

CRIMINAL LIABILITY FOR OIL POLLUTION UNDER CAMEROONIAN LAW: ISSUES AND CHALLENGES OF THE MAINSTREAM VIEWS OF THE LAW

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ABSTRACT

Cameroon is blessed with a lot of natural deposits and accumulations within its soils and sub-soils, with oil being one of the most essential. The scientific and technological vehicle which has carried man in his odyssey towards ultimate enjoyment of nature's resources has been fuelled by various sources of energy.ⁱ The most important component of which is proving to be oilⁱⁱ. Oil is probably the only international industry that concerns every country in the worldⁱⁱⁱ. The importance attached to the laws in the fight against oil pollution^{iv} in Cameroon is not misplaced. It is against the backdrop of the foregoing that this paper explores the causes, offences and defences under the 'Code Communautaire De La Marine Marchande'^v and some relevant Cameroonian legal framework laws^{vi} will be considered. In essence, the institution of criminal proceedings aims at procuring a sentence or a preventive measure against an offender as provided by law.^{vii} The cumulative effect of pollution from all these sources on the environment has been of monumental proportion. It constitutes a grave danger to all-natural resources, both flora, fauna and human beings. It also hinders marine activities especially fishing. It is true there exist a plethora of laws governing this section of the environment in Cameroon. All to stop, prohibit or reduce such criminal acts on our environment. The question is whether the existing criminal laws put in place by the Cameroon government are effective and enforceable enough to reduce the effects and consequences of oil pollution experience Cameroon environment especially the marine domain? This paper explores and assesses the various criminal offences caused by oil pollution defaulters on Cameroonian marine environment and to examine the penalties. It is observed that criminal liability for damages caused by oil pollution has up until recently been governed by the general provisions relating to common nuisance, fouling water, and noxious acts under the Criminal Code. In this while

government has taken the form of legal regulation and control through mainly civil and but increasingly criminal laws, such as the ‘Code Communautaire de la Marine Marchande, 2012, Cameroon Penal code, 2016, The Law of 1983, Law N° 96/12 OF 5th August and The Cameroon Petroleum Code, 2019.

Keywords : Criminal Law, Code Communautaire de la Marine Marchande, Defences, Liability, ‘Navires’/Ship. Offenses, Oil, marine, and Pollution,

INTRODUCTION

The constitution^{viii} divides Cameroon into ten (10), regions. It is a bilingual country having two official languages i.e. French and English both having equal status.^{ix} National legal systems have a variety of ways to ensure compliance with safety norms and affirmative obligations. In addition to the threat of civil liability, there exist injunctive tools addressed to individuals, writs to compel action by public officials and public entities, and finally criminal law with its panoply of preventive and punitive instruments.

Our prime concern here is the intervention carried out by the Cameroonian government through the apparatus of its criminal laws in the problems and damages occasioned by oil that pollute the Cameroonian environment.

In essence, this paper is concerned with intervention by the Cameroonian government through the apparatus of its criminal laws^x in the problems and damages occasioned by oil pollution.

Though the chances of pollution occurring are greater (and with more devastating consequences) after crude-oil has been discovered, yet incidents of spillage and pollution are associated with nearly all the stages of the oil industry’s operation. It would be not out of place to address the subject at this point of the operations of the hypothetical issues in the case study. It is generally known that even in the best of oil field practice. Spillage of crude oil and the resultant pollution cannot be completely eliminated. Without painting a picture of hopelessness, it must therefore be assumed that pollution is part of the price that must be paid for the development ushered in, world-wide, by the petroleum industry.

HISTORICAL EVOLUTION OF THE OIL INDUSTRY

Although drilling for oil had been tried in Hanover, Germany in 1857, the event that marked the beginning of a new age in history occurred on August 27, 1859 when the first American drilling for oil by Edwin Drake^{xi} for the Seneca Oil Greek Company near Titusville in Western Pennsylvania struck a reservoir at 69.5 feet below the surface and oil gushed up. In a day, Drake's rig brought up twenty-five barrels of oil; in a year, 2000 barrels or 84,000 gallons.^{xii}

In Cameroon petroleum exploration can be traced far back in 1947 by the French company known as "Le Bureau Français de Recherché Pétrolière" or better still, the French Office of Oil Research. In 1952, the first oil exploration licence (OL) was awarded to ELF Serepca Company and in 1955, the first non-commercial oil was discovered in the Logbaba and Souellaba area located in the Douala - basin situated in the Littoral Region of Cameroon.^{xiii}

Later Mobil, Royal Dutch/Shell and Total also began to explore. With discoveries in Nigeria's Niger Delta area in the late 1960's, focus shifted from the Douala Basin to the Rio Del Rey Basin, where in the 1970's a number of discoveries were made: Asoma, Bavo, Betika, Ekoundou, Kolé, Kombo and Makoko. Production from the Rio del Rey Basin reached the peak of its production with 158,000 bpd but then started to decrease which then meant that exploration focus returned to the Douala Basin in the 1980s. This resulted in discoveries of condensate and gas: Batanga, Benda, M'Via and N'Koudou.^{xiv}

Undoubtedly, oil in commercial quantity was discovered in Betika located in the Rio Del Rey Basin in 1972. But it was in 1977 that the country Cameroon acquired the statute of a petroleum producing nation as a result of the production of tons of oil from the Kolé Field found in the Rio Del Rey Basin.^{xv} This Central African country became a modest crude oil exporting country in 1971 with production peaking 185, 000 bpd in 1986.^{xvi} From 1987, Cameroon oil production started declining gradually and between 1990/1991, it had almost a steep decline which got to its climax by 1994.

In spite the fall, oil remains Cameroon's leading export commodity, accounting for 39 percent of exported goods followed by cocoa with 19%, wood 12 %, rubber and banana 3%, and cotton 2%, and 46% of foreign exchange earnings, according to recent data published by the World Bank.^{xvii}

The above notwithstanding, the geological trans-border continuity context and the discovery of very large oil fields in all the neighbouring countries of Cameroon including Nigeria, Chad, Congo, Gabon, Equatorial Guinea did signal the possible discovery of large oil fields in Cameroon and predicted the development of exploration-exploitation activities to be driven from the encouraging provisions of the new Petroleum Code.^{xviii} This situation did set the stage to encourage the influx of prospective investors into the sector.

According to US Energy Information Administration, in 2011, Cameroon's oil production stood at 60.000 barrel per day and its commercial oil reserves were estimated at 200m barrels.^{xix} Despite these modest levels, the upstream petroleum sector in Cameroon has witnessed an increase in exploration and production activities, with active international players including Perenco, Kosmos Energy, Addax Petroleum, Bowleven and Victoria Oil and Gas.

