

# SECURITY AND HEALTH MEASURES PROVIDED FOR BY THE CAMEROON LABOUR LEGISLATION: AN APPRAISAL OF THESE MEASURES IN THE FACE OF COVID-19

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## ABSTRACT

The rights of workers were seriously affected by the outbreak of COVID-19. Coronavirus disease (COVID-19) is an infectious disease caused by a newly discovered coronavirus. Employers have an obligation to protect workers during this pandemic. Therefore, this paper aims to examine the Security and Health Measures available to workers in Cameroon. It has become clear that most governments in the world underestimated the risks of rapid COVID-19 spread predominantly in African countries and were mostly reactive in their crisis response. As disease outbreaks are not likely to disappear in the near future, this work recommends that proactive international actions be required to save lives and protect economic prosperity.

## INTRODUCTION

The rights of workers were severely affected by the outbreak of COVID-19. The term ‘worker’ has been defined by the Cameroon Labour Code established by Law No.92/007 of August 14 1992. Section 1(2) of the code defines ‘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 a public or private corporation, considered as the ‘employer’*. For the purpose of determining whether a person is a worker, no account shall be taken of the legal position of employer or employee”. This means that a worker can be any person of the required age, whether a male or female or whether he or she is a foreigner or not. The worker has rights that the Labour legislation protects at all times, even in the face of pandemics like COVID-19.

Coronavirus disease (COVID-19) is an infectious disease caused by a newly discovered coronavirus. Most people infected with the COVID-19 virus experience mild to moderate respiratory illness and recover without requiring special treatment. The disease was discovered in December 2019. On December 31 2019, a series of pneumonia cases of unknown cause was detected in the People’s Republic of China (PRC). On January 30 2020, the World Health Organization (WHO) declared the coronavirus outbreak a “public health emergency of international concern”, with 7,736 confirmed cases in the PRC and 83 confirmed cases in 18 economies outside the PRC<sup>1</sup>.

The Cameroon Labour Legislation protects both female and male workers in the Labour market, especially in the face of a pandemic like COVID-19. Employers are obliged to provide Workers with security and health measures at the workplace. Section 120 of the Labour Code provides that a National Commission on Industrial Health and Safety shall be set up under the Ministry in charge of Labour. It shall be charged with the study of problems related to industrial medicine and the hygiene and safety of workers. In this capacity, it shall be responsible for; (a) making suggestions and recommendations concerning laws and regulations to be made in the above fields ; (b) making recommendations for the benefit of employers and workers, insurance bodies and various ministries concerning the protection of the health of workers; (c) making proposals concerning the approval of dangerous machinery and manufacturing processes likely to endanger the health of workers; and (d) carrying out or participating in any work of a scientific nature falling within its sphere of activity.

## THE SECURITY MEASURES

Article 2(1) of Order N<sup>o</sup>.039<sup>ii</sup> states, “*The employer is directly responsible for the application of all measures of prevention, hygiene and safety intended to ensure the protection of the health of the workers uses.*” When several employers simultaneously use workers at the same workplace, they must work together to provide all workers with protection as effectively as possible. Nevertheless, each employer remains responsible for damages caused by his activities<sup>iii</sup>. Any employer who uses manufacturing processes involving special risks or likely to cause occupational diseases is required to make the declaration before the commencement of the said works by registered letter addressed to the Minister of Labour and Social welfare (hierarchical channel)<sup>iv</sup>. The declaration must indicate the nature of the risks and the protective and preventive measures taken to protect workers from nuisance resulting from their activities<sup>v</sup>.

Section 95(1) of the Cameroon Labour Code<sup>vi</sup>, therefore, calls on the Minister in charge of Labour to determine workplace hygiene and safety conditions by Order. This is to be done after consulting the National Commission on Industrial Hygiene and Safety. The Order must consider the local conditions and contingencies and must equally aim at securing the workers’ standards of hygiene and safety conforming with those recommended by the International Labour Organization and other internationally recognised technical bodies<sup>vii</sup>. The Order must specify the cases and circumstances in which Labour Inspectors or occupational Health Doctors shall have recourse to the procedure of serving formal notice on the employer. However, where there is an impending threat to the health and safety of workers, as was the case with the outbreak of COVID-19, the Labour Inspector or the occupational Health Doctor shall order immediately enforceable measures to be taken<sup>viii</sup>. But what if the working conditions endangering the safety or health of the workers are not those covered by the Orders of the Minister within the meaning of Section 95? Section 96(1) of the Labour Code gives a simple answer to this question. It provides that where there are working conditions endangering the safety or health of the workers but not covered by orders referred to in Section 95, the Labour Inspector or the occupational Health Doctor shall request the employer to remedy the situation. If the employer objects, the dispute shall be referred to the National Commission on Industrial Hygiene and Safety, which shall give a ruling. In all cases, the Labour Inspector or the Occupational Health Doctor shall report to the said Commission on working conditions deemed dangerous so that appropriate regulations may, if necessary, be prepared<sup>ix</sup>.

