

# **RISING LABOUR MALPRACTICES IN CAMEROON; THE NECESSITY OF MORE EFFECTIVE LAWS AND REGULATIONS TO PROTECT WORKERS**

*Written by A Tuhbah Jonas Jih*

*PhD Law Student, Department of English Law, Faculty of Law and Political Science,  
University of Dschang, Cameroon*

---

## **ABSTRACT**

This article aims at highlighting the rising wave of unorthodox practices in Cameroon's private which have plunged most workers in a very pathetic situation with their constitutional right to work breached on a daily basis.<sup>1</sup> The article acknowledges the efforts made by the Cameroon government to protect workers through a sound legislative and policy framework but also demonstrates the inability of these mechanisms to curb the excesses of some employers and other actors involved in labour relations in Cameroon. Specifically, the article unveils the statutory pecuniary and non-pecuniary labour rights which the Cameroon labour code and international labour conventions reserve for workers. To demonstrate why the Cameroon government needs to improve on the legislative and policy framework for the protection of workers in the private sector, the article sorts out some of the lacunae and frailties of the Cameroon labour code which employers exploit in their favour and at the detriment of the employees. The article rounds off with some recommendations to the Cameroonian law makers as well as to employees.

**Keywords:** Worker, Cameroon, Rights, Malpractices, Labour Legislation and Violation

## INTRODUCTION

In a contemporary world where population growth is at a geometric rate without a corresponding increase in states' resources, it's practically impossible for any state to provide employment to all its citizens. This situation can only be salvaged by private sector employments which absorb a great proportion of job seekers. In such industrial relations characterized by market forces where the demand for jobs exceeds supply, employers are most likely to exploit the situation in their favour by trampling on the rights of the poor and desperate workers. Although contracts of employment usually commence in peace and harmony between the parties, conflicts are bound to arise between employers and employees in the course of performing the contracts. The basis of such disputes are usually misunderstandings or the failure of one or both parties to perform some of their contractual obligations. Most of such disputes end up in premature termination of employment contracts. When this happens, employees who occupy an inferior and subordinate position in labour relations are the most affected, as this plunges them into economic difficulties as well as other social and psychological challenges.<sup>ii</sup> This explains why the protection of workers is one of the predominant preoccupations of most contemporary states. In a bid to protect and promote labour rights which have gained wider international recognition, the Cameroon government, just like most states has ratified numerous international conventions geared towards protecting labour rights<sup>iii</sup>. Apart from adopting international legislation to protect and promote the rights of Cameroonian workers, the state of Cameroon has also enacted local legislative and policy framework to regulate employment relations in the country<sup>iv</sup>. Despite the numerous steps taken by the state in this domain, most workers in the private do not enjoy their contractual and statutory rights as they are constantly breached by employers in blatant violation of the laws and regulations. It's worth pointing out that the sources of disputes in labour relations are vast and varied but mostly centered on the violation of workers' rights. In Cameroon, a great proportion of labour disputes emanate from the form of employment contracts which are mostly verbal.<sup>v</sup> Admittedly, labour courts in Cameroon frequently entertain labour litigations centered on the violation of the pecuniary rights of workers as well as illegal termination of contracts. Judging from such flood gate of litigations, it's but normal to deduce that the laws and regulations are not effective enough to protect the workers against the growing malpractices of employers. Such malpractices are in diverse forms, with different repercussions on employees.

## THE GROWING USE OF STANDARD FORM CONTRACTS

Standard form contracts, otherwise called contracts of adhesion are defined as contracts that do not allow for negotiations.<sup>vi</sup> In other words, Standard form contracts are legally binding agreements between two parties to do a certain thing, in which one party has all the bargaining power and uses it to write the contract primarily to his or her advantage. In practice, the terms are not only in very fine print but are also written in complicated legal language which an ordinary or average person cannot understand. The fine nature of the writing also makes reading difficult for those with sight deficiencies. This means the contracting party signs a contract without the least idea of the terms of the contract in to which he is engaging. A typical example of such contracts in Cameroon is the insurance policy where the buyer does not receive the policy before entering in to the contract. A copy of it is only handed to him when the contracted has been concluded. Even when the information has been read and understood, the buyer has no one to negotiate with since it's a 'take or leave contract'. This is the same situation with the employment contracts of most small enterprises such transport companies and catering enterprises where unskilled workers such as cleaners and carriers are not given the opportunity to negotiate the terms of their employment.<sup>vii</sup> This is a blatant violation of the important principle of consensus ad idem<sup>viii</sup> and the doctrine of freedom of contracts which comprises in two key aspects; that every person of age of maturity is free to enter into any contract and with any person he or she chooses and to choose any terms he or she deems convenient. The underlying philosophy behind the doctrine of freedom of contract is that the parties to the contract should be able to negotiate freely and have a full understanding of the implications of the contract.