In 2006, Cameroon embarked on the development of its gas resources with the signing of the first contract for the development and operation of natural gas between the government of Cameroon and Perenco Cameroon. In 2007, a Memorandum of Agreement for the exportation of natural gas from Cameroon to Equatorial Guinea was also signed between the National Gas Company of Equatorial Guinea (Sonaga) and the Société Nationale des Hydrocarbures (SNH), Cameroon's National Hydrocarbons Company (NHC).^{xx}

This notwithstanding, the various types of offences found under the "Code Communautaire De La Marine Marchande" 2012^{xxi} and the relevant Cameroonian laws^{xxii} will be considered and examined thoroughly by commencing with offences under the code Communautaire De La Marine Marchande 2012.

CRIMINAL LIABILITY UNDER THE "CODE COMMUNAUTAIRE DE LA MARINE MARCHANDE" 2012

Here we intend to focus on the six criminal liabilities found under the "Code Communautaire De La Marine Marchande" 2012, and beginning with discharge of Oil into prohibited Sea Area (maritime waters).

a) Discharge of Oil into Prohibited Sea Area (Maritime waters)

Of course, the first offence from the six that we will examine under the Code, will be discharge of oil into prohibited Sea Area (Maritime Waters).

Article 325^{xxiii} and 326^{xxiv} of the Code^{xxv} makes it an offence for all ship not to discharge oil into the maritime waters which are prohibited sea areas created under the International Convention for the Prevention of Pollution of the sea by Oil of 1954 as amended in 1962.^{xxvi} These Articles affect all ships “*tous les navires*” traversing the seas of the world especially Cameroonian territorial waters in this case. In view of this, such ships may presumably be apprehended only by the authorities of the states to which the violated prohibited seas are contiguous. Article 319 of the same code further states that “*with the exception of Article 319, the discharge in to the sea of oil or mix-oil into the maritime waters is prohibited to all oil dealers*”.^{xxvii} Therefore any discharge of oil or mix oil into the maritime waters is an offence.

b) Discharge of Oil or mix oil into Cameroon Waters

The discharge into the sea of oil or mix oil into the maritime waters is prohibited to all oil dealers^{xxviii}...”. This creates an offence in circumstances where the owner or master of a ship, or the occupier of land adjoining Cameroonian waters, or the operator of apparatus for transferring oil, discharges oil into Cameroonian waters from his vessel, a place on land or his apparatus respectively. “*Cameroonian waters*” include the whole of the seaward limits of Cameroonian territorial waters and all other navigable inland waters. The section speaks of the liability for the offence created under it as emphasizes in the words “*tous les navires*” meaning all ships without exception. Again, Article 326, of the Code has listed five conditions that if respected may exonerate defaulters from criminal sanctions. According to the code it does not sanction any defaulters found under Article 325 and 326 when the discharged ballast water was clean and separated.^{xxix} Article 325(2), does not also apply when the mix oil, non-diluent, having hydrocarbons inferiors or equal to 15 parts per million.^{xxx} Article 333 of the code also stand as defense to the ship-owner who must have polluted the sea.^{xxxi}

c) Failure to Install Oil Pollution Prevention Equipment on Ships/Platforms

Where a ship or vessel of a member state country of CEMAC which Cameroon is a member or foreign owned ship or plates-forms that fails to install equipment considered suitable for the prevention or reduction of oil discharges, an offence under this section would have been committed. It is in this respect that the ‘code’ succinctly states that all technical measures had to be taken to avoid accidental pollution during exploitation on the Plate-forms. These measures need to be written in the annex log-book of the exploiting company contract. The competent administrative authority in charge of mines in each member country would in

concertation with the competent maritime authority had to proceed to the necessary technical inspection to ascertain the respect of this disposition”.^{xxxii}

The equipment concerned are as may be specified by the competent authority or his designee. The section affects Cameroonian ships or plates-forms operating within Cameroonian territorial waters as well as signatories of this ‘Code’.

d) Competent Authority to Provide “Oil Reception Facilities”

This is the only offence specifically directed at a governmental agency (i.e. Port Autonomous of Douala (PAD),^{xxxiii} Port Autonomous of Limbe (PAL),^{xxxiv} Port Autonomous of Kribi (PAK)^{xxxv} and Port Authority of Garoua (PAG).^{xxxvi} Under Article 352 of the “Code” it clearly states that Port’s Authorities or Port’s Terminal exploiters must install and put at the ships’ disposal sufficient hydrocarbon capacitated residues according to the criteria enumerated in paragraph 3 of rule 12 of annex I, of the MARPOL Convention of 1973/78, concerning loading ports and Terminals.^{xxxvii} Article 349 (2), better emphasized that other solid residues from installations have to be discharged at the ports reserved for such purpose. This implies that Cameroonian ports have been provided with reception facilities.

This implies that the harbour authority is required to provide facilities in harbours for the disposal of oil residues; failure to provide such facilities is an offence. Making this point as an offence is the recognition of the need for vessels to discharge oil in the process of ballasting and cleaning-up. The provisions of oil receptacles in authorised area will expectedly minimise pollution by oil, on provision therefore amounts to active connivance in or precipitation of pollution activities. But the question here is whether the Maritime Authorities in Cameroon have provided this reception facility. The answer is no. This is not true as can be confirmed by article 354 (1) of the very code in its wordings.

e) Failure to Have on Board a Ship a Register of Vessel or Cargo

The ‘Code’ opines: “*All petroleum tankers having crude oil equal or superior to 150 and ships other than petroleum tankers having crude oil equal or superior to 400grt. must keep a register of petroleum oil as fashioned in rule 20 of annex I of the MARPOL Convention 1973/78*”.^{xxxviii}

Again, emphasis is made under the ‘Code’ which states that a model of petroleum register shall be in conformity to the prescribed MARPOL 73/78 Convention model, Annexe I, Appendices III.^{xxxix} In essence, Article 328(1) simply implies that it is an offence if a ship does not have on

board a register of hydrocarbon. However, one can distinguish some categories of offences. Firstly, masters of ships of member state countries of CEMAC^{xl} including Cameroonian ships exceeding gross registered tonnage of one hundred and fifty (150) or crude oil superior to 400 gross registered tonnage are required to keep a log (register) of their oil discharges, oil spills and ballasting activities as prescribed in rule 20 of annex I of MARPOL Convention of 1973/78. In the case of oil discharges, the important element is that it is done intentionally for safety of life, vessel or cargo. In the second case, discharge is accidental, hence the use of “escape” of oil or a mixture of oil. And in the third instance, discharge is due to ballasting activities relating to cleaning of tanks, disposal of oil residues etc.