## THE HEALTH MEASURES

Article 15(1) of Order N<sup>o</sup>.039<sup>x</sup> states, “*All work premises must meet technical conditions guaranteeing hygiene and satisfactory safety for workers.*” To this end, construction, expansion or transformation projects of buildings serving as workplaces must be sent by the employer before execution. The projects are accompanied by plans indicating the location of the constructions, the nature and arrangement of fittings, and mechanical, electrical, sanitary and other installations. The public bodies responsible for issuing building permits are required to take into consideration the opinion issued by the Labour Inspector

Section 98(1) of the Labour Code provides that every enterprise and establishment of any kind, public or private, lay or religious, civilian or military, including those where persons are employed in connection with work in the professions and those belonging to trade unions or professional associations, shall provide medical and health services for their employees. The functions of such services shall be to supervise conditions in respect of hygiene in the establishment, the risks of contagion and the state of health of the workers and of their spouses and children if housed by the employer as well as to take the appropriate preventive measures and provide the necessary medical care<sup>xi</sup>.

The conditions under which workers and their families may benefit from health coverage shall be laid down by the Order of the Minister in charge of Labour, issued after consultation with the National Commission for Industrial Hygiene and Safety<sup>xii</sup>. The medical and health service shall be under the responsibility of medical doctors, who shall be recruited preferably from among practitioners holding diplomas in industrial medicine and who shall be assisted by qualified paramedical personnel<sup>xiii</sup>. All persons so employed shall have been previously approved by a decision of the Minister in charge of Labour issued after consultation with the Minister of Public Health in case of paramedical personnel, consultation with the medical association, in case of doctors. Approval requirements shall be fixed by joint Order of the Minister in charge of Labour and the Minister in charge of public health<sup>xiv</sup>.

According to the size and nature of the establishment, its location and the medical infrastructure available, the medical and health service shall be organised: (a) Either in the form of a separate service within the establishment concerned or in the form of a joint service for several establishments; (b) Or based on an agreement made with a public or private hospital<sup>xv</sup>. The

procedure for the setting up, organisation and functioning of medical and health services as well as the number and the qualifications of the medical and paramedical personnel to be employed in each establishment, having regard to local conditions and to the number of workers and of workers' dependents, shall be determined by Order of the Minister in charge of Labour issued after consultation with the National Commission for Industrial Hygiene and Safety<sup>xvi</sup>.

Without prejudice to the special measures taken for hygiene purposes and for the prevention of certain occupational diseases or the protection of certain categories of workers, all workers shall undergo a medical examination before engagement<sup>xvii</sup>. Workers shall also be subject to medical supervision throughout their careers<sup>xviii</sup>. Orders by the Minister in charge of Labour issued after consultation with the National Commission for Industrial health and safety shall determine the procedure regarding the medical examinations to be performed before and after engagement<sup>xix</sup>.

Where a worker or workers' spouse(s) or child (children) housed by the employer falls ill, the employer shall provide medical care and the necessary medicaments and accessories within the pecuniary limits determined by Order of the Minister in charge of Labour issued after consultation with the National Commission for Industrial Hygiene and Safety<sup>xx</sup>. The employer shall also be required to provide a board for every sick worker detained in the infirmary at his establishment<sup>xxi</sup>. The employer shall arrange for the removal to the nearest medical unit of any sick or injured person fit to be moved who cannot be treated with the facilities at the employer's disposal<sup>xxii</sup>. If the employer has not suitable transport immediately available for the above purpose, he shall, without loss of time, the head of the nearest administrative unit, who shall cause the patient to be removed by transport at his disposal<sup>xxiii</sup>. Where the sick or injured persons are not fit to be moved, the administrative authority notified by the employer shall arrange for medical care to be provided on the spot<sup>xxiv</sup>. The employer shall repay all costs incurred by the Administration in this connection at the official rates<sup>xxv</sup>. An order of the Minister in charge of Labour, issued after consultation with the National Commission for Industrial Hygiene and Safety, shall determine the circumstances in which employers are required to set up medical services and to provide these with medicaments and accessories<sup>xxvi</sup>.