This is however not the realty with regards to employment contracts in Cameroon's private sector though the principle has been captured by section 23 (2) of the Cameroon labour code which demands that contracts of employment should be negotiated freely. Acting in total illegality and in flagrant violation of this principle, most private enterprise have pre-drafted contracts, unilaterally drawn up by the employers. Such contracts usually end with the phrase "read and approved". The poor and desperate job seekers usually have no option but to sign the drafted contracts drawn completely in favour of the employer. With this kind of contract, the employee cannot be said to have freely negotiated the contract as provided by section 23(2)

of the labour code. This can be likened to force labour given that the employee has not freely given his or consent to the important terms of the contract.<sup>ix</sup>

One important effect of standard form contracts on workers is that most of them work under conditions that are not human enough compared to the international labour standards.

More so, most of such contracts contain clauses that empower the employer to terminate the workers' employment without notice or reason. Even though a worker whose contract has been illegally terminated is entitled to damages under section 39 of the labour code, this compensation is however too insignificant to curb the phenomenon of illegal termination of contracts and clearly incapable of compensating the worker for the social stigma and economic difficulties faced as a result of illegal termination of his contract<sup>x</sup>.

## **THE RISE OF DISCRIMINATORY PRACTICES IN THE CAMEROONIAN LABOUR MARKET**

Discrimination in employment is considered world-wide as a labour malpractice which promotes economic and social disparities between workers.<sup>xi</sup> Despite the fact that Cameroon has ratified many conventions geared towards curbing sex and racial discrimination, its private sector is still highly plagued by several discriminatory practices in employment<sup>xii</sup>. Instead of employing workers based on their abilities and qualifications, most employers give high consideration to tribe, sex, religion as well as their personal relationships with the job seekers. This is a violation of Cameroonians right to work which is imbedded in the preamble of the 1992 constitution as well as as section 2(2) of the 1992 labour code. Despite the steps taken to ensure that every Cameroonian enjoys this right, it is not uncommon to see certain jobs advertised only for a particular sex despite the fact that such services can be offered by workers of both sexes.<sup>xiii</sup>

Apart from sex discrimination, discriminatory practices also take an indirect form where by different rules and regulations are applied only to some workers with certain characteristics or based on their first language of expression, religion or tribe, while some rights are enjoyed only by some workers.<sup>xiv</sup>

The effect of this practice is that it does not only amount to a violation of Cameroonians statutory employment rights but also demotivates workers and as a consequence, reduces their output<sup>xv</sup>. An enterprise with demotivated and inefficient workers cannot produce at full capacity and so cannot enjoy high marginal profits. More so, discriminatory practices expose enterprise to legal actions with huge financial losses incurred in defending the enterprise against such litigations. The phenomenon also promotes absenteeism and resignation which reduce the enterprise's output and marginal profits.

## **THE PRESENCE OF UNSAFE WORKING ENVIRONMENT AND DEPLORABLE CONDITIONS OF WORK**

The employer's duty of care was first enunciated in 1937 in the famous English case of *Wilson & Clyde Coal Co Ltd v. English*<sup>xvi</sup> in which the House of Lords placed on the employer the unconditional responsibility to select safe staff; provide adequate materials, a safe system of work and a safe plant. Capturing from this standard, section 95(2) of the Cameroon labour code obliges employers to institute high standards of hygiene and safety conforming to those recommended by the international labour organization and other internationally recognized technical bodies. Despite this prescription, most employers still treat this duty as if it is optional. Most employees in Cameroon work in very unsafe working environment occasioning loss of lives as well as serious effects on their health.

Bawak J, in deciding on the question of the duty of the employer to provide a safe working environment to the workers stated clearly and categorically in the 1996 case of the Cameroon Development Corporation (*CDC*) v. *Akem Beson*,<sup>xvii</sup> that the employer owes the employee the duty to provide a safe working environment. The CDC was held liable for failing to provide the respondent with appropriate working tools to protect him from the danger to which he was exposed. Unsafe working environments adversely affect both the employees and the enterprise. Most often, workers who find it difficult working under such conditions take absences from work while some choose to resign. Those who keep coming to work hardly work at their full capacities and so the company keeps paying wages to workers who are inefficient. Apart from the financial losses incurred by the enterprise because of accidents and labour litigations, unsafe working environments equally have untold health effects on the workers such workers

such as deteriorating vision, cutaneous and auditory problems caused by chemicals, smoke and dust. The company therefore spends heavily on the cost of treating affected workers while losing their services throughout the period of their treatment.