Furthermore, this relates to both ships owned by member state countries and foreign ships or vessel, detailed records of oil transfers to and from these vessels are required to be kept, failure to do which constitutes an offence.

f) Failure to Report Presence of Oil in Coastal Waters^{xli}

The longer oil pollutants remain in water, the greater the damage to the marine environment. It is recognition of this fact that a duty is imposed on persons to report to the competent authorities discharges of oil from vessels for the purpose of preventing damage to vessel or cargo, and accidental discharges of oil.

The wordings of this Article seem to imply that the duty to report is placed on the party in control of a vessel from which oil is discharged or escapes.

OTHER OFFENSES UNDER CAMEROONIAN LAWS

a) What are The Offences Under the Cameroon Criminal/Penal Code, 2016?

According to Law N°2016/007 OF 12th July 2016 that stipulates in Section 261 that “Whoever by his operations: pollutes any drinkable water liable to be used by another; or (b) So pollutes the atmosphere as to render it harmful to 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”. From the above wordings of this section, pollution is a crime under the Cameroonian Criminal code.

b) Offences Under Law OF 96/12 OF 5th August 1996 Relating to Environmental Management in Cameroon xlii

With regard to the Law of 96/12 of 5th August 1996, it's therein stipulated that: "Any Captain of a ship who is guilty of dumping hydrocarbons or other marine environmentally harmful liquid substances into marine waters under Cameroonian jurisdiction in violation of the provisions of this law and its enabling instruments or international conventions relating to the prevention of marine pollution to which Cameroon is a party, shall be liable..."^{xlii}

c) Offences Under The 1983 Law^{xliv}

In this Law, it is an offence to whosoever pollutes the public domain of the sea in the course of its activities.^{xlv} The institution of criminal proceedings aims at procuring a sentence or a preventive measure against an offender as provided by law.^{xlvi} Under the law, it is therein provided that a three (3) to one (1) year imprisonment sentence would be levied on would-be-polluters of the Cameroon marine environment. According to this provision of the 1983 law and knowing so well that sanctions especially penal, are there to discourage an act by offenders. In this situation, we are tempted to ask if at all such an imprisonment can hinder polluters from continuing in their bad habits. Looking at the crime and comparing it with the enormous economic loss especially from the tourism sector, and fishermen, the destruction of almost all living and non-living marine resources, the imprisonment term is not good enough to deter marine pollution.

DEFENCES FOR OIL POLLUTION OF THE MARINE ENVIRONMENT

According to Black's Law dictionary, defence is defined as a defendant's stated reason why the plaintiff or prosecutor has no valid case; especially, a defendant's answer, denial, or plea.^{xlvii} In our case, defence for Oil Pollution of the Marine Environment under Cameroonian legal framework.

a) Discharge of Oil for the Purpose of Saving Life, Vessel, Cargo or force majeure

The first concern of the shipowner in a marine pollution emergency will be to see that the ship and all the life thereon is preserved, and that as much as possible of the cargo, which he has contractually under taken to deliver to the destination named in the bill of lading, is so delivered.

He is therefore concerned to protect both his propriety interest in the ship and his contractual obligations concerning the cargo.

The 'Code' provides that it shall be a defence to an offence for the offender to prove that oil was discharged for the purpose of saving life or to prevent damage or destruction of vessel or cargo or as result of force majeure duly proven.^{XLVI} The defence seems to indicate that saving of life on board a vessel is somehow of greater importance than endangering the lives of invariably hundreds of people that may be affected by the resultant pollution of the sea. It is beyond comprehension how this balance of importance has been reached. Of course, it may be argued that the immediacy and certainty of the danger to the life hoped to be saved is an argument in support of the 'Merchant Marine Community Code' stands.

This excuse is again extended by its article (b) that says that any liquid substance or mixed oil containing such, when their discharge is to fight against pollution.^{xlix}

Again, the Law of 5th August 1996 Relating to Environmental Management in Cameroon states that: "*The sanctions provided for by this article shall not apply to dumping by a ship to ensure its own security or that of other ships, or to save human life, neither shall they apply to discharges resulting from damages suffered by the ship without the establishment of any offence against its captain or crew*".¹

Query: Why the choice of six months according to this law and not life imprisonment to polluters? In fact, the penalty that stipulates "*life imprisonment*" is worth appreciable than the six months to one year provided by this law. The reason being that life imprisonment will serve as an example for others to refrain from polluting the marine environment therefore act as a good deterrent measure. Furthermore, where a fine is simply imposed, this exculpates the defender from further liability for cleaning-up living this in the hands of government and local victims.

c) Accidental Escape of Pollutant

There is also the defence of accident provided for under the Code and the Law N° 96/12 of 5th August 1996 Relating to Environmental Management in Cameroon. A polluter is exculpated if he can prove that the pollutant escaped accidentally as a result of damage to his vessel or leakage therefrom and that all urgent and reasonable steps were taken to contain the discharge and reduce its impact on the environment.

What should be immediately apparent is that a discharge or escape resulting from gross and criminal negligence of the offender may be easily disguised as accidental discharge or leakage. It now seems to us that the kind of thinking on which such defences are premised is exemplified by such statements that: “*it is axiomatic that pollution will occur during oil operations no matter how advanced the technology. Operators should not be held liable for activities beyond their control if they have complied with the standard regulations.* Also, without painting a picture of hopelessness, it must be assumed that pollution is part of the price that must be paid for the development ushered in, world-wide by the petroleum industry.”^{li}

Whatever the case pollution is not a necessary and inevitable phenomenon in an oil producing country.

It’s worth noting that a serious warning is sent through the wordings in Article 279 of the Code as it emphasises that all technical measures would have been put in place to avoid accidental pollution during plat-form exploitation.

d) Authorised Discharge of Oil into Water

The defence of “*authorized discharge*” avails anyone who claims that he did the discharging into waters specifically designated by the Law for the purpose of the “*security of the ship or to safe life*”.^{lii} In essence, Article 319 of the Code is clear on the fact that the dispositions of section 325 to 334, in relation to the interdiction of the discharge into the sea of the different categories of pollutant substances does not apply if it is done to save human life.

Further, there is authorized pollution of the sea in a situation where the discharge was effected to fight against pollution.^{liii} This Article of the Code is a defence that gives a leeway to captains to pollute the sea and go court free. This defence is quite logical. In fact, such a person ought not be charged with an offence at all.

Again, Article 327 (1) and (2) of the ‘Code’ equally authorised the discharge of clean ballast water or separated water into the maritime water. It says clearly that the dispositions of Articles 325 and 326 does not apply to the discharge of clean ballast or separated water”.^{Liv}

The question is whether there exists any “*clean*” pollution? We strongly believe that there is no pollution that can be considered not harmful to the marine environment.