## **SANCTIONS FOR VIOLATION OF SECURITY AND HEALTH MEASURES**

Article 72(1) of Order N<sup>o</sup>.039 is to the effect that all devices, machines or parts of machines recognised as dangerous must be arranged or protected to prevent personnel from entering voluntarily or unintentionally in contact with them during operation. In particular, the following are recognised as dangerous: a) machine components comprising control and transmission components such as connecting rods, wheels, flywheels, shafts, gears, cones or friction cylinders, chains, cams, sliders ...b) parts of machines intended for coupling with another machine or for receiving mechanical energy, transmission belts and cables; c) machine parts with accessible parts protruding from the parts in the movement of these machines such as stop screws, buttons, keys; d) all other machines or elements liable to cause an accident, such as beat, grind, crush, cut, knead, squeeze, crush, knead, roll; e) gas or vapour pressure devices operated at a pressure greater than the pressure atmospheric. Those charged in their respective jurisdiction with implementing these measures by virtue of Article 129 of Order N<sup>o</sup>.039 are the Labour Inspectors and the health and safety control officers of the National Social Security Fund.

## **SIMPLE OFFENCES FOR VIOLATION OF SECURITY AND HEALTH MEASURES**

Article 131 of Order N<sup>o</sup>. 039 states, “*Breaches of the provisions of this decree are punishable by the penalties provided for in article R.370 (12e) of the penal code.*” Section 261 of the Cameroon Penal Code is to the effect that whoever, including employers by his operations: a) pollutes any drinkable water liable to be used by another, in this case, the employer or b) so pollutes the atmosphere as to render it harmful to human health, shall be punished with imprisonment for from 15 (fifteen) days to 6 (six) months, or with a fine of from CFAF 5 000 (five thousand) to CFAF 1 000 000 (one million), or with both such imprisonment and fine.

## **REINFORCEMENT OF SECURITY AND HEALTH MEASURES IN THE FACE OF COVID-19**

### *The Response*

The most common public health measure taken by States, including Cameroon, against COVID-19, has been restricting freedom of movement: the lockdown or stay-at-home instruction. This measure is a practical and necessary method to stop virus transmission, prevent healthcare services from becoming overwhelmed, and thus save lives. On March 18 2020, Cameroonian Prime Minister Joseph Dion Ngute closed its land, air and sea borders. On March 30, the Minister of Health announced the imminent launch of a coronavirus test campaign in Douala. Dedicated teams were to go door-to-door in the economic capital from April 2 to 6, 2020. The first death occurred on March 24 2020, and the deceased was the famous saxophonist Manu Dibango. By the end of March 2020, six persons had died from COVID-19 in Cameroon; by April 2020, there were 56 deaths<sup>xxvii</sup>. The impact of lockdowns on jobs, livelihoods, and access to services, including health care, food, water, education and social services, safety at home, adequate standards of living and family life, can be very severe; freedom of movement is a crucial right that facilitates the enjoyment of many other rights.

The Constitutions of most countries protect freedom of expression; however, as soon as these countries introduced emergency regimes to fight the Covid-19 pandemic, media rights were restricted by their governments. Claiming the need to protect the public from panic and keep people informed with correct data, some countries adopted new laws or added provisions to their criminal statutes penalising the distribution of false news<sup>xxviii</sup>.

The widespread closure of schools interrupted the education of more than 1 billion children and led to the reduction of care and protection services for children, including the abrupt closure of care institutions and health services serving children and this increased children's vulnerability to violence, exploitation and abuse.

### *Absence of Protection for Workers*

It has become clear that most governments in the world underestimated the risks of rapid COVID-19 spread, especially in African countries, as they were reactive in their crisis response. In most workplaces, the workers were not adequately protected against the virus. For example, workers in Hotels, Bars, Schools, Public Transport, and Supermarkets were not adequately protected. In places like hotels, the workers were not adequately protected by the employers; most employers provided only face masks, washing cans and hand sanitisers for the workers who were exposed to customers who came from many places to lodge in the various hotels. The workers of these hotels were not allowed by their employers to stay home and observe the COVID-19 measures.

Bars were not allowed to open after 6 pm; however, the workers were not protected by their employers during working hours; in the course of serving the customers, they did not respect social distancing; bar attendants collected money directly from the customers in blatant violation of the one-meter social distancing rule.

In schools, for example, at the University of Buea, washing cans and hand sanitisers were provided for use within the campus. Still, the students never respected the strict use of face masks. Seats were arranged in Open Amphitheatre to respect the one-meter social distancing rule, but this was practically not the case as students distorted the seating arrangements. Students equally never respected the one-meter social distancing within the campus, as they could be seen talking and hugging each other. In public transport, the COVID-19 preventive measures were not strictly respected as the one-meter social distancing could not be respected by the passengers within the bus.