## **THE RISE IN CASES OF WRONGFUL DISCHARGE OF EMPLOYMENT CONTRACTS**

The steady rise in cases of wrongful discharged of employment contracts or arbitrary termination of workers contract of employment in Cameroon is another important reason why there need to be an improvement in the protection of the rights of workers in the private sector<sup>xviii</sup>. Even though section 39 of the Cameroon labour has prescribed at least three months' salary or one month salary for every of year of service as damages for wrongful termination of contracts, the sanction is clearly too insignificant to curb this practice or to compensate the worker for the economic loses and damage caused to his or her career. Because of the insignificant damages prescribed for wrongful termination and section 34 which permits contracts of employment to be terminated at any time, employers take total delight in terminating employment contracts in total disregard of the consequences on the employees. Even though the section requires that notice be made in writing stating the reason for the termination, one wonders how such a simple condition can curb the rate of illegal termination of contracts. Admittedly, section 38 of the code which permits employers to terminate a worker's employment because of gross misconduct seems to be an open permission for employers to terminate employment contracts even in the absence of a gross misconduct. The failure of the legislator to define gross misconduct permits the employers to dismiss employees for very minor misconducts. Undoubtedly, employers in Cameroon do not fear the sanctions that the laws and regulations have prescribed for illegal termination of contracts. Perhaps, the most shocking cases are those of termination of employment of women because of their pregnancy in flagrant violation of section 84 of the labour code which prohibits such termination of contracts. This phenomenon in Cameroon's private sector where the employers terminate employment contracts at will is a serious contradiction to contemporary labour practices all over the world and against the prescriptions of the ILO conventions ratified by the state of Cameroon<sup>xix</sup>. Undoubtedly, this accounts for the mad rush for jobs in the public sector

in Cameroon. Most job seekers concentrate on the public service where working conditions are better and termination of contracts not as rampant and abusive as in the private sector

Perhaps the form of employment contracts in Cameroon's private promotes misunderstandings between employers and employees.<sup>xx</sup>Most employment contracts in Cameroon's private sector are in oral forms. Even though Cameroonian courts do enforce rights contained in verbal employment contracts, the reality remains that written contracts are more reliable and easier to prove than the oral ones which are known to be subjects of confusion and forgetfulness. Because of this liberty to choose any form of employment contracts, most employers capriciously choose the oral form so as to be able to deny some of the agreed terms in case of a dispute. When disputes arise following the termination of such contracts, most employers claim that the disputed terms were never contemplated or that the contracts never existed. This is usually a difficult situation for the employee because in such a situation, the onus or responsibility of proving the existence of the contract lies on him.

The consequences of wrongful discharge of employment contracts on the employee are usually far-reaching. The employee loses income in the form of wages and work bonuses. This is economically and socially punitive to a worker given that work is not only a right as stated in the preamble of the constitution and in the labour code of Cameroon but is a source of livelihood for him, his family and other dependents. Psychologically, the loss of one's means of livelihood creates depression and psychological imbalance. Losing one's employment through dismissal is also socially degrading and destructive to his or her reputation and self-esteem.

Again, going by the labour theory of "career is wealth" a worker who continues moving from one employment to another cannot build a career and so cannot enjoy the reputation and financial benefits of a career because this hinders his or her skill development.

Worth pointing out is the fact the economic effects of wrongful discharge of employment contracts also fall on the enterprises concerned. The dismissal of workers usually leaves a vacuum in the company before the recruitment of a new worker. Sometimes, it may take the enterprise several months to find a worker with the same or more skills and competence than the dismissed worker. The length of time usually depends on the expertise or skills needed in that position and in some instances, replacing the dismissed worker may take so many months. During this period, the productivity of the company is likely to witness a drop. The direct

consequence would be a drop in the marginal profits of the company. In a country like Cameroon where the dismissal of workers is a daily routine in most enterprise, the gross domestic product (GDP) of the country is certainly less than the production capacities of the enterprises. Such a situation where most companies are producing below their capacity would normally result in shortages of goods and services. This situation normally results in high imports and less exports with inflation as a consequence.