Secondly, Article 327 (2) of the Code has again authorise the discharge of mix-oil that are non-diluent into the marine water. Here it stipulates clearly that the dispositions of article 325 does

not apply to the discharge of mix-oils that are non-diluent, having hydrocarbon that is inferior or equal to 15 parts per million.

Thirdly, Article 265 also authorizes discharge of oil into the territorial waters of Cameroon.^{lv} This Article is directly accepting the idea that polluters have the right to pollute marine waters, if at all they commit the offence in accordance with the law, and if so, shall go court free.

e) When Discharge was Caused by the Act of Third Party (Sabotage), War or Hostilities or Force Majeure

The main defences open to the defendant are act of God; Act of a stranger or third party, war or hostilities or force majeure. Act of God or act of war or natural disaster are obvious defences whenever they occur. If an escape of oil is caused through natural causes and without intervention, in “*circumstances which no human foresight can provide against, and of which human prudence is not bound to recognise the possibility*”,^{Lvi} there is then said to exist the defence of Act of God. This is supported in the Cameroonian legislation of 1996 Relating to Environmental Management where it makes mention that the offence stated in Article 77(2) of the said law shall be exonerated in the event of a force majeure.^{Lvii}

It is a defence that where the discharge was caused by the act of third party. This might be the rationale behind this defence. The question that arises therefore is how tenable is this claim? Attributing pollution to the act of unidentified third parties is an easy escape route for defaulters of pollution laws.

Concerning Cameroon on the issue of third party as the author of the act, Cameroon has relied much on international conventions to support the point. For example, The International Convention on Civil Liability for Oil Pollution Damage 1992 (1992 Fund),^{lviii} argues that it does not pay compensation if the pollution damage resulted from an act of God, hostilities, civil war or insurrections, or if the claimant cannot prove that the damage resulted from an incident involving one or more ships, as defined by the 1992 CLC.^{Lvii}

PENALTIES/SENTENCES AND FINES

We intend to examine in this section three important relevant Cameroonian laws that paves the way to criminal sanctions when marine pollution occurs i.e. the provision of the Cameroonian

Criminal Code 2016, the 1983 Law and lastly penalties under the 1996 Law Relating to Environmental Management in Cameroon. In this while, we will commence with the disposition of the Cameroon Criminal/Penal Code and the dispositions under the Petroleum code 2019.^{Lx}

a) Disposition of the Cameroonian Criminal/Penal Code^{Lxi}

The Cameroon Criminal Code provides that: “Whoever by his operations: pollutes any drinkable water liable to be used by another; or...”.^{Lxii} “...shall be punished with imprisonment of for from fifteen days to six months, with fine of from five thousands to one million francs, or both such imprisonment and fine”.^{Lxiii} The issue at stake here is, can a fine of one million francs (1,000,000 frs CFA) levied on a polluter who destroys the marine environment, killing thousands of living marine fishes, birds and animals not leaving out the destruction of our touristic sites be enough to act as a deterrent to marine pollution? In other words, can this pittance sum adequately compensate victims who suffered damages from such a disaster? Again, can an imprisonment term of six months actually prohibit polluters of the marine environment? The answer to these questions is a categorical no. These sanctions to us are too light enough or minimal and cannot curb or deter marine pollution from major polluters like commercial ship operators that make a lot of profit.

The existing lacunae in Cameroonian Penal Law is not surprising because commercial shipping, transportation of oil in bulk that causes Vessel-Source pollution, is a fairly recent development. In typical Cameroonian’s characteristic practice, however it may take some years, if not decades before effective legislative attention are attracted to it. Happily, Cameroon appears finally to have focussed on this problem and legislations^{Lxiv} from when the Cameroon Penal Code of (1965) was enacted till date have been geared towards penalising breaches of environmental hazards. Though these legislations are as sporadic as they are diverse and a full picture can only be put together by a close study of the individual laws, and at first glance, unrelated laws.

Article 261 (b) of the Cameroon Criminal Code, in order to bring some deterrent factor into the law in a way that the oil operator/dealer will actually realise that it does not pay to pollute the environment, and thereby correct the impression which the penalty clauses in the other sections of the laws presently gives. Besides, the defending conduct under the provisions of the law may also be declared to be an offence under a more stringent statute like life imprisonment.

Query: Has the law enforcement agents - particularly the marine military force (the Navy), the police force navigating Cameroon territorial waters, and today a special military unit known as the 'Rapid Intervention Unit' commonly called "BIR" have the wherewithal to fight crimes involving marine pollution as prescribed by Article 261 (b) of the Cameroonian Criminal Code? Another pertinent query is whether there is really a serious statutory intent to protect navigable waters under Cameroonian jurisdiction under this provision of the Penal Code? To begin with, the agents lack the wherewithal i.e., lack of finance, the equipment, human resources and skill needed to enable them perform their duty.

Secondly, the main weakness inherent in section 261(b) as a statutory water control measure is that water quality is addressed there under strictly from the perspective of public health and not the broader objective of marine environmental protection ushered in by the enlightened post 1983 perspective era of general environmental protection. Indeed, one cannot say that the marine pollution is exempted from the provision of section 261 (b) of the Criminal Code. Possibly, the problem was not envisaged at the time of enactment of this Code since commercial shipping began recently in Cameroon. At best the ensuing regulations are totally oblivious or simply scant around the problem. None of the provisions is directly or sufficiently targeted at regulating the problem of marine pollution from vessels generally or specifically. ^{Lx}

Summarily, section 261(b) of this Code was an existing law at the time of the enactment of the 1983, 1996, and other relevant Cameroon laws. We maintain this statement here because the amended Penal Code has not been changed either in wordings or article in the new 2016 code. This notwithstanding, these laws enacted after the Penal Code have not increase much on the imprisonment terms on polluters to meet up with the current challenges to curb pollution of the marine environment. Whatever the case, the potential threat to health and the environment from the constituents of the marine pollution may not have been considered a major issue at the time for section 261 (b) to be seen as a threat to oil companies, necessitating urgent and appropriate regulation to curb the adverse impact of oil pollution.

