without permission from the addressee destroys, conceals or opens another's correspondence shall be punished with imprisonment for from fifteen days to one year or with fine of from five thousand to one hundred thousand francs, or with both such imprisonment and fine.

(2) This section shall not apply as between spouses, to parents in respect of their children under twenty-one years of age and unemancipated, or to guardians or person responsible by custom in respect of their wards.

Section 301 – Simple Threats

Whoever by any writing or picture threatens another with force or interference, or with the destruction of any property, or with breaking in to his residence, shall be punished with imprisonment for from ten days to three years and with fine of from five thousand to five hundred and fifty thousand francs.

Section 302 – Conditional Threats

(1) Whoever threatens another, expressly or by implication, with force or other interference in case of his failure to comply with any order or condition shall be punished with imprisonment for from ten days to six months and with fine of from five thousand to twenty-five thousand francs.

(2) Where the force or interference would constitute a felony punishable with death or with imprisonment for life, the punishment shall be:

(a) Imprisonment for from six months to three years and fine of from five thousand to seventy thousand francs for verbal threats;

(b) Imprisonment for from two to five years and fine of from ten thousand to two hundred and fifty thousand francs for threats in writing or picture; and the court may in addition impose the forfeitures described in section 30 of this Code.

Section 303 – Blackmail

(1) Whoever threatens another with defamatory imputation or with any revelation in case of his failure to comply with any order or condition shall be punished with imprisonment for from one to five years and with fine of from two hundred thousand to two million francs.

(2) The penalty shall be doubled for imputation of a felony,

(3) The court may in addition impose the forfeitures described in section 30 of this Code.

Section 304 – False Report

(1) Whoever makes to any person in authority, whether public or private, a false report liable to lead to prosecution or to disciplinary measures shall be punished with imprisonment for from six months to five years and with fine of from ten thousand to one

million francs, unless he shows that he had good reasons to believe the report to be true.

(2) Imprisonment shall be for from two to five years where the false report is anonymous.

(3) Where in consequence of the report a criminal prosecution is commenced in the trial in court in respect of the facts reported, any prosecution for false report shall be stayed until final judgment.

(4) The court may order publication of its judgement.

Section 305 (new) (Law No. 93-013 of 22nd Dec. 1993) – Defamation

(1) Whoever by any of the means describe in section 152 injures the honour or reputation of another by imputations, direct or indirect, of facts which he is unable to prove shall be punished with imprisonment for from six days to six months and with fine of from five thousand to two million francs, or with only one of the penalties.

(2) These penalties shall also apply to persons guilty of defamation in print and audio-visual media without prejudice to the right of reply and the obligation to publish corrections.

(3) No prove may be offered of the truth of a defamatory imputation where;

(a) It concerns the private life of the person defamed; or

(b) It refers to a fact more than ten years old; or

(c) It refers to a fact constituting an offence which has been amnestyed or the conviction for which has been otherwise expunged.

(4) No prosecution may be commence without the compliant of the injured party or of his representative by law or by custom, or continued after the withdrawal of the compliant.

(5) Prosecution shall be barred by the laps of four months from the commission of the offence or from the last step in preparation or prosecution.

(6) This section shall apply to defamation of the memory of a deceased person with intent to injure the honour or reputation of his living heirs, spouse or universal legatee.

(7) The penalty shall be halved for a defamation which is not public.

(8) The punishment shall be doubled for anonymous defamation.

Section 306 – Exceptions to Defamation

The following shall constitute no offence:

(1) Speeches within any legislative assembly, or any report or other document printed by order of any such assembly;

(2) Faithfull account without malice of the public sittings of any such assembly;

(3) Proceedings in court and the speeches made and documents produced in court;

(4) Faithful account without malice of all such proceedings and speeches, save only of a prosecution or action for defamation;

(5) Publication of any judgment or judicial order, including those passed in a prosecution or action for defamation;

(6) An official report without malice by a person lawfully appointed to conduct an enquiry to the extent that it is germane to the enquiry;

(7) Imputation without malice of a superior on his subordinate;

(8) Information on any person given without malice to a third party having an interest, personal or official, in receiving it, or having power to remedy an alleged injustice;

(9) Criticism of any work of art entertainment or opinion shown, expressed in public, provided that such criticism be not an expression of personal animosity;

(10) Any work of historical nature and without malice.

Section 307 – Abuse

(1) Whoever uses without having been provoked against any person in the circumstances of publicity described in section 152 any insulting expression, or contemptuous gesture or words, or invective without imputation of fact, shall be punished with imprisonment for from five days to three months or with fine of from five thousand to one hundred thousand francs, or with both such imprisonment and fine.

(2) No prosecution may be commenced without the compliant of the injured party or of his representative by law or by custom, or continued after withdrawal of complaint.

(3) Prosecution shall be barred by the laps of four months from the commission of the offence or from the last step in preparation or prosecution.

(4) This section shall apply to abuse of the memory of a deceased person in the circumstances prescribed by section 305(5).

Section 308 – Extortion of Disposition or Signature

(1) Whoever by force coercion or fraud extorts the signature, or the delivery of any document having the effect of an obligation, discharge or disposition, or otherwise liable to harm the signatory in his person or in his substance, shall be punished with imprisonment for from five to ten years and with fine of from ten thousand to five hundred thousand francs.