## **THE PRACTICE OF DIVIDE AND CONQUER STYLE OF MANAGEMENT**

The phenomenon of divide and conquer practiced by some employers in Cameroon is an important reason for the state improve on her mechanism for the protection of workers. This practice is rife in most enterprises where employers fear that workers may unanimously agree to protest against the violation of their rights. To achieve this, most employers institute a two-shift system of work<sup>xxi</sup>. This system of work implies different contracts with different rights and duties and so unanimous action against the employer becomes difficult. The system's objective is not prima facie geared towards dividing the workers for an easy conquer but it becomes difficult for all the employees to have the same problems or the same views with regards to some of the malpractices of their employers. It would therefore be difficult for them to take a common stand to ask for some privileges or to organise a strike protesting against the violation of their rights.

More so, the classification of employees in to permanent, temporal and daily workers or labourers represents another phase of divide and conquer system of management of personnel. This is because the workers have different remunerations and work advantages and thus cannot claim the same rights nor protest against particular problems of workers because they usually do not have the same problems. For example, employees classified as temporal workers are the least remunerated<sup>xxii</sup>.

The divide and rule policy practised by employers in the private sector has a strong incentive to prevent workers from organising any trade union. In most cases, workplaces are designed in a manner that limits congregation of workers by assigning workers in shifts in such a way as



to minimize frequent contact. To complement this, most employers instil in the employees the notion that union dues exceed the benefits and that trade unions introduce rigid workplace rules that are unfair and bureaucratic. Some argue that union leaders tend to feed fat on the workers they are supposed to be protecting. The manager creates internal disunity among the workers who do no longer see themselves under a common affiliation. With this, workers would obviously not come together as a team which can serve as a threat to the employer. One way of achieving this goal is that employers collect or fabricate false information and use it to pit workers against each other. This creates a feeling of hatred among the workers and therefore disunite and render them weak and unable to carry out joint actions against the employer. Still to destabilise, weaken and destroy trade unions, employers use bribery and corruption to divide work forces in to groups with competing interest so as to minimise the chances of many workers affiliating to a particular trade union.<sup>xxiii</sup>

As another mechanism to divide, weaken and conquer the workers, prior to union elections, most employers increase wages of all or part of the workers. This gives them the impression that collective union action is not necessary. More so, where the employer increases wages of a portion of the workers, they become automatically divided as far as action against the employer is concerned. Those whose salaries have been increased would hardly vote for union leaders who may jeopardise the employer's interest. Most often, the employers also bribe the influential workers and threats and intimidation to subdue the workers who fear losing their employment in a country where finding a job is a nightmare.

## **THE RAMPANT BREACH OF WORKERS' PECUNIARY RIGHTS**

While most employers in Cameroon live in perpetual luxury, most of their workers have been subjected to an unbearable situation where they go for several months without salaries. This is a blatant violation of their statutory right to regular remuneration<sup>xxiv</sup>. Despite the importance of remuneration to the workers, most employers still treat the issue of wages as if it is optional or as if it is privilege for a worker to be paid his or her wage. This is a flagrant violation of the worker's most important right because from the definition of a worker by the Cameroon labour code, receiving wages is the predominant right of a worker<sup>xxv</sup>. The remuneration to which the worker is entitled consists in all pecuniary rewards such as wages, allowances payment for over

time etc. Worth mentioning is the fact that the preamble of the constitution of Cameroon does not only make work a right for all Cameroonians but also places on the workers the financial burden to contribute in the expenditures of the state? How then does one expect citizens to perform this civic responsibility when they work and live at the mercy of employers who treat the issue of payment of wages as if it is optional? The failure of employers to pay workers' wages is therefore a violation of their constitutional rights and also an obstruction of citizens from performing their civic responsibility of contributing in the expenditures of the state. There is no gainsaying the fact that the sanctions prescribed for the violation of the pecuniary rights of workers do not encourage workers to sue employers for violating their rights. Instead of prescribing damages or compensations to a worker whose right to remuneration has been breached, section 168 of the labour code prescribes a fine of from 200.000 to 1500.000frs payable in the state treasury. One wonders whether the intention of the legislator is to protect the worker or to fill the state's coffers while the poor litigant goes home as miserable as before. Can such sanction actually motivate a worker to sue the employer for the breach of his right? The worker would prefer to resign and this means employers would continue to violate this right since there are no threats of law suits against them.

