

Cameroonian Mining Milieu and the Situation of the Health and Safety of Mineworkers: The Legal Implications and Emerging Challenges

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Abstract

From time immemorial and even as it is nowadays, mining operations has been coined as one of the world's most dangerous activities that are associated with a lot of high risks including loss of lives and untold accident and diseases. This issue of the protection of the health and safety of mineworkers in Cameroon in particular and the world at large has been a called for concern for quite some time and even as we speak. Mining being relatively a new field, the Cameroonian Government still has so many things to put together, especially in the domain of it legislation. One of such is the protection of workers therein. Given that the 1992 Cameroonian Labour code on the one hand has no express or specific provisions for the health and safety of mineworkers and the newly 2016 mining code of Cameroon on the other hand which is the main piece of legislation governing mining operations has not done any better, especially as the protection of the health and safety of such categories of workers in the national territory is concern, and even as a member of the ILO, she has failed to ratify some important ILO Conventions, especially Convention no 176 concerning safety and health of workers in mines, whose purpose is to ensure the social protection of workers and to safeguard fundamental human rights in the mineral exploitation sector. This paper adopts a purely qualitative research method involving an in-depth content analysis based on primary and secondary sources of data collection, this paper questions the effectiveness of the protection of the health and safety of mineworkers in the Cameroonian mining milieu and challenges encountered.

Keywords: Status, Mineworkers, Health and Safety, Mining Milieu, Legal Implications-Emerging Challenges.

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INTRODUCTION

Mining activities across the world and Cameroon in particular are mostly characterized by a lot of high risk. That is, the environment where the mining activities are taking place is being affected and not living out the local population in the area. The mineworkers on the other hand, do face a lot of problems such as occupational accidents, occupational diseases and sometime mineworkers even loss their lives due to the dangerous, unhealthy and arduous inhuman mining operations they are exposed to [1]. The mineworkers face a constantly changing combination of workplace circumstances, both daily and through the work shift.

That is, some mineworkers work in an atmosphere without natural light or ventilation, thereby creating voids in the earth by removing material and trying to ensure that there will be no immediate reaction from the surrounding strata. However, despite the considerable efforts in many countries, the toll of death,

injury and diseases among the world's mineworkers means that mining still continue to remain as the most dangerous occupation. Mineworkers are always subjected to unsecured poor condition of work, especially in the case of underground mining where mineworkers have to go extra miles beneath the earth surface just to mine a mineral substance. Most of the walls of the underground mine areas are not adequately secured and can collapsed at any time, thereby killing the workers who are inside. Mineworkers suffer greatly as a consequence of the dangerous and inhuman activities they are exposed to without adequate compensation for the occupational accidents or any illness sustained at the mine sites.

These problems continue to persist, especially as mining companies ignore protection norms and regulations both national and international concerning the health and safety of mineworkers as they operate within the state of Cameroon. These make mining one of the world's most dangerous occupations. That is, over

the years, many serious accidents have occurred in various parts of the world, often with significant loss of lives.

The high risk that is usually associated with mining activities has made it to be often listed as one of (if not the most) dangerous jobs. For instance, the incidence of occupational accidents and diseases is a major obstacle which more often than not usually leads to death and injuries to the mineworkers which continue to plague mankind [2]. Mining operation is a very lucrative business in Cameroon. This is explained by the fact that numerous companies are presently carrying out mining and mining related businesses in Cameroon. One hundred and fifty six (156) exploration permits were issued by the Minister in charge of mines as of January 2014. That is, Cameroon has granted five mining permits following signed concessions between their owners and the government since the establishment of the old 2001 mining code and the 2016 mining code in Cameroon [3].

In Cameroon, more emphasis is laid on large scale mining (industrial mining) carried out by corporate bodies or a private individuals rather than small scale mining. Small scale mining is largely done by private individual who are Cameroonians. These individuals use simple tools like spades diggers to extract sand, gravel and crush rocks in quarries. Most of them usually lose their lives in the process, especially in areas where some of the activities is taking place is not well protected. For instance, in 2014, two brothers suspected that there is gold behind their house in a village called Nbeh in Santa and decided to mine it themselves. They enclosed the place and ask their mother not to come anywhere closer to the mine. They dogged several meters and connected light inside the pit for vision. They were using a lifter to descend into the hole. The pit collapsed and buried the two brothers inside.

It took days of search but nothing fruitful came out from the search even though the two brothers were involved in an illegal mining. As a matter of fact, a number of decrees have been issued to supplement the provisions of both 1992 labour code and 2016 mining code to ensure the protection of the health and safety of workers, especially mineworkers against any professional mishaps at the mine site. The protection of the health and safety of mineworkers will therefore be examined in the light of above code and decree of implementation and other related laws. The problem this paper seeks to address is that the protection of the health and safety of mineworkers in Cameroon is ineffective, which therefore sets in action the question; whether despite the high risk involved in the mining sector, can all the laws relatively guarantee the health and safety of mineworkers in Cameroon?