(2) Whoever procures by the like means the delivery of a signed blank paper and fills it up with any obligation, discharge or disposition shall be punished in like manner.

CHAPTER III

CONFIDENCE

Section 309 – Signature in Blank

Whoever, being entrusted with a signed blank paper takes advantage of it to insert any unauthorised obligation, discharge or disposition or any other writing liable to harm the signatory in his person or in his substance shall be punished with imprisonment for from one to five years or with fine of from five thousand to five hundred thousand francs, or with both such imprisonment and fine.

Section 310 – Professional Confidence

(1) Whoever without permission from the person interested in secrecy reveals any confidential fact which has come to his knowledge or which has been confided to him solely by reason of his profession or duties shall be punished with imprisonment for from three months to three years and with fine of from twenty thousand to one hundred thousand francs.

(2) Subsection (1) shall apply neither to statements to the prosecution or police concerning facts which may amount to a felony or misdemeanour, nor to answers in court to any question whatever.

(3) Nothing in subsection (2) shall release from the duty of professional confidence:

(a) A physician or surgeon, save within the scope of a commission from the prosecution or of his reference as an expert referee;

(b) A public servant under orders in writing from the Government;

(c) A minister of religion or counsel.

(4) Upon conviction the court may order the forfeitures described by section 30 of this Code.

Section 311 – Commercial Confidence

(1) Whoever reveals without permission from the person interested in secrecy any confidential fact or process which has come to his knowledge or which has been confided to him solely by reason of his employment in an industrial or commercial undertaking shall be punished with imprisonment for from three months to three years or with fine of from one hundred thousand to five million francs, or with both such imprisonment and fine.

(2) Upon conviction the court may order the forfeitures described by section 30 of this Code.

Section 312 – Corruption of Employee

Any employee in receipt of any form of emolument who without the permission of his employer receives any gifts or accepts any promise for doing or omitting any act of his employment shall be punished with imprisonment for from one to three years or with fine of from fifty thousand to five hundred thousand francs, or with both such imprisonment and fine.

Section 313 – Deception of Shareholder

(1) Any director, manager or auditor of a company or partnership who with intent to mislead any partner, shareholder or creditor, makes a false declaration or submits a false account shall be punished with imprisonment for from one to five years and with fine of from fifty thousand to one million francs.

(2) The court may in addition impose the forfeitures described in section 30 of this Code.

Section 314 – Forgery

(1) Whoever forges or alters, whether in its substance or in the signature of parties or witnesses or in its date, any private document having the effect of an obligation, discharge or disposition shall be punished with imprisonment for from three to eight years and with fine of from fifty thousand to one million francs.

(2) The penalty shall be imprisonment for from five to ten years and fine of from one hundred thousand to two million francs where the document is:

(a) Commercial or bank paper; or

(b) Evidence of a right to land; or

(c) A power to sign any document described by subsection (a) or (b); or

(d) A will.

(3) Whoever makes use of –

(a) Any document described in this section; or

(b) Of an expired document of like nature representing it to be still effective; or

(c) Of a document of like nature referring to another person for whom he passes himself off—shall be punished in like manner as if he has forged the document.

Section 315 – False or Forged Certificate

(1) Whoever forges or alters a private certificate or issues a false certificate, where such issue is not otherwise punished, or who makes use of a forged, altered or false private certificate shall be punished with imprisonment for from one month to one year.

(2) The penalty shall be doubled for forgery, alteration or use of a medical certificate or of any private document not described by section 314.

CHAPTER IV

PROPERTY

Section 316 – Destruction

(1) Whoever destroys the whole or any part of any property belonging wholly or in part to

another or charged in favour of another shall be punished with imprisonment for from fifteen days to three years or with fine of from five thousand to one hundred thousand francs, or with both such imprisonment and fine.

(2) The penalty shall be imprisonment for from two to ten years or fine of from ten thousand to five hundred thousand francs, or both such imprisonment and fine, where the property in question is a building, construction, ship, plant or installation.

Section 317 – Boundary Marks and Fences

Whoever –

(a) Destroys, removes or displaces a boundary stone or any other mark set up to show the boundary between properties; or

(b) Destroys any fence of whatever nature – Shall be punished with imprisonment for from fifteen days to one year and with fine of from five thousand to fifty thousand francs.

B – Against Proprietary Interest

Section 318 (new) (Law No. 90-61 of 19 Dec. 1990) – Theft, Misappropriation and False Pretence

(1) Whoever causes loss to another:

(a) By theft, that is by removing his property, or

(b) By misappropriation, that is by destruction, waste, conversion, of any property capable of being removed entrusted to him for the purpose of custody, return, accounting or any particular manner of dealing.

Provided that this paragraph shall apply neither to money loaned nor to a consumer goods loaned;

(c) By false pretence, that is by influencing him deceitfully by tricks or by misrepresentation or concealment of any matter of fact;

Shall be punished with imprisonment for from five to ten years and with fine of from one hundred thousand to one million francs.

(2) The court may in addition impose the forfeitures described in section 30 of this Code.