## **THE ILLEGAL DEDUCTION OF WAGES BY EMPLOYERS**

At the end of the working month, the employer expects to be paid his full salary with which he has to take care of his needs and those of his dependents. Receiving less wages than the amount expected therefore plunges the worker into difficulties. This explains why the Cameroon labour code prohibits employers from deducting employees' wages.<sup>xxvi</sup> The legislator further warns that any sum illegally deducted from the employee's wage shall bear interest payable to him at the statutory rate from the date at which it should have been paid<sup>xxvii</sup>. Despite this warning, most employers in Cameroon continue deducting wages in illegality. Some illegally impose fines for late coming, laziness or failure to accomplish daily tasks. The imposition of fines is a contravention of section 30 of the labour code which prohibits employers from imposing fines<sup>xxviii</sup>. Worst still, their wages are not only illegally deducted but they are hardly informed of such deductions. It is usually embarrassing for employees to notice only on pay days that their wages have been deducted for one reason or the other. This is usually very frustrating,

given that the expected wages are so low to meet the needs of the employee and those of his dependents. This is a serious violation of the workers' rights.

Surprisingly, instead of prescribing compensation and damages payable to a worker who has suffered an illegal deduction of wages, section 168 of the labour has instead prescribed a fine of 200.000 to 1.500.000frs to be paid in to the state treasury. Undoubtedly, the imposition of fines payable into the state treasury instead of damages or compensations payable to the worker logically discourages employees from engaging labour litigations which would instead profit the state.

## **PROTECTION OF WAGES AFTER INSOLVENCY**

Apart from the need to protect workers during the currency of their employment, there is equally high need to ensure their wellbeing after insolvency<sup>xxix</sup>. In order to ensure the protection of workers when their employers go bankrupt, the Enterprise Act of 2002 introduced substantial reforms to the law of corporate insolvency with a view to increasing the opportunities for corporate insolvency recue. However, after insolvency, there is usually a conflict of interest and the question becomes how to determine which interest or claim has priority of settlement. Generally, in a claim for preferential debts, an employee's claim for outstanding wages is given priority over all claims of the company's creditors<sup>xxx</sup>.

Even though preferential creditors rank behind secured creditors with fixed charges over the assets of the company and the expenses of the liquidator of the company, their claims rank ahead of other creditors such as holders of floating charges, unsecured creditors, the tax authorities and shareholders. Unlike other creditors, an employee of an insolvent enterprise also has recourse to the social security system to claim wage payments that have not been met by the insolvent employer.

The general concern of states in protecting the employees' against creditors following the insolvency of the employer is instigated by the fact that most large businesses or private limited companies raise their capitals by borrowing from banks, local financial institutions as well as from individuals or private creditors. Sometimes, because of poor management or the occurrence of some unforeseen events, the undertaking fails. This plunges the employer in to

a state of bankruptcy or insolvency. This situation would normally make the payment of wages and allowances due to the employees of the enterprise impossible. In such a situation, employers are most affected as most are often left without means of subsistence. The state is forced to come in through the courts to liquidate the assets of the defunct structure in order to settle its creditors. Creditors of the company would always claim the need to be settled first before settling the workers of the company. Where the government intervention is not prompt, the creditors seize and sell the assets of the company while workers are left without any means of subsistence. This explains why Wages need to be highly protected against the creditors of the employer by preferential rights. In this respect, section 70(1) of the Cameroon labour code provides that

*“up to the limit of the percentage of wages not liable to attachment as provided for by the laws and regulation in force, wage claims shall be preferential claims having priority over all other general or special preferential claims”<sup>xxxii</sup>. Wages are also protected in like manner when a sub-contractor becomes insolvent. The labour code stipulates that “where the work is carried out in the workshops or other business premises of the contractor, he shall, where the sub-contractor becomes insolvent, assume the sub-contractors obligations towards the workers”<sup>xxxiii</sup>. This obligation exists even where the work is carried out in a place other the workshop or other business premises of the contractors. In order to further protect the employee against the acts of creditors of the company or undertaking, the Cameroonian legislator gives the employee entitlement to any premise that he or she occupied before the commencement of the liquidation or bankruptcy.<sup>xxxiii</sup>.*

More so, considering that workers in such a situation do not usually have the financial means to follow up their claims in a the court of law as opposed to the company’s creditors who are always financially viable, the Cameroon labour code grants the employee in such situation the right to legal aid without conditions.<sup>xxxiv</sup> . These protections are however not enough to guarantee the wellbeing of employees flowing the bankruptcy of their employers. There are uncountable number of employees of defunct enterprises who for many years have not receive the entitlements to which they were due before the bankruptcy of their employer. This therefore raises the necessity of enacting more effective laws as well as instituting other policies which can effectively protect the rights of workers after the insolvency of their employers.