AN OUTLINE OF MINING AREAS IN CAMEROON AND MINING COMPANIES OPERATING THEREIN

The discovery of a variety of mineral deposits found in Cameroon makes the territory a heaven for any interested investor in the mining industry. That is, recently exploration and exploitation activities to determine mineral deposits have been carried out successfully in some regions in Cameroon [4]. For instance, we have bauxite deposits in Northern Cameroon found precisely in Ngaoundai and MinipMartap, while Bauxite in the West Region is in FongoTongo. Iron ore is located in Mbalam in the East Region and in Memelles in Kribi in the South Region. The South also has Nickel-cobalt and manganese deposits found in Lomie. Uranium and the real Earth elements (REEs) deposits are found in Iolodort and in poli in the North Region of Cameroon. Gold is found in Batouri and Betare-oya in the east region. Diamond deposits are in Mobilong in Boumba and Nkogo division [5].

With regards to the mining of diamond in Cameroon, it was for very long time conducted by artisan (small scale individual) miners in the East Region. Presently, development is underway for an industrial mining project of diamond deposits in East Region. The C & K company was created by Korea based C & k and KAPAM in Cameroon. The Mobilong diamond project is in Boumba and Ngoko division. The deposit is estimated at 18 million carats (approximately 3.5 tons). C &K immediately after it obtained an operational permit, claims that the project will provide approximately 115 direct and indirect jobs in the area. It is of interest to note that the C & K mining incorporation is the first foreign company to settle in the gold rich East Region of Cameroon [6].

As concerns the mining of Iron ore in Cameroon, it is usually mined using an open pit (also called open sky) technique. It is found mainly in the East and south Regions of Cameroon. In Mbalam, in the Haut Nyong division, there are reserves estimated at 215 million tons of hematite, and over 2 billion tons of itabrite. Another reserve in Mamelles, near Kribi in the South Region, is estimated at 330 million tons. There are a number of permits for exploration of potential Iron ore mines in Cameroon, but many of them are yet to be determined if they will proceed [7]. There are 3 projects that look sure to proceed in the near future which include: Sundance Resources Limited (Australia). It is based in Mbalam in the Haut Nyong division of the East Region of Cameroon. The second is African Aura mining, Inc (England). The company is split into two to explore Iron mining and one to explore gold mining. The company exploring Iron is called AFFERRO, and is working in Djoum and Nkout, South Region, close to Mbalam. SINOSTEEL Company (China) has an Iron exploration project in Mamelles, 15 km from Kribi, South Region where reserves are estimated at 330

million tons. There have been some difficulties in the exploration process because initially the company failed to communicate with the local population about the exploration activities and this upset the community.

Furthermore, Bauxite reserves are exploited in Adamawa Region of Cameroon. Bauxite is an ore composed of aluminum oxide and alumina hydroxide minerals. It is mined using an open pit technique. These minerals are found relatively close to the surface. This involves drilling, blasting, and removing large quantities of soil and subsoil with heavy machinery and then extracting the ore. The principal bauxite mining project currently planned in Cameroon is promoted by a joint venture mining company with headquarters in Yaounde called Cameroon Alumina Ltd. The two sites for the project are Minim Martap and Ngaoundal, both located in the Adamawa Region of Cameroon.

The company is owed by a consortium of 3 companies: Dubai Aluminum Company of United Arab Emirates, HINDECO of India, and Hydromine Inc of USA. The bauxite mine is expected to produce 8.5 million tons of bauxite per year over the next 25 years. The project includes construction of an alumina refinery which will produce around 3 million tons of alumina per year. The company also estimated that the project will lead to the creation of around 7000 direct and 6000-8000 indirect jobs during the peak of the execution, building/development phase and around 1500-2000 direct, and 4000 indirect jobs during the operation phase. Furthermore, the known Cameroonian mining company is GROUP BOCOM which in partnership with Canadian company ALS Global. GROUP BOCOM'S works have greatly advanced due to the experienced technicians and engineers, attaining the objectives of upgrading its mineral exploration activities in Cameroon [8]. Also, the exploitation of nickel, cobalt, and manganese is done by Geovic in Lomie.

THE NATURE OF MINING OPERATIONS

It must be said at the commencement that it is not our intention to be confined by any definition, for the simple reason that the concept of mining operation is a matter of history in Cameroon and should necessarily be looked in consonance with the socio-economic and political realities of the society. The question to be raised and answered here is what is mining operation and why has it become one of the world's dangerous activities and particularly a subject of much concern in Cameroon? Notwithstanding, the meaning of mining operation varies from one researcher to another, one exploration and exploitation company to another, and differentiation in projected rationale. This therefore means that it is not easy to give a generally accepted definition of mining that can contain its characteristics, functions or all that is associated with it. The definition of mining operation will therefore be examined from the legal perspectives. By mining operation, we mean exploration and

exploitation of mineral resources found on a particular portion of earth surface, usually on the space above or below the surface.