Section 319 – Special Thefts and Misappropriations

Section 318 shall apply to –

- (1) The unauthorised appropriation of any generated energy;
- (2) The unauthorised use of any property, without the intention to deprive the owner of it; and
- (3) The taking of lost property; and
- (4) The taking or misappropriation by a debtor of his own property charged with the debt.

Section 320 – (new) (Law No.90-61 of 19 Dec. 1990) – Aggravated Theft

- (1) The penalties provided for in section 318 shall be doubled if the theft was committed:
 - (a) With force; or
 - (b) Bearing weapons; or
 - (c) By breaking in, by climbing in, or by use of false key; or
 - (d) With a motor vehicle.

(2) Whoever commits a theft by the use of force causing the death of another or grievous harm as provided for in section 277 and 279 of the Penal Code shall be punished with death.

Section 321 (Ordinance No. 72-16 of 28th Sept 1972) – Aggravated Misappropriation and False Pretence

The penalties prescribed by section 318 shall be doubled for misappropriation or false pretence committed –

- (a) By counsel or by notary, public auctioneer, bailiff, process server or business agent;
- (b) By an employee or employer against his employer or employee;
- (c) By an offender advertising or who has advertised publicly.

Section 322 – Credit by Fraud and Fraudulent Retention

- (1) Whoever being unable to pay for them:
 - (a) Orders and consumes on the spot any food or drink; or
 - (b) Occupies any room in a hotel; or
 - (c) Hires a taxi,

Shall be punished with imprisonment for from five days to six months and with fine of from five thousand to twenty-five thousand francs.

- (2) The acts described in subsection (1)(a) and (b) shall constitute no offence if the supply

of food or drink or the accommodation continues for more than one week.

- (3) Whoever without just cause retains anything belonging to another shall be punished in like manner.

Section 323 – Between Relatives

Sections 318, 319 and 322 shall not be applicable to a person guilty of the act therein described against his spouse, against his legitimate or adoptive or adopted ascendant or descendant, or against his natural ascendant or descendant up to the second degree either living with him or after recognition, or to a surviving spouse in respect of necessaries belonging to the deceased spouse.

Section 324 – (new) (Law No.90-61 of 19 Dec. 1990) – Receiving

(1) Whoever holds disposes of any thing procured by the commission of misdemeanour, whether knowingly or having reason to suspect the criminal origin of the property, shall be punished with the penalties prescribed by section 318.

(2) In case of felony, the punishment shall be doubled.

Section 325 – Usury

(1) Any lender demanding or taking interest or any other reward higher than the rate fixed by law for loans of the kind in question, shall be punished with fine of from five thousand to one million francs.

(2) On subsequent conviction within the meaning of section 88 of this Code, the penalty shall be imprisonment for from fifteen days to one year and the fine shall be doubled.

(3) The court may order publication of its judgement under section 33 of this Code.

(4) For the purpose of this section, the borrower shall not be treated as an accessory.

Section 326 – Forbidden Sales

Whoever –

(a) So offers any goods to the public as to engender the hope of obtaining them free or at a reduced price in consideration of persuading others to take up coupons or to buy; or

(b) Sends goods to an addressee who has not ordered them, giving him the choice between

keeping them and sending them back whether or not at his expense –

Shall be punished with imprisonment for from one month to one year or with fine of from two hundred thousand to two million francs, or with both such imprisonment and fine.

Section 327 – Copyright

(1) Whoever in disobedience to the laws and regulations governing copyrights:

(a) Publishes in whole or in part any writing, musical composition, drawing, painting or any other printed or engraved matter; or

(b) Trades in, import or exports any such infringement; or

(c) Produce, presents or disseminates by whatever means any work of the intelligence – Shall be punished with imprisonment for from three months to two years and with fine of from twenty thousand to five hundred thousand francs.

(2) The court shall also order the confiscation of the matter constituting the infringement, and of all plates, moulds and dies used for it, together with the proceeds of the unlawful production, presentation or dissemination, the whole to be applied to the compensation of the injured parties.

(3) The court may order publication of its judgment under section 33 of this Code.

Section 328 – Patents

(1) Whoever infringes a patent, or who conceals, sells exports or imports any object constituting such infringement shall be punished with fine of from fifty thousand to three hundred thousand francs.

(2) Upon subsequent conviction within the meaning of section 88 of this Code, or where the offender is or has been employed in an undertaking where the patent is lawfully exploited, the offender may be punished in addition with imprisonment for from one to six months.

(3) In either case, the court shall order confiscation and delivery to the patentee of any object constituting an infringement and may order publication of its judgement under section 33 of this Code.

(4) No prosecution may be commenced except on complaint by the patentee.

Section 329 – Trade, Designs and Patterns

(1) Whoever infringes a registered design or pattern shall be punished with fine of from fifty thousand to three hundred thousand francs.

(2) Upon subsequent conviction within the meaning of section 88 of this Code, or where the offender is or has been employed by the injured party, the offender may be punished in addition with imprisonment for from one to six months.

(3) In either case, the court shall order confiscation and delivery to the injured party of any object infringing the rights protected, and may order publication of its judgement under section 33 of this Code and disqualify the offender for up to ten years from electing or being elected to any chamber of commerce

(4) No prosecution may be commenced except on complaint by the injured party.