b) Disposition Under the Law of 1983^{Lxvi}

According to Article 11 of the law of 1983 which provides a three (3) to one (1) year imprisonment sentence and a fine of 3,000,000 to 10,000,000 francs to whosoever pollutes the public domain of the sea in the course of its activities. ^{Lxvii} The institution of criminal proceedings aims at procuring a sentence or a preventive measure against an offender as

provided by law. ^{Lxviii} The question we may ask is: Can a fine of 3.000.000 (three million Frs. CFA) actually compensate adequately and sufficiently plaintiffs that have suffered from the damage caused by a commercial shipping company that has polluted the Cameroonian territorial sea? Certainly not true. Sincerely speaking, civil action is intended to provide compensation for damages resulting from an offence. ^{Lxix} Indeed, under the present circumstances, this is not the best option for an effective law. The provisions relating to fines in this statute is perhaps the weakest link in existing pollution control laws. The fines are not high enough to act as a deterrent to the would-be-polluter. Such a sum as compared to the shipping industry dealing or transporting the oil and considering the oil company itself, this amount as fine cannot threaten the polluters. This may either encourage shipowners who because of time constraint will chose overthrowing the wastes in the territorial waters or in ports than go searching for oil reception facilities that might be far away from harbour (i.e. where there exist an oil facility) or go searching and negotiating with private industries such as BOCOM, and others in the case of Cameroon to come and collect the wastes at the seaports. The tendency here is that the amount negotiated by the private company can be higher than the fine of 3,000,000 frs.CFA thereby giving the defendant (shipowner) the better option which is to overthrow the wastes into Cameroonian territorial waters and pay the mega fine. In this while, this law is not an efficient deterrent measure for pollution of the marine environment, therefore needs an urgent re-visit i.e. increase the sum (fine) to 500.000.000 francs (five hundred million francs) for marine environmental polluters as the case may be.

Under the above law, it is therein provided that a three (3) to one (1) year imprisonment sentence would be levied on would-be-polluters of the Cameroon marine environment. According to this provision of the 1983 law and knowing very well that sanctions especially penal, are there to discourage an act by offenders. In this situation, we are tempted to ask if at all such an imprisonment can hinder polluters from continuing in their bad habits. Looking at the crime and comparing it with the enormous economic loss especially from the tourism sector, and fishermen, the destruction of almost all living and non-living marine resources, the imprisonment term is not good enough to deter marine pollution.

We firmly suggest that something be done i.e. increase the sentence terms from 3 (three) years to 20 (twenty) years, and why not life imprisonment. When this is done, certainly the purpose of the law would be achieved and surely, the act of polluting the marine environment will be discouraged and will go a long way to deter the commission of the act by polluters.

c) Disposition Under the Law Relating to Environmental Management In Cameroon, 1996

With regard to this Law ^{Lxx} relating to environmental management in Cameroon, it provides that any person who have polluted, or degraded soils and sub-soils, altered the quality of air and waters in violation of the provisions of this law shall be liable to a fine of 1,000,000 (one million) to 5,000,000 (five million) CFA FRS and a prison sentence of 6 (six) months to 1 (one) year or only one of these two. ^{Lxxi} To intensify the sanctions here, the law further states that “*in the event of subsequent offences, the maximum total amount of the sanctions shall be double*”.

^{Lxxii} In comparison with international standards these penalties are not deterrent enough. For true, five million francs CFA (5,000,000 Frs. C.F.A) that is less than US \$ 60 is a pittance for oil (producing, transporting or marketing) companies or ships whose gross profits in the millions or billions of the strongest currencies in the world.

This Law will again sanction any Captain of a ship who is guilty of dumping hydrocarbons or other marine environmentally harmful liquid substances into marine waters under Cameroonian jurisdiction in violation of the provisions of this law and its enabling instruments or international conventions relating to the prevention of marine pollution to which Cameroon is a party, shall be liable to a fine of 10,000,000 (ten million) to 50,000,000 (fifty million) Frs. CFA and a prison sentence of 6 (six) months to 1 (one) of these two sanction. ^{Lxxiii}

Furthermore, when the offending boat is other than a tanker, and the gross registered tonnage is lower than 400 (four hundred), the sanctions provided for in sub-paragraph (1) of this Article shall be reduced, while the minimum fine shall not be lower than 1,000,000 (one million) CFA Frs. ^{Lxxiv} In the event of subsequent offences, the maximum total amount of the sanctions shall be doubled. ^{Lxxv}

Query, why the choice of six months according to this law and not life imprisonment to defaulters? In fact, the penalty that stipulates “*life imprisonment*” is worth appreciable than the six months to one year provided by this law. The reason being that life imprisonment will serve as an example for others to refrain from polluting the marine environment therefore act as a good deterrent measure. Furthermore, where a fine is simply imposed, this exculpates the defender from further liability for cleaning-up living this in the hands of government and local victims.

Whereas government role in such an eventuality is recognised, it is also true to note that it may not be in possession of the necessary equipment and expertise that maybe needed.

Consequently, part of the judgement of a trial court should be an order specifically directing the offender to take steps to rehabilitate the polluted environment which he has been adjudged responsible for. In other words, some form of “*Restitution*” order should be made against the offending party.

As a matter of fact, the victims of environmental pollution will not benefit from the imposition of terms of imprisonment on the culprit, what they invariably desire is to have the damages occasioned by oil pollution of the marine environment ameliorated and the status quo returned to as far as possible. ^{Lxxvi} Compensation under a civil action can never suffice because, firstly, the victims, to succeed have to retain expert legal counsel, a daunting proposition for the mostly rural victims of such man-made catastrophe who are hard put to feed, let alone expend great sums in employing the services of a lawyer. Secondly where they succeed in getting their claims into court, it may be bedevilled by multifarious procedural obstacles. If these hurdles are overcome, there remains the issue of quantum of compensation (though beyond the scope of this work) which even if applied towards cleaning-up could not effectively cover the damages for which it was awarded.

The suggestion therefore is for the criminal courts seized of breaches under this and similar legislation to order Restitution by the offender. “*In the immemorial tradition (of Africa) it is the offender or his kin who are responsible for compensating the victim. Whilst this power for a court to order restitution to be paid by the offender to his victim remained in the older laws... in practice this measure was not always used because of the penury of the offender*”...^{Lxxvii}

From all indications the average oil company (the common transgressors) cannot be considered to be poor. On the contrary they will be able to meet the costs of restitution from their ample resources and if need be, contribution from other members of the industry.

d)Disposition Under the Cameroon Petroleum Code, 25th April, 2019

According to the code,^{Lxxviii} the penalties referred to in section 131 shall be pronounced by the prejudice to all other penalties provided for by the laws and regulations in force. The penalties shall vary depending on the nature, frequency or gravity of the offences committed, as appreciated by the Minister in charge of hydrocarbons, or by any public body duly mandated to that effect.^{Lxxix} The amount of fines shall be as for the offences of non-compliance with technical, safety, health or environmental rules will be 200.000.000 CFA frs(two hundred million Francs).^{Lxxx}

JURISDICTION/DECISION TO PROSECUTE

According to Section 765^{Lxxxii} of the code Communautaire De La Marine Marchande 2012., has sent any party who has suffered any misdemeanours or crime, has the right to cease the common law jurisdiction in civil matters, in conformity with the laws in place in each member state. In any case, it can issue a ... Writ of Summon directly to the suspect in case of a crime, but have to see examining magistrate.