## ARBITRARY VARIATION OF SUBSTANTIAL TERMS OF EMPLOYMENT

Another important course for concern in the field of labour in Cameroon which necessitates state protection of employees is the phenomenon of modifying contracts of employment without the consent of the employees. Section 23(1) of the labour code advocates for freedom of negotiation of employment contracts. This is to make sure that there is the application of the principle of consensus ad idem in their contract.<sup>xxxv</sup> Where a contract is freely negotiated, it is assumed that there was a meeting of the minds of the parties and that both parties actually understood the implications of their engagement. A person cannot be said to have freely entered in to a contract where both minds did not meet because of a mistake, inducement or misrepresentation. This can be likened to force labour.<sup>xxxvi</sup> Admittedly, although the parties might have freely negotiated the terms of their contract as demanded by section 23 of the Cameroon labour code, some unforeseen circumstances may crop up in the course of the employment, rendering the performance of the contract difficult and thus necessitating some changes. Such changes are equally supposed to be done with the consent of the other party especially if the terms to be modified are substantial.<sup>xxxvii</sup>

The failure of the Cameroon labour code to list the substantial terms of a contract which should not be modified without the consent of the other party sometimes leads to confusion because employers who change important terms without the consent of employees sometimes claim that the changes effected were only minor or non-substantial terms whose changes did not require the employee's consent. The court in such situation tries to find out what the intention of the parties was at the time they entered into the contract. This means that even though the parties have been given the opportunity under section 23(1) to determine the substantial terms of their employment relationship, workers are still not protected from the unilateral modification of substantial terms of their contracts of employment. Workers in this situation are most often bound to accept such unilateral changes because of their weak bargaining power vis a vis the powerful employers. The implication of a unilateral modification of a contract is that the employee may wave the modification and continue with the contract or resign and sue the employer for constructive dismissal. Courts in Cameroon have prescribed some precautionary measures that may be taken by the employers to avoid being sued for unilateral modification of substantial terms of an employment contract. These include securing

in writing the consent of the worker, making clear the reason for the modification and furnishing consideration. In practice, most employees faced with a unilateral modification effected by the employers are bound to accept such changes because of the fear of being fired for insubordination.

## **THE QUESTIONABLE PRACTICES OF SOME JUDGES AND LABOUR INSPECTORS**

The state of Cameroon advocates for equality of all citizens before the law and guarantees their right to a fair hearing before the courts<sup>xxxviii</sup>. In principle therefore, judges are expected to administer justice with impartiality. However, this expectation seems evasive looking at the way some judges handle some court matters. Some of their judgments leave many doubting if they are delivered in the name of justice. This is mostly so when the matter under determination involves the interest of the state or an influential member of the society. The outcome of such cases always leaves people wondering if all citizens are equal before the law. It is common knowledge in Cameroon that citizens do not believe in their equality before the law. Sometimes, even the presumption of innocence in criminal matters is eroded when the complainant is an influential person or when state interest is involved. In such cases, the judges seem to have known the outcome of the case before its commencement. Such matters are usually accelerated and judgment hurriedly delivered. Conversely, matters brought up against state officials and other influential members of the society are treated with a lot of laxity characterized by numerous adjournments which sometimes force the complainant to abandon the matter. One of the Cameroonian cases where the judge's decision has been highly criticized was the case of *Ikaicheck Emmanuel v. Samaritan<sup>xxxix</sup> Insurance* where the plaintiff worked for six years without leave despite applying for it every year. In an action to claim the six years leave allowances to which he was entitled, the judge dismisses the claim, stating that he was not entitled to leave allowances since he never went on leave. This decision demonstrates the questionable practices of some judges because one would have expected the judge to compel the employer to pay the workers' leave allowances plus damages for violating his right throughout his six years of service in the enterprise.

In the same light, Labour inspectors who are supposed to champion alternative dispute resolutions (ADR) to promote out of court settlements have also been highly criticized for their questionable practices as well as their lack of judicial knowledge to effectively resolve labour disputes. These labour officials are not only corrupt but lack the judicial knowledge to handle such quasi-judicial function<sup>xi</sup>. Not only have some labour inspectors been found to demand charges for settling labour disputes but have in some cases refused to issue statements of partial, total or non-conciliation which to enable the aggrieved party to proceed with the matter to the arbitration board of the competent court. This is a blatant violation of workers' rights. In most of such cases where the unsatisfied parties have proceeded to the competent courts without statements of conciliation, the judges have often been forced to issue orders of mandamus compelling the labour inspectors concerned to issue the statements of conciliation<sup>xii</sup>

## CONCLUSION

The international and local legislation as well as the Policy framework put in place by the Cameroon government to protect employees demonstrate her unconditional commitment to ensure the well being of cameroonian workers, especially those in the private sector. However, these measures have proven inadequate to curb the prevailing labour malpractices which have put most workers in a pathetic situation. Some of the prevailing malpractices seem to have been promoted by the poor terminology, ambiguities and contradictions of the labour code. Apart from these, most of the sanctions for the violation of workers rights are too insignificant to deter the employers from trampling on worker's rights. The heavy sanctions prescribed by the labour code are fines payable into the state treasury instead of compensations or damages payable to the aggrieved workers. This does not encourage workers to sue employers for violating their rights.