Section 330 – Trademarks

(1) Whoever forges a registered trademark or uses any trademark so forged shall be punished with imprisonment for from three months to three years or with fine of from fifty thousand to three hundred thousand francs, or with both such imprisonment and fine.

(2) Whoever without forgery of a registered trademark imitates it in manner liable to mislead a purchaser or uses any such imitation shall be punished with imprisonment for from one month to one year or with fine of from fifty thousand to one hundred and fifty thousand francs, or with both such imprisonment and fine.

(3) In either case, the court shall order confiscation and delivery to the owner of the forged or imitated trademark, and may also order publication of its judgement under section 33 of this Code and disqualify the offender for up to ten years from electing or being elected to any chamber of commerce.

C – Insolvency

Section 331 – Fraudulent Debtor

(1) Any debtor whether or not a trader, who with intent to avoid payment to one or more creditors gives, delivers, transfers, encumbers, removes, or conceals the whole or any part of his property shall be punished with

imprisonment for from fifteen days to one year.

(2) The intent shall be presumed in the case of removal or concealment within two months before judgement against the offender.

Section 332 – Culpable Bankruptcy

(1) Any trader –

(a) Whose personal or household expenses are exaggerated; or

(b) Who spends large sums on operations of pure chance or on fictitious dealings either in securities or in goods; or

(c) Who contracts on account of another without receiving consideration obligation which in view of his position at the time were unreasonable –

Shall be punished, where such conducts either results in or follows his insolvency, with imprisonment for from one month to two years.

(2) Any trader who being insolvent --

(a) Engages in purchase for sale below the market price, or in loans or negotiations of papers or other extravagant means of obtaining funds; or

(b) Prefers one creditor to the rest; or

(c) Within fifteen days of insolvency, fails to lodge in the register the complete statement required by law –

Shall be punished in like manner.

(3) Any trader adjudicated bankrupt –

(a) In respect of a further insolvency before compliance with a previous deed of arrangement; or

(b) Who has infringed the regulations governing the business register; or

(c) Who has kept no books and made no exact inventory, or has kept his books and made his inventory incompletely or irregularly, or has kept such books or made such inventories as without fraud do not show the true state of his assets or liabilities; or

(d) Who without reasonable excuse fails to present himself personally to the trustees in the case and within the time prescribed –

Shall be punished in like manner.

(4) Any banker, stockbroker or other broker becoming insolvent with or without any

such circumstances shall be punished in like manner.

Section 333 – Fraudulent Bankruptcy

(1) Any trader becoming insolvent and --

(a) Removing his books; or

(b) Converting or concealing any part of his assets; or

(c) In his books or by any document notarial or otherwise, or in his balance sheet acknowledging debt which he does not owe –

Shall be punished with imprisonment for from five to ten years.

(2) The penalty shall be doubled where the trader is a banker, stockbroker or other broker.

Section 334 – Corporation or Partnership

(1) Any person empowered to act on behalf of a corporation or partnership who:

(a) Commits on its behalf any act described in section 332(1)(b) or (c), (2)(a) or (b), or (3)(c); or

(b) With intent to withdraw the whole, or any part of his own property from the claims of a corporation or partnership which has ceased payment or from those of the shareholders or partners or of the creditor of the corporation or partnership, converts or conceals any part of his property, or acknowledges debts which he does not owe –

Shall be punished with the penalties prescribed by section 332.

(2) Any such person so committing any act described by section 333(1) shall be punished with the penalties prescribed by that subsection.

Section 335 – Offences by Others than the Debtor

(1) Whoever –

(a) In the interest of an insolvent trader removes or conceals the whole or part of the latter's property; or

(b) In insolvency proceedings makes proof directly or indirectly of a false debt –

Shall be punished with imprisonment for from five to ten years.

(2) The trader's spouse, ascendant or descendant, who whether as his accessory or otherwise converts or conceals the whole or

any part of his assets shall be punished with imprisonment for from one to five years.

Section 336 – Fraudulent Creditor

(1) Any creditor who, after the commencement of solvency proceedings:

(a) Agrees to receive, whether from the insolvent or from another, any private advantage in consideration of his vote in the insolvency proceedings; or

(b) Makes any private arrangement for preferences in the distribution of the assets of the insolvency –

Shall be punished with imprisonment for from one month to one year and with fine of from twenty thousand to five hundred thousand francs.

(2) The penalty shall be doubled where the offender is the trustee.

CHAPTER V

CHILDREN AND THE FAMILY

Section 337 – Abortion

(1) Any woman procuring or consenting to her own abortion shall be punished with imprisonment for from fifteen days to one year or with fine of from five thousand to two hundred thousand francs, or with both such imprisonment and fine.

(2) Whoever procures the abortion of a woman, notwithstanding her consent, shall be punished with imprisonment for from one to five years and with fine of from one hundred thousand to two million francs.

(3) The penalty prescribed by subsection (2) shall be doubled where the offender –

(a) engages habitually in abortion; or
(b) Practises the profession of medicine or an allied profession

(4) In the circumstances of subsection (3)(b), the court may also order closure of the professional premises and impose a ban on his occupation under sections 34 and 36 of this Code.