Claims maybe be brought in the courts of the party in which loss of damage has occurred or prevent measures taken and the judgments of such courts are generally recognisable and enforceable in the courts of all parties.^{Lxxxiii} The jurisdiction to try offences under the code is conferred concurrently on the court of First Instance (Magistrate Court)^{Lxxxiii} and the High Court. In fact, section 764 of the code Communautaire De La Marine Marchande 2012, stipulates that State Counsels of each Member State can sue if he believes there was the commission of simple offence, misdemeanours and felonies as found in this code.^{Lxxxiv} Again, section 12 of the Cameroon Penal code lays down the principle that any offence created by the criminal law of Cameroon falls within the jurisdiction of the courts of Cameroon. According to the Cameroon Judicial Organization^{Lxxxv} the jurisdiction of the Magistrate Court is both criminal and civil.^{Lxxxvi} In later matters the court tries all offences but felonies. In essence, in criminal matters, the court of First Instance (Magistrate Court) have criminal jurisdiction in offences classified as misdemeanours and simple offences (not crimes).^{Lxxxvii} Meanwhile following section 764 of the code Communautaire De La Marine Marchande, even felonies fall within the ambit of the Magistrate Court. This means that the criminal jurisdiction (which include that of juvenile delinquency) is limited to misdemeanours and simple offences. In this case, the criminal law of the Republic of Cameroon shall apply in matters that fall within the ambit of vessel-source oil pollution in Cameroon. In civil matters the law stipulates that the court of First Instance (Magistrate Court) has civil jurisdiction in cases where the amount of the damages claimed does not exceed 10.000.000 (ten million) Francs.^{Lxxxviii}

Furthermore, the Cameroon Judicial Organization, 2011 states clearly that “notwithstanding the provisions of sub-section (1) (b), above where the Court of First Instance hears a suit filed as a result of a criminal offense as provided for in paragraph (a) above, it shall have jurisdiction even where the amount of the claim is above 10.000.000 (ten million) Francs”^{Lxxxix}

CONCLUSION AND RECOMMENDATIONS

In the domain of oil pollution, Cameroonian nationals' fervour has been mainly economic as demonstrated by legislations providing for production-sharing, employment and training of Cameroon nationals in oil industry and joint-marketing efforts. The government has succeeded generally in this respect in limiting the unfavorable activities of the oil industry cartel within the framework of state control and direction. Unfortunately, in the area of control of the harmful effects of oil exploration and exploitation activities, effective action by government has been rather limited. The impression one gathers is that as long as government percentage from oil activities keep flowing in, few questions are raised or encouraged about the damaging side-effects of such activities. But government must not be seen as being hand in gloves with foreign oil interests to the detriment of the welfare of her citizens. The existing regime of criminal liability for oil pollution in Cameroon is inadequate, haphazard, and ineffective. One can justifiably conclude that there is indeed no coherent philosophy of criminalization for oil pollution offences. The supposedly comprehensive legislation on criminal liability for oil pollution (i.e. Code Communautaire de la Marine Marchande), is no more than a rehash or recap of international conventions opinion on the matter. Again, the 1996 Law Relating to Environmental Management in Cameroon and the Petroleum Code 2019 has made commendable improvements in the situation but its effectiveness may be compromised by the absolute back up of aggressiveness by the administrators in tracking down and punishing polluters. We therefore recommend that a strong prosecuting arm of the Inspectorate Division be established to monitor criminal breaches of pollution laws.

Again, criminal liability for oil pollution ought to be discussed and developed at the international level especially by experts of this area. The present practices whereby oil industries adopt all kinds of subterfuge to avoid detection and responsibility for oil pollution should be looked into properly and critically.

In Cameroon, the relevant laws have already laid down the rules concerning proper operations, exploitation activities of oil companies. It is usually non-compliance with or disregard of these operating guidelines that results in many pollution incidents.

In the final analysis, it is realized that pollution is an international problem, we still have to seat up and to consider seriously, peculiar local circumstances such that policies are formulated in the light of Cameroonian interests. It is felt that only when the business of regulating oil

pollution is made more of a shared effort amongst all the relevant stakeholders can there be more effective implementation of prescribed pollution standards.

REFERENCES

- i. The various sources of energy are; Petroleum, Hydrocarbon Gas Liquids, Natural Gas, Nuclear and Coal.
- ii. Oil is a fossil fuel, petroleum is formed when large quantities of dead organisms, mostly zooplankton and algae, are buried underneath sedimentary rock and subjected to both intense heat and pressure. Petroleum has mostly been recovered by oil drilling (natural petroleum springs are rare).
- iii. Odell P., *Oil and World Power. A Geographical Interpretation.* Pelican Books, (1972). p. 1.
- iv. For the meaning of “pollution”, see Intergovernmental Oceanographic Commission (IOC) or UNESCO. It defines Pollution as the “introduction by man directly or indirectly of substances or energy in to the environment resulting in such a deleterious effect as harm to living resources, hazards to human health, hindrances to marine activities including fishing impairment of quality for use of seawater and reduction of amenities”. In Cameroon, pollution is defined in section 4
- v. Law N^o 96/12 of 5th August, 1996 Relating to Environmental Management in Cameroon. The Central African Economic and Monetary Community (CEMAC) is a regional code made up of six States namely; Cameroon, Gabon, Chad, the Central African Republic (CAR), Equatorial Guinea and the Republic of the Congo.
- vi. The 1996 Law Relating to Environmental Management in Cameroon, The Cameroon Penal Code, 2016, The Law of 1983, and The Cameroon Petroleum Code, 2019.
- vii. Section 59, Criminal Procedure Code, 2005.
- viii. Law N^o 96/06/ of 18 January 1996 to amend the Constitution of June 1972.
- ix. Article 1 (3), Cameroon Constitution, 1996.
- x. Criminal law is defined as the body of law defending offenses against the community at large, regulating how suspects are investigated, charged, and tried, and establishing punishments for convicted offenders. For details, see Bryan A. Garner, *Black’s Law Dictionary.* 9th Edition. West-Group Publishing, 2004. at 431.
- xi. Edwin Drake’s 1859 Well near Titusville, Pennsylvania, is popularly considered the first modern well. Drake’s well is probably singled out because it was drilled, not dug; because it used a steam because there was a company engine; associated with it; and because it touched off a major boom. For more information, see *History of the Petroleum Industry.* Available at: en.wikipedia.org/wiki/History_of_the_petroleum_Industry (Consulted on: 7/5/2015 at 11:15 am).
- xii. Gerard J. Mangone., *Law for the World Oceans.* London. Published by Eastern Law House Private Limited of 54 Ganesh Chunder Avenue Calcuter and Stevens and Sons Limited of II New Fetter Lane, Calcuter, University of Calcuter. (198) at 1.