Given that some of the labour malpractices in the private sector are caused by the numerous lacunae of the labour code as already seen, it is highly recommended that the Cameroon labour code be completely revised in order to do away with the poor terminology, the contradictory and ambiguous provisions which employers exploit to their favour. The legislator must prescribe heavy sanctions capable of deterring employers from breaching employees' rights.

Employees must also get acquainted with the country's labour legislation so as to be able to defend and promote their statutory and contractual rights

## REFERENCES

1. Anderman Steven. (1993), *Labour law. Management, Decisions and Workers' Rights*. London. Butterworth.
2. Ellis Evelyn.(1986), *Parents and Employment, An opportunity for progress*. The industrial law journal vol. 15 pp 110-124
3. Harvey.(2006), *Industrial Relations and Employment law*, London Butterwoods.
4. Yanou M. A. (2009) *Labour Law: Principles and Practices in Cameroon*. Buea. REDEF.
5. TabeTabeS. *Employers breach of contract, redundancy, wrongful termination and dismissal*, African law journal no.3
6. Law No. 92-007 of 14 August 1992 instituting the Labour code of Cameroon
7. Law No. 2008/001 of 14 April 2008 to amend the constitution of the Republic of Cameroon

## ENDNOTES

---

<sup>i</sup> The right to work is prescribed in the preamble of cameron's constitution instituted by law No 2008/001 of 14 April 2008 to amend and supplement some provisions of law No96/6 of 18 January 1996 to amend the constitution of June 1972,

<sup>ii</sup> Section 1(1) of the Cameroon labour code defines a worker as *any person irrespective of sex or nationality who has undertaken to place his services for remuneration under the direction and control of another person whether an individual or public or private corporation considered as the employer*. This definition gives the worker an inferior and subordinate position while the employer occupies a superior and authoritative position.

<sup>iii</sup> Some of the Ilo conventions ratified by the state of Cameroon for the protection of labour rights include the Minimum Age Convention adopted on 26 of June 1973, The international convention on the Worst forms of Child labour adopted on 17 June 1999 ,The Equal Remuneration convention adopted on 29 June 1951, The Force Labour Convention adopted on 28 June 1930 etc.

<sup>iv</sup> The legislative Framework put in place by the Cameroon government to protection of workers' rights in the country include the 1996 constitution, the 1992 labour code, decrees, circulars and policy framework such as the millenium development goals(MDG), the Ntional Development strategy paper (NDS) and the sustainable development goals( SDG) etc

<sup>v</sup> The existence of many oral employment contracts in cameroon is empowered by section 24(3) which permits parties to put their contracts in any form and to to aduce any form of evidence in proof its exitence.

<sup>vi</sup> Black's Law dictionary, 7<sup>th</sup> edition , p38

<sup>vii</sup> Persnal findings of the researcher



<sup>viii</sup> Latin phrase meaning there must be a meeting of both minds in order to arrive to an agreement.

<sup>ix</sup> Apart from ratifying the force labour convention, section 2(3) of the Cameroon labour code prohibits forced or compulsory labour

<sup>x</sup> By virtue of 39 of the cameroon labour code, a worker whose contract of employment has been wrongfully terminated is entitled to at least 3 months of salary or one month of salary per year of service in the enterprise.

<sup>xi</sup> According to article 1 of the Discrimination in Employmes and Occupation convention(N0.111), discriminatory practices are any distinction, exclusion or preference made on the bases of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

<sup>xii</sup> Cameroon has not only ratified the 1975 Sex discrimination Act but has also ratified the International covenant on the Elinmination of all forms of Discrimination Against Women(CEDAW)

<sup>xiv</sup> Researcher's personal findings reveals that in some enterprise, some rights such as anual leave and medical care are enjoyed only by a few workers depending on their tribes and their relationship with their employers.

<sup>xv</sup>Law 92-007 of 14 August 1992 on the labour code of Cameroon in its section 2(1) (2) makes work a right as well as a civic duty and declares the state's responsibilty to help citizens find and secure their employments.

<sup>xvi</sup> Wilson Clyde Coal Ltd v. English (1937) ALLEER 628 was the first case in which the House of Lords demonstrated and prescribed the duty of care the employer owes to the worker.