Section 338 – Assault on Woman with Child

Whoever by force used against a woman with child or against a child being born causes

intentionally or unintentionally the death or permanent incapacity of the child shall be punished with imprisonment for from five to ten years and with fine of from one hundred thousand to two million francs.

Section 339 – Saving Mother

(1) Neither of the two forgoing sections shall apply to acts performed by a qualified person and proved necessary for the saving of the mother from grave danger to her health.

(2) In the case of pregnancy resulting from rape, abortion by a qualified medical practitioner after certificate by the prosecution of a good case shall constitute no offence.

Section 340 – Infanticide

The punishment for murder within the meaning of section 275 or 276 or for abetment of such murder, by a mother of her child one month of birth shall be reduced to imprisonment for from five to ten years.

Provided that nothing in this section shall reduce the penalty as against any other offender or accessory.

Section 341 – Cloud on Parentage

Any person whose conduct has the result of depriving a child of the evidence of his true parentage shall be punished with imprisonment for from five to ten years.

Section 342 – Slavery and Giving in Security

Where the victim of an offence against section 293 of this Code is under eighteen years of age:

(a) The penalty under the first subsection shall be imprisonment for from fifteen to twenty years; and

(b) The penalty under the second subsection shall be imprisonment for from five to ten years and a fine of from fifty thousand to one million francs, and the court may in addition impose the forfeitures described in section 30 of this Code.

Section 343 – (Ordinance No.72-16 of 28th Sept. 1972) – Immoral Earnings

Where the victim of an offence against section 294 of this Code is under eighteen years of age, the penalties prescribed by that

section shall be doubled subject to a maximum of ten years imprisonment.

Section 344 (Ordinance No. 72-16 of 28th Sept. 1972) – Corruption of Youth

(1) Whoever, in order to satisfy the desires of another person, habitually excites, encourage or facilitates the debauch or corruption of any person under the age of eighteen years of age shall be punished with imprisonment for from one to five years and with fine of from twenty thousand to one million francs.

(2) Upon conviction the court may order the forfeitures described in section 30 of this Code and deprive the offender for the same period of parental power and disqualify him from being guardian or curator of any minor.

Section 345 – Moral Danger

Whoever having by law or by custom custody of a person under eighteen years of age, allows him to reside or work in an establishment where prostitution is habitually practised, or to work in prostitutes' house shall be punished with imprisonment for from fifteen days to six months and with fine of from ten thousand to one hundred thousand francs.

Section 346 (Ordinance No. 72-16 of 28th Sept. 1972) – Indecency to Child under Sixteen

(1) Whoever commits an indecent act in the presence of a child under the age of sixteen shall be punished with imprisonment for from two to five years and with fine for from twenty thousand to two hundred thousand francs.

(2) The penalty shall be doubled where the offence is accompanied by assault or where the offender is one of the persons described in section 298.

(3) The penalty shall be imprisonment for from ten to fifteen years where the offender has sexual intercourse with the victim notwithstanding his or her consent.

(4) In the case of rape, the imprisonment shall be from fifteen to twenty-five years, or for life where the offender is one of the persons described by section 298.

(5) Upon conviction under this section, the court may deprive the offender of parental power and disqualify him from being guardian

or curator of any minor for the time prescribed by section 31(4) of this Code.

Section 347 (Ordinance No. 72-16 of 28th Sept. 1972) – Indecency to minor Between Sixteen and Twenty-one

(1) For any offence under sections 295, 296 and 347a of this Code committed against a person over sixteen and under twenty-one years of age, the penalty shall be doubled.

(2) Upon conviction under this section, the court may deprive the offender of parental power and disqualify him from being guardian or curator of any minor for the time prescribed by section 31(4) of this Code.

Section 347a (Ordinance No. 72-16 of 28 Sept. 1972) – Homosexuality

Whoever has sexual relation with a person of the same sex shall be punished with imprisonment for from six months to five years and fine of from twenty thousand to two hundred thousand francs.

Section 248 – Drink

(1) Whoever:

(a) Being licensed to sell intoxicating liquor for consumption on the premises admits to the said premises any person under sixteen years of age not accompanied by a person over twenty-one responsible for superintending him; or

(b) Being licensed to sell beverages for consumption on the premises sells or offers, whether on the said premises or in any other public place, any intoxicating liquor to any person under eighteen years of age not accompanied by a person over twenty-one responsible for superintending him; or

(c) Makes any person under twenty-one years of age drunk –

Shall be punished with fine for from five thousand to fifty thousand francs.

(2) Upon subsequent conviction within the meaning of section 88 of this Code, the punishment shall be imprisonment for from fifteen days to one month and fine of from ten thousand to one hundred thousand francs; and the court may in addition order:

(a) Closure of the licensed premises under section 34 of this Code;

(b) Publication of its judgement;
(c) As against any offender the forfeitures described in section 30 of this code.

(3) This section shall not apply to any person proving that he was misled as to the age of the minor or as to the age or authority of the person accompanying him.