- xiii. Forjindam D. Mundi., *Oil and Gas Law in Cameroon Theory and Practice (Unmasking The Mystery)*, Editions Fénix, Macacos, Douala, (2020), at 23 -29.
- xiv. *Id.* at 24.
- xv. The period from 1977-1986, i.e. within nine (9) years this era was marked by the intensification of oil exploration and exploitation in a global context marked by the second oil crisis (the increase in oil prices as well as the increase in value of the USD value.
- xvi. The Oil and Gas Sector: Available at: https://www.Gov.uk/government/uploads/system/upload/attachment_data/file/237131/Cameroon_Doing_Business_Guides_Pt2_pdt, p.8 (Consulted on: 7/10/2014 at 10:45 a.m), p.6.
- xvii. *Id.*
- xviii. *Id.*, at.7.
- xix. Freshfields Bruckhaus Deringer LLP Cameroon March 2013. Available at: <https://s3.amazonaws.com/rgi-documents/d199adeaa238d4e8f2798c43e5568074cf4e89a3.pdf> (Consulted on: 28/5/2015).at1.
- xx. For further information on the history of Oil in Cameroon, see Forjindam D. Mundi., *Oil and Gas Law In Cameroon Theory and Practice (Unmasking The Mystery)*.Editions Fénix. Macacos, Douala, (2020), at 23-29.
- xxi. Règlement N°08/12-UEAC-008-CM-23 Portant adoption du Code Communautaire de la Marine Marchande, 22 Juil, 2012 à Brazzaville.
- xxii. Law N° 96/12/ of 5th August, 1996 Relating to Environmental Management in Cameroon, Cameroon Penal Code, 2016, Loi N°83/016 Du 21 Juillet, Règlementant la Police a Intérieur des Domaines Portuaires .and Petroleum code, 2019.
- xxiii. Article 325, Code Communautaire de la Marine Marchande. 2012 that reads : “...le rejet à la mer d’hydrocarbures ou de mélange d’hydrocarbures dans les eaux maritimes est interdit à tous les navires autres que les pétrolier,...”. (Note that this text exist only in French and has not translated either into English or Spanish for users of the English part of Cameroon since it is a bilingual country as well as Equatorial Gurnee where their official language is Spanish).
- xxiv. Article 326, Code Communautaire de la Marine Marchande. 2012 “...Le rejet à la mer d’hydrocarbures ou de mélanges d’hydrocarbures dans les eaux maritimes est interdit à tout pétrolier, sauf lorsque les conditions suivantes sont réunies ; ...”.
- xxv. Code Communautaire de la Marine Marchande, 2012.
- xxvi. The International Convention for the Prevention of Pollution of the Sea by Oil 1954 (Oil Pol, 1954), 327 UNTS 3 (In force 26 July, 1958).
- xxvii. *Id.*
- xxviii. Article 326, Code Communautaire de la Marine Marchande, 2012.
- xxix. Article 327(1), Code Communautaire de la Marine Marchande, 2012.
- xxx. Article 327(2), Code Communautaire de la Marine Marchande, 2012.
- xxxi. Article 333, Code Communautaire de la Marine Marchande, 2012.
- xxxii. Article 348 (1), Code Communautaire de la Marine Marchande. 2012.. It states “‘Toutes dispositions techniques devront être prises pour éviter des pollutions accidentelles au cours de l’exploitation des plates-formes. Ces dispositions doivent être précisées dans le Cahier des Charges annexé au contrat de la Société

- exploitante. L'autorité administrative compétente chargée des mines de chaque Etat membre devrait en concertation avec l'autorité maritime compétente faire procéder aux inspections techniques nécessaires pour s'assurer du respect de ces dispositions”.
- xxxiii. Decree N° 99-126 of 15 June 1999, fixing the creation of Port Autonomous of Douala. (PAD). For more information, see “L'Agenda du Président de la République du Cameroun.” 2010.
- xxxiv. Decree N° 99-127 of 15 June 1999, fixing the creation of Port Autonomous of Limbe. (PAL).
- xxxv. Decree N° 99-132 of 15 June 1999, fixing the creation of Port Autonomous of Kribi (PAK). For ample information see Journal Officiel n° 10, Juillet 1999, at 2120-2131.
- xxxvi. Decree N° 99-133 of 15 June 1999, fixing the creation of Port Autonomous of Garoua (PAG). For ample information, see Journal Officiel n° 10, Juillet 1999, at.2108-2120.
- xxxvii. Article 352, Code Communautaire de la Marine Marchande, 2012. It states, “Les exploitants de ports ou de terminaux portuaires doivent installer et mettre à la disposition des navires les capacités de réception des résidus d'hydrocarbures d'une capacité suffisante au regard des critères énumérés en paragraphe 3 de la Règle 12 de l'Annexe I, à la Convention MARPOL 73/78, pour ce qui concerne les ports et terminaux de chargement”.
- xxxviii. Article 328 (1), Code Communautaire de la Marine Marchande, 2012. It states, “Tout pétrolier ‘une jauge brute égale ou supérieure à 400 doit détenir un registre des hydrocarbures établi dans les conditions de la règle 20 de l'Annexe I de MARPOL 73/78’”. Note that Cameroon ratified MARPOL 73/78 on the 18 of December, 1998.
- xxxix. Article 328(2), Code Communautaire De La Marine Marchande. 2012.. It states, “Le modèle de registre d'hydrocarbures sera conforme au modèle prescrit par la convention MARPOL 73/78, Annexe I, Appendice III”.
- xl. CEMAC stands for ‘Communautaire Economique Et Monétaire de L'Afrique Centrale’ and translated in English as (Economic Community of Central African States).
- xli. Article 323 (1), Code Communautaire de la Marine Marchande, 2012.
- xlii. Law N° 96/12 of 5th August, Relating to Environmental Management in Cameroon, 1996.
- xliii. Article 264 and 265, Code Communautaire de la Marine Marchande. 2012; and Article 83 (1), Law N° 96/12 of 5th August Relating to Environmental Management in Cameroon, 1996.
- xliv. Loi N° 83/016 DU 21 Juillet 1983 Réglementant la Police à l'intérieur des domaines portuaires.
- xlv. Article 11 Law of 1983 reads, “Est puni d'un emprisonnement de trois mois à un an et d'une amende de 3.000.000 à 10.000.000 de francs, toute personne qui, du fait de fait de ses activités, pollue le domaine portuaire”.
- xlvi. Section 59 (2), Criminal Procedure Code 2005. i.e. Law N°2005/007 of 27 July, 2005 On the Cameroon Criminal Procedure Code
- xlvii. Bryan A. Garner., Black's Law Dictionary. 9th Edition, West-Group Publishing, (2004), at 482.
- xlviii. Article 319 (a), Code Communautaire de la Marine Marchande, 2012.