<sup>xvii</sup>Suit no CASWP/67/96

<sup>xviii</sup>Researcher's personal findings reveal that employees in the private sector of Cameroon are fired on a daily basis without respecting any procedure.

<sup>xix</sup> The Termination of Employment Convention aimed at curbing illegal termination of employment contracts was ratified by the state of Cameroon on 13 May 1988

<sup>xx</sup> Oral contracts in Cameroon are backed by section 24(3) of the labour code which states that "*subject to the provisions of section 27, the existence of the contract may be recorded in whatever manner the contracting parties find convenient, any form of evidence may be adduced in proof of its existence.*"

<sup>xxi</sup> A two shift system of work is common in most entreprises in the private sector where some workers end work in the afternoon while others take from then till late at night as the need may be. This is very common in health facilities and security companies in Cameroon.

<sup>xxii</sup> The Cameroon labour code has failed to address the issue temporal workers and so employers take advantage this silence to treat temporal workers in very dehumanising manner. Most of them work above the statutory hours of work but are never paid for over time.

<sup>xxiii</sup> According to the Cameroon Risk Report of 5 november 2020 ; bribery, nepotism and corruption are rife in all sectors of cameroon including the labour market. In the same light, the 2022 transparency internatinal corruption index gave Cameroon a score of 26 on 100 and ranked her the 142nd least corrupt country among the 180 countries in the index. Found on <https://en.m.wikipedia.org>

<sup>xxiv</sup> To demonstrate the importance of wages in an employment contract, section 68 of the Cameroon labour code obliges the employers to pay their employees at a regular interval of one month. Given that the enterprise may sometimes face some financial difficulties, this section permits slight delays in the payment of wages but the section warns that that such delays must not exceed 8 days following the end of the month of employment in respect of which the wages are due

<sup>xxv</sup> section 1(1) of the Cameroon labour code defines a worker as *any person, irrespective of sex or nationality who has undertaken to place his services in return for remuneration under the direction and control of another person, whether an individual or public or private corporation considered as the employe*

<sup>xxvi</sup> section 75(1) of the Cameroon labour code prohibits employers from deducting wages except for the payment of compulsory levies, reimbursement of the value of any facilities provided in conformity with section 36(3) and any deposits which may be stipulated in collective agreements or individual contracts or by court order of attachment, etc

<sup>xxvii</sup> Section 75(4)

<sup>xxviii</sup> According to section 30(2) of the labour code, the only penalty entailing loss of wage which an employer can inflict on the worker is suspension with loss of benefits

<sup>xxix</sup> According to article 1(1) of the employers insolvency act The term 'insolvency' means a situation *Where the enterprise has closed down or ceased its activities or is voluntarily wound up; where the amount of the employer's assets are in insufficient or where, in the course of proceeding to recover a worker's claim arising out of employment ,it is found that the employer has no assets or that these are insufficient to pay the debt in question ;where the employer has died and his or he assets have been placed in the hands of an administrator and the amounts due cannot be paid out of the estate.*<sup>xxix</sup>

---

<sup>xxx</sup> Section 70 of the Cameroon labour gives priority to the payment of workers' wages that are due before insolvency

<sup>xxxii</sup> This is ensure that workers who are the most effected following the bankruptcy of an enterprise receive all their dues before other persons such as the creditors of the company.

<sup>xxxiii</sup> Section 49(1)

<sup>xxxiv</sup> Section 73(1)

<sup>xxxv</sup> Section 73(2)

<sup>xxxvi</sup> Consensus ad idem is a latin phrase which means there should be a meeting of the parties' minds

<sup>xxxvii</sup> Force labour is prohibited in Cameroon under section 2(3) of the Cameroon labour code.

<sup>xxxviii</sup> Section 42(2) of the Cameroon labour code

<sup>xxxix</sup> The equality of citizens and their rights to a fair hearing is guarrantied in the preamble of the 1996 constitution of Cameroon.

<sup>xl</sup> CFI, Dschang, judgement No13/soc of11 March 2011(unreported).

<sup>xli</sup> By virtue of section 105 of the Cameroon labour code, the labour inspector is a civil servant of of the labour administration corps. This means the labour inspector is not is legal expert and so he is not adequately trained to effectively handle labour matters which require specialised legal knowledge.

<sup>xlii</sup> section 138 of the Cameron labour code makes the settlement of individual labour disputes in the court of first instance and the court of appeal free of charge, while labour inspectors are obliged to issue statements of partial or non conciliation after every attempt of resolving labour disputes.