Section 349 – Advantage of Weakness

(1) Whoever takes advantage of the needs, weakness, passions of any person under twenty-one years of age to induce him to sign any obligation, discharge or disposition or any other document liable to harm the signatory in his person or in his substance, shall be punished with the penalty prescribed by section 318 of this Code.

(2) For the purpose of this section, any lunatic notorious or so found, and any spendthrift so found, shall be treated as a minor.

Section 350 – Assault on Child

(1) The penalties prescribed by section 275 on the one hand and by sections 277 and 278 on the other, shall become death and imprisonment for life respectively where the offence are committed against a person under fifteen years of age, and the penalties prescribed by sections 279(1), 280 and 281 shall be doubled.

(2) Upon conviction for misdemeanour under this section, the court may order the forfeitures described in section 30 of this Code

Section 351 – Assault on Ascendant

The penalties prescribed by section 275 on the one hand and by sections 277 and 278 on the other shall become death and imprisonment for life respectively where the offence are committed against the legitimate, natural or adoptive father or mother of the offender, or against any other legitimate ascendant, and the penalties prescribed by section 279(1), 280 and 281 shall be doubled.

Section 352 – Kidnapping

(1) Whoever without force or fraud entices away any person under eighteen years of age, against the will of those to whom custody belongs by law or by custom, or procures him

to leave that custody shall be punished with imprisonment for from one to five years and with fine of from twenty thousand to two hundred thousand francs.

Provided that this subsection shall not apply to a person proving that he was misled as to the age of the minor.

(2) This section shall not apply where the minor so taken enticed or procured marries the kidnapper.

Provided that the marriage be not annulled

Section 353 – Kidnapping by Force or Fraud

Whoever by force or fraud takes or entices away any person under the age of twenty-one years, notwithstanding that he thought him older, and against the will of those to whom custody belongs by law or by custom or procures him to leave that custody, shall be punished with imprisonment for from five to ten years and with fine of from twenty thousand to four hundred thousand francs.

Section 354 – Aggravated Kidnapping

(1) The punishment for kidnapping under either of the two last forgoing sections shall be imprisonment for life where:

(a) The person kidnapped is under the age of thirteen; or

(b) The offender commits the offence with intent to obtain a ransom or obtains a ransom.

(2) The punishment shall be death where the minor dies as a result of the kidnapping.

Section 355 – Failure to Return a Child

Whoever being in charge of a child fails to return him to those having the right to claim him back shall be punished with imprisonment for from one to five years and with fine of from twenty thousand to two hundred thousand francs.

Section 356 – Forced Marriage

(1) Whoever compels any one to marry shall be punished with imprisonment for from five to ten years and with fine of from twenty-five thousand to one million francs.

(2) Where the victim is under the age of eighteen the punishment may not be less than two years imprisonment, whatever the mitigating circumstances.

(3) Whoever gives in marriage a boy under sixteen years of age or a girl under fourteen, shall be punished as under the two last forgoing subsections.

(4) Upon conviction, the court may deprive the offender of parental power and disqualifies him from being the guardian or curator of any person for the time prescribed by section 31(4) of this Code.

Section 357 – Abuse In Respect of Bride-Price

(1) Whoever –

(a) Receives from a third party the whole or any part of a bride-price for the promise in marriage of a woman already married or bound by a betrothal not yet broken off; or

(b) Receives the whole or any part of a bride-price before refund to any earlier suitor; or

(c) Receives without any right to it the whole or any part of a bride-price for the marriage of a woman; or

(d) Demands the whole or any part of an excessive bride-price for the marriage of a girl over twenty-one years of age or of a widow or divorced woman; or

(e) For want of compliance with his excessive demands for bride-price of the marriage of a girl under the age of twenty-one, and for another reason, obstructs her marriage; or

(f) Receives as heir any such consideration promised to the person from whom he inherits – Shall be punished with imprisonment for from one to five years or with fine of from five thousand to five hundred thousand francs, or with both such imprisonment and fine.

(2) Time shall begin to run again for prosecution on payment of the bride price or of any instalment.

Section 358 – Desertion

(1) Any spouse or parent who without just cause evades, whether by desertion of the family home or otherwise howsoever, the whole or any part of his moral or material obligations towards his spouse or children shall be punished with imprisonment for from three months to one year or with fine of from five thousand to five hundred thousand francs.

(2) Where a spouse alone has been deserted, no prosecution may be commenced without his or her complaint.

(3) The same punishment shall apply to a guardian or person responsible by custom who evades his obligations by law or custom towards any child in his custody.

(4) Upon conviction, the court may order the forfeitures described in section 30 of this Code, disqualify the offender from being guardian or curator of any child for the time fixed by section 31(4), and for the same period deprive him of parental power in respect of any one or more of his children.

(5) Where the person who received payment of the whole or a part of the bride-price is accessory to a wife's offence, he shall be punished with imprisonment for from three months to one year and with fine of from fifty thousand to five hundred thousand francs.

Section 359 – Bigamy

(1) Whoever –

(a) Being polygamous contracts a monogamous marriage before the dissolution of all previous marriages; or

(b) Being bound by an undertaking of monogamy contracts any marriage before the dissolution of any previous marriage; or

(c) Being married under the codified law contracts any marriage before the dissolution of that former marriage –

Shall be punished with imprisonment for from two months to two years and with fine of from twenty-five thousand to five hundred thousand francs.