Black's Law dictionary [9] defines mining as "the process of extracting ore or minerals from the ground: the working of mine. This term also encompasses oil and gas drilling." When you create a mine [10], there are two things you can't avoid: a hole in the ground and a dump of waste rock. Mining is aimed at the extraction of mineral deposits. The necessary processes degrade the natural environment. Major methods constituting types of mining are used in the process of mineral extraction; underground mining and surface mining. Within the context of this paper, mining means the extraction of solid, liquid and gaseous mineral substances, irrespective of the process or the method involved, from the soil or surface of the soil, with a view of removing therein, useful substances. Mining comprises all operations directly or indirectly relating thereto [11].

COMMON RISKS FOUND IN THE MINING SECTOR

The mining industry has a reputation for being a risky business, with health risks that are varied and often quite serious, and it is important for miners to protect themselves accordingly. The following are the common types of risks found in the mining sector.

Coal dust

Dust inhalation or coal dust is one of the most common concerns for miners. "The ongoing inhalation of coal dust can cause what is colloquially known as 'miner's lung' or 'black lung'. Miner's lung is a form of the occupational lung disease group pneumoconiosis. It varies in severity, but symptoms include shortness of breath and scarring of lung tissue, which can cause ongoing respiratory issues," says Clark. Even though measures to prevent black lung have been legally enforced for many years now, new cases still occur among coal miners. Mining companies need to develop a dust control plan, and supervisors should ensure that dust control systems are working properly for every production shift. Mine workers should be trained on the hazards of over-exposure to coal mine dust. Respiratory protection should be used when dust control protection is being installed, maintained or repaired. Medical screening and surveillance is also essential.

Noise Mines are noisy places, with the constant of drilling and heavy machinery, and the potential for hearing damage is quite serious. "It can be easy for you to mentally get used to loud noises, but that doesn't mean that damage isn't still being done. Many mineworkers don't notice the damage to their hearing until long after they were first exposed to the noisy environment, as most damage occurs very slowly.

"Over-exposure to excessive noise can result in tinnitus (ringing in the ears), sleep disturbances, concentration problems and even permanent hearing loss," Clark explains. To protect workers against noise, mining companies should evaluate working conditions and noise exposure through risk assessments. Avoiding and reducing exposure can be achieved by applying engineering controls at the noise source or along the noise path to reduce exposures, such as vibration dampeners or absorptive panels. Regular maintenance of machines is also essential to reducing noise. Employer must ensure proper use of personal hearing protection amongst noise-exposed employees, while providing necessary health and safety training and maintaining up-to-date health surveillance records.

Whole body vibration

Whole body vibration (WBV) is a slow forming physical hazard that occurs in mining workers and other occupations that work with heavy machinery. "In the mining environment, WBV can be caused either by spending a lot of time sitting on machinery, which is most of the time in mining extraction, or by standing, such as working on jumbo operators. "Some forms of vibration are ok, but they become dangerous when they involve uneven surfaces, vehicle activity such as ripping versus pushing material in a bulldozer, and engine vibrations. "Symptoms of WBV include musculoskeletal disorders, reproductive damage in females, vision impairment, digestive problems and cardiovascular changes," Clark outlines. Again, reducing exposure also reduces the health risks and should be the first step that mining companies take. This might include filling in potholes on unmade roads, minimizing the transport of goods or materials, or replacing manned with unmanned machines such as remotely controlled conveyors. Where risks cannot be avoided, supervisors should reduce the time for which the employee uses the machine each day. Instruction and training are critical, and symptoms of back pain in employees should be closely monitored.

UV Exposure

For open-pit miners, understanding the risk of over-exposure to UV (ultraviolet) radiation in sunlight is essential. "Over exposure of ultraviolet rays can put you at risk of skin cancer, of which Australia for example has the highest rate in the world. Not only can UV rays cause melanomas to form, but they can cause serious damage to your eyes if you are not wearing protective eye wear. "In the short-term, overexposure to the sun can cause dehydration, headaches and nausea. Mine workers often spend whole days out in the baking hot sun, so are naturally at a very high risk of developing cancer and eye problems if they are not adequately protected," Clark explains.

Employers should conduct a risk assessment on outdoor work scheduled to assist in developing appropriate sun protection measures. The most effective way of reducing UV exposure is to use a combination of

protection methods, including re-organizing work to avoid the UV peak of the day, providing natural or artificial shade, providing appropriate protective clothing, and applying sunscreen. It is also important that employers train employees to raise awareness of the risks associated with exposure to UV and the sun protection measures required. Employers