## **THE ABSENCE OF SANCTIONS IN THE CASE OF VIOLATION OF SECURITY AND HEALTH MEASURES**

Section 260(1) of the Penal Code provides that “*Whoever by his conduct facilitates the communication of any dangerous infectious disease shall be punished with imprisonment for from 3 (three) months to 3 (three) years.*” Employers have an obligation to provide a healthy environment or workplace for the employees to carry out their work; where they fail to do so,



they ought to be punished. But this has not been the case in violating the health measures for the protection of workers during the COVID-19 pandemic. Workers who died during the pandemic were buried hurriedly without engaging the employers' liability before the courts. Most of the families of the deceased workers never received any form of compensation from the employers.

## CONCLUSION

COVID-19 affected workers all over the world. According to the Director-General of the International Labour Organisation, Guy Ryder<sup>xxix</sup>, *“The safety and health of our entire workforce is paramount today. In the face of an infectious disease outbreak, how we protect our workers now clearly dictates how safe our communities are, and how resilient our businesses will be, as this pandemic evolves.”* This, therefore, means employers have an obligation to protect workers during this pandemic. The Cameroonian legislators equally provide this obligation of employers to protect workers during the pandemic as Section 95 of the Cameroon Labour Code states that *“(1) Hygiene and safety conditions at the workplace shall be determined by orders of the Minister in charge of Labour, issued after consultation with the National Commission on Industrial Hygiene and Safety. (2) The said orders, while taking local conditions and contingencies into account, shall aim at securing for the workers standards of hygiene and safety conforming with those recommended by the International Labour Organization and other Internationally recognised technical bodies.”*

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Peter Roudik, *Freedom of Expression during COVID-19*, Europe, The Law Library of Congress, Global Legal Research Directorate, 2020.

## ENDNOTES

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<sup>i</sup>Bill Chappell, “COVID-19: COVID-19 Is Now Officially a Pandemic, WHO Says,” National Public Radio, March 11, 2020. Available at <https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/COVID-19-COVID-19-is-now-officially-a-pandemic-who-says>. Accessed on the 11<sup>th</sup> of October 2022.

<sup>ii</sup>Order N°. 039/MTPS/IMT of November 26, 1984 fixing the general health and safety measures in the workplace.

<sup>iii</sup>*Ibid*, Section 2(2).

<sup>iv</sup>*Ibid*, Section 3(1).

<sup>v</sup>*Ibid*, Section 3(2).

<sup>vi</sup>Law No. 92/007 of 14 August 1992.

<sup>vii</sup>Cameroon Labour Code, Section 95(2).

<sup>viii</sup>*Ibid*, Section 95(3).

<sup>ix</sup>*Ibid*, Section 96(1).

<sup>x</sup>Order N°. 039/MTPS/IMT of November 26, 1984 fixing the general health and safety measures in the workplace.

<sup>xi</sup>Cameroon Labour Code, Section 98(2).

<sup>xii</sup>*Ibid*, Section 98(3).

<sup>xiii</sup>*Ibid*, Section 99(1).

<sup>xiv</sup>Cameroon Labour Code, Section 99(2).

<sup>xv</sup>*Ibid*, Section 99(3).

<sup>xvi</sup>*Ibid*, Section 99(4).

<sup>xvii</sup>Law No. 92/007 of 14 August 1992, Section 100(1).

<sup>xviii</sup>*Ibid*, Section 100(2).

<sup>xix</sup>*Ibid*, Section 100(3).

<sup>xx</sup>Cameroon Labour Code, Section 101(1).

<sup>xxi</sup>*Ibid*, Section 101(2).

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<sup>xxii</sup>*Ibid*, Section 102(1).

<sup>xxiii</sup>*Ibid*, Section 102(2).

<sup>xxiv</sup>*Ibid*, Section 102(3).

<sup>xxv</sup>Law No. 92/007 of 14 August 1992, Section 102(4).

<sup>xxvi</sup>*Ibid*, Section 103.

<sup>xxvii</sup>World Health Organization, Coronavirus disease 2019 (COVID-19) Situation Report 72, 2020. Available at 20200401-sitrep-72-covid-19.pdf (who.int). Accessed on the 11<sup>th</sup> of October 2022.

<sup>xxviii</sup>Peter Roudik, *Freedom of Expression during COVID-19*, Europe, The Law Library of Congress, Global Legal Research Directorate, 2020.

<sup>xxix</sup>Guy Ryder, Protect workers both now and after lockdowns ease, International Labour Organization (ILO), available at: [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_742898/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_742898/lang--en/index.htm). Accessed on the 11<sup>th</sup> of October 2022.