(2) The burden of proving dissolution of any previous marriage shall fall on the accused.

Section 360 – Incest

(1) Without prejudice to the penalties prescribed by section 346(3) and 347(1), whoever has sexual intercourse with:

(a) Any legitimate or natural ascendant or descendant in the direct line without limit of degree; or

(b) His brother or sister, whether legitimate or natural and whether of the whole or half blood –

Shall be punished with imprisonment for from one to three years and with fine of from twenty thousand to five hundred thousand francs.

(2) Save in case of notorious concubinage or of incestuous marriage, no prosecution may be commenced without the complaint of a relative by blood in whatever degree.

Section 361 – Adultery

(1) Any married woman having sexual intercourse with a man other than her husband shall be punished with imprisonment for from two to six months and with fine of from twenty-five thousand to one hundred thousand francs.

(2) Any married man having sexual intercourse in the matrimonial home, or habitually having sexual intercourse elsewhere, with a woman other than his wife or wives, shall be punished in like manner.

(3) No prosecution may be commenced without the complaint of the wronged spouse.

(4) The connivance or condonation of the wronged spouse shall bar the commencement or continuation of any prosecution and consent by the wronged spouse to resume cohabitation shall put an end to the effect of conviction.

PART FOUR

SIMPLE OFFENCES

CHAPTER I

GENERAL

Section 362 – Classes of Simple Offence

Subject to section 101(2) of this Code, there shall be four classes of simple offences punished with the following penalties:

- (a) First Class; fine of from two hundred to twelve hundred francs;
- (b) Second Class; fine of from fourteen hundred to two thousand four hundred francs;
- (c) Third Class; fine of from two thousand six hundred to three thousand six hundred francs;
- (d) Fourth Class; fine of from four thousand to twenty-five thousand francs or imprisonment for from five to ten days or both such fine and imprisonment.

Section 363 – Subsequent Conviction

In addition to the doubling of maximum penalty provided by section 88(1)(c) of this Code, the court may, on conviction for a simple offence of the first, second or third class after a previous conviction within the meaning of the said section, pass sentence of imprisonment for from five to ten days.

SIMPLE OFFENCES

(Decree No. 67-DF-322 of 20th July 1967)

Section R. 364 – Imprisonment in Default

(1) Imprisonment in default shall take place in respect of the payment of fines.

(2) The term of such imprisonment shall be fixed at five days for simple offences of the first class, ten days for simple offences for those of the second class and one month for those of the third and fourth classes.

Provided that no convicted person shall detain for more than fifteen days under this section if he proves that he is insolvent.

Section R. 365 – Precedence

In case of insufficient assets, restitution and compensation due to the wronged party shall take precedence over the fine.

Section R. 366 – Restitution

Judgements awarding restitution, compensation or cost shall entail imprisonment in default and the convicted person shall remain in prison until full payment has been made.

Provided that where the judgement makes such an award in favour of the State and the convicted person is insolvent, the latter may not be detained for more than fifteen days.

Section R. 367 – Simple Offences of the First Class

The following persons shall be punished with a fine of from two hundred to twelve hundred francs:

- (1) Those who fail to maintain, repair or clean ovens, chimneys or factories in which fire is used
- (2) Those who violate the prohibition to let off, in certain places fireworks,

furthermore, firework seized shall be confiscated.

- (3) Innkeepers and others who, being required to provide lighting fail to do so and those who cut off lighting which has been provided in the public interest.
- (4) Those who fail to clean the streets and passage ways in localities where the local residents are responsible for such cleaning.
- (5) Those who encumber a highway by depositing or leaving unnecessarily thereon any material or object which obstructs or impairs the right of way or safety of traffic, and those who, in violation of the laws and regulations, neglect to illuminate a material stored by them or excavation work done by them in a public place or on a highway.
- (6) Those who throw or expose in front of their house any object capable of causing harm either by its fall or by noxious fumes.
- (7) Those who do not comply with the law and regulation concerning the campaign against parasites of every kind in the country side and in cultivated areas and gardens.
- (8) Those who, without infringing any other provision of law, pick fruits belonging to another person in order to consume it on the spot.
- (9) Those who, without having been provoked, use, not in public, against another person any kind of abuse referred to in section 307(1) of the Penal Code.
- (10) Those who carelessly throw rubbish on to another person.
- (11) Those who, not being the owners, life tenants, lessees or tenant farmers of a particular piece of land and not being the employees or agents of any such person, pass over the said piece of land or part thereof if it has been worked or sown.
- (12) Those who are found drunk or disorderly in a public place.
- (13) A registrar who infringes the provisions or article 23 D5 of decree no. 66-DF-237 of the 24th May 1966 relating to the record of capital execution.

Section R 368 – Simple Offences of the Second Class

The following persons shall be punished with a fine of from one thousand four hundred to two thousand four hundred francs:

(1) Those who infringe any of the provisions concerning the opening of agricultural seasons.

(2) Innkeepers and lodging -housekeepers who keep their arrival and departure registers in an incomplete manner or who do not present it at the time prescribed by the regulations or when they are required so to do by the competent authorities.