- xlix. Article 319 (b), Code Communautaire de la Marine Marchande, 2012.
- l. Article 83 (4), Law N° 96/12 OF 5th August, Relating To Environmental Management in Cameroon, 1996.
- li. Oserheimen A. Osunbor. Struan, S. et al., Environmental Law and Policy, (ed), Law Centre, Faculty of Law, Lagos State University Publication. (1998), at. 417- 418.
- lii. Article 319 (a), Code Communautaire de la Marine Marchande, 2012.
- liii. Article 319 (b), Code Communautaire de la Marine Marchande, 2012.
- liv. Article 327 (1), Code Communautaire de la Marine Marchande, 2012.
- lv. Article 265, Code Communautaire de la Marine Marchande, 2012. The Code opins “...est interdit à tout pétrolier, sauf lorsque les conditions suivantes sont réunies ;- le pétrolier effectue un tel rejet en route ; le pétrolier est à plus de 50 milles des lignes de base servant à déterminer la mer territoriale ; le taux instantané du rejet d’hydrocarbures ne dépasse pas 60 litres par mille marin ; la quantité totale d’hydrocarbures rejetée à la mer ne dépasse pas 1/15000 de la quantité totale de la cargaison particulière dont les résidus proviennent ;le pétrolier utilise, sauf dans les cas prévue à la règle 15§ 3 de l’annexe I de MARPOL 73/78 un système de surveillance continue et de contrôle des rejets d’hydrocarbures et un ensemble de citernes de décantation tels que prescrits à cette même règle 15”.
- lvi. *Tennet v. Earl of Glasgow* (1864); *Greenock Corporation v. Caledonian RY Company A.C.556*, (1917).
- lvii. Law N°96/12 of 5th August, Relating To Environmental Management in Cameroon, 1996.
- lviii. Cameroon acceded the 1992 Civil Liability Convention. The date of 15 October 2001 marked the date of deposit of instrument. For details, see Forjindam D. Mundi., *Infra* at 161.
- lix. Article III, (1), (2), Civil Liability Convention, 1992.
- lx. For details, see Forjindam, D. Mundi., *International and National Regulation of Vessel Source Marine Pollution: Implication For Sustainable Development And the Law In Cameroon*. Ph.D. Thesis. (Unpublished). Faculty of Law, University of Douala-Cameroon, (2015), at 251-253.
- lxi. Law N° 2016/007 of 12th July 2016.
- lxii. Article 261(a), Cameroon Penal, 2016.
- lxiii. Article 261(b), Cameroon Penal, 2016.
- lxiv. For example, Cameroon Criminal/Penal Code, 2016, Law N° 83/016 of 21 July 1983 Regulating the Interior Police of the Port Domain, Law N° 96/12 of 5th August Relating to Environmental Management in Cameroon 1996, and Law N°2019/008 of 25 April, 2019 on Petroleum Code.
- lxv. For a better comprehension, see Forjindam D. Mundi., *International and National Regulation of Vessel Source Marine Pollution: Implication For Sustainable Development And the Law In Cameroon*. Ph.D. Thesis. (Unpublished). Faculty of Law, University of Douala-Cameroon. (2015), at. 253-254.
- lxvi. Loi N° 83/016 DU 21 Juillet 1983 Réglementant la Police à l’Intérieur des Domaines Portuaires.
- lxvii. Article 11 of the Law of 1983 reads: “Est puni d’un emprisonnement de trois mois à un an et d’une amende de 3.000.000 à 10.000.000 de francs, toute personne qui, du fait de fait de ses activités, pollue le domaine portuaire”.
- lxviii. Section 59 (2), Criminal Procedure Code, 2005.

- lxxix. Section 59 (3), Criminal Procedure Code, 2005.
- lxxx. Law N°96/12 OF 5th August, Relating To Environmental Management in Cameroon, 1996.
- lxxxi. Article 82 (1), Law N°96/12 OF 5th August, Relating To Environmental Management in Cameroon, 1996.
- lxxxii. Article 82 (2), Law N° 96/12 OF 5th August Relating To Environmental Management in Cameroon, 1996.
- lxxxiii. Article 83 (1), Law N°96/12 OF 5th August Relating To Environmental Management in Cameroon, 1996.
- lxxxiv. Article 83 (2), Law N°96/12 OF 5th August Relating To Environmental Management in Cameroon, 1996.
- lxxxv. Article 83 (3), Law N°96/12 OF 5th August Relating To Environmental Management in Cameroon, 1996.
- lxxxvi. Oserheimen, A. Osunbor, Struan, S. et al., Environmental Law and Policy. (ed).Law Centre. Faculty of Law. Lagos State University Publication. (1998), at 246.
- lxxxvii. *Id.*, at 246.
- lxxxviii. Law N° 2019/008 of 25 April, 2019 To Institute The Petroleum Code
- lxxxix. Section 132 (1), Cameroon Petroleum Code, 2019.
- lxxxx. Section 132(2) (c). Cameroon Petroleum Code, 2019.
- lxxxxi. Article 765 reads thus : “La partie lesee par tout delit ou crime, a le droit de se porter partie civile devant les juridictions de droit commun, conformément aux dispositions en vigueur dans chaque Etat membre. Toutefois elle ne peut delivrer citation directs aux suspect en cas crime, mais doit saisir le juge d’instruction ».
- lxxxxii. Malcom, N. Shaw., International Law. Fourth Edition. A Grotius Publication. Cambridge University Press. (1998).at 631.
- lxxxxiii. Magistrates have fewer and more limited powers than judges. They can hear larger, more complex cases while Magistrate courts hear smaller matters. The rule charges here because no matter the large nature of the offence, the Court of First Instance is competent to hear the matter.
- lxxxxiv. Article 764, Code Communautaire de la Marine Marchand, 2012.
- lxxxxv. Law N° 2006/015 of 29th December, 2006 as amended and Supplemented by Law No 2011/027 of 14th December 2011.
- lxxxxvi. Section 15 (1) (a), Cameroon Judicial Organization, 2011.
- lxxxxvii. *Id.*
- lxxxxviii. Section 15(1) (b), Cameroon Judicial Organization, 2011.
- lxxxxix. Section 15 (3) (b), Cameroon Judicial Organization, 2011.