(3) Those who allow to roam free:

(a) Any dangerous person of unsound mind who is in their charge;

(b) Any dangerous or savage animal, and those who do not retain their animal when the latter attack or chase after passersby even if no damage is done.

(4) Those who throw any hard object or rubbish against any building, house or fence of another person or into any garden or enclosed area of another person.

(5) Those who, not being the owners or life tenants of a particular piece of land and not having a right to use or a right of way over the said piece of land, enter upon the said piece of land before harvesting has been carried out.

(6) Those who cause or allow any vehicle or any animal in their charge to pass either over the land of another person when that land has been worked or sown or is ready for harvesting, whatever the season, or in a coppice of another person.

(7) Those who employ in premises licensed for the consumption of alcoholic beverages any woman of less than eighteen years of age with the exception of members of the family of the licensee.

(8) Those who by negligence or carelessness damage in any way any telephone or telegraphic installation or apparatus thereof.

Section R 369 – Simple Offences of the Third Class

The following persons shall be punished with a fine of from two thousand six hundred to three thousand six hundred francs:

(1) Those who cause the death or injury of any animal or beast belonging to another person, as a result of the straying of a dangerous person of unsound mind or a dangerous animal or a result of the excessive speed, bad driving or overloading of any vehicle, horse, draught-animal, beast of burden or mount.

(2) Those who cause the same damage either by the careless or clumsy use of a weapon or by the throwing of a hard object.

(3) Those who cause the same damage by the decrepitude, dilapidation or lack of repair or maintenance of any house or other building or by the encumbrances or excavation or the like on or near a highway without the prescribed or usual precautions being taken or the prescribed or usual signals being given.

(4) Those who use weights and measures differing from those prescribed by the text in force.

(5) The perpetrators of any disorder, disturbance or unlawful assembly of an abusive nature or at night which disturbs the peace of the local residents; and the accessories thereto.

(6) Those who allow any livestock in their charge to feed on the land, whatever the nature of the latter, of another person.

(7) Those who, outside the cases provided for in section 230(1) of the Penal Code, damage or dilapidate in any way any highway or encroach upon the border thereof.

(8) Those who, without being duly authorised so to do, take from public property other than public thoroughfares any earth, sand, stone or gravel unless general usage so permits.

(9) Those who, after assuming possession of any stray or abandoned livestock, fails to make to the Mayor's Office or the village Chief within three days a declaration of having done so.

(10) Those who infringe or do not conform to any legally made and correctly published regulation or order of the municipal authority; Provided that the competent municipal authority may;

(a) By an express provision, classify a simple offence in the first or second class;

(b) Bring about a decision of the supervising authority classifying a simple offence of the fourth class.

Section R 370 – Simple Offences of the Fourth Class

The following persons shall be punished with a fine of from four thousand to twenty-five thousand francs, or with imprisonment for from five to ten days, or with both such imprisonment and fine:

(1) The perpetrators of any brawl or act of violence of a minor nature not resulting in an illness or an incapacity for work lasting more than eight days, and the accessories thereto, and those who wilfully throw any hard object or rubbish on another person.

(2) Those who, outside the cases provided for in section 290(1) and (2) of the Penal Code, cause by clumsiness, negligence, carelessness or failure to observe the regulations an illness or an incapacity for work lasting thirty days or less.

(3) Those who, when they are not hunting, allow any dog in their possession to stray in search of game.

(4) Those who, outside the cases provided for in section 228 of the Penal Code cause by carelessness, inattention, negligence, or failure to observe the regulations any movable or immovable property of another person to catch fire.

(5) Those who damage any ditch, fence or quickset hedge and those who remove dry wood from any hedge.

(6) Those who, by any means other than those provided for in section 157 and 158 of the Penal Code, obstruct the performance of his lawful duty by any person engaged in the execution of any law, regulation, decision in the administration of justice or other lawful order.

(7) Those who, without lawful excuse, refuse or neglect to carry out a service or furnish assistance as required by a competent authority either in case of the committal of a felony or misdemeanour or in order to ensure the execution of a court judgement or in the circumstances of any accidents, tumult, shipwreck, flood, fire or any other disaster; this

shall be without prejudice to any liability for more severe penalties.

(8) Those who send by the post any document or other article not authorised by the texts in force or provide a false declaration of the contents; this shall be without prejudice to any liability for more severe penalties.

(9) Those who infringe the Post and Telecommunication monopoly or knowingly use an irregular installation for the transmission or reception of any message; this shall be without prejudice to any liability for more severe penalties.

(10) Those who use in a manufacturing process any product that is prohibited by the texts in force; this shall be without prejudice to any liability for more severe penalties.

(11) Those who, having been present at a delivery, do not make within the period of time prescribed by the law, any declaration of birth which the law may require; those who, having found a new-born child, do not turn the latter over to the Civil Status Registrar or, if they wish to take charge of the said child, do not make a declaration to that effect to the Civil Status Registrar of their local council.

(12) Those who infringe or do not conform to any legally made law and regularly published regulation or order issued by an authority other than those referred to in section R. 369(10) hereof;

Provided that such authority may, by express provision, classify the simple offences which they establish in one of the three lower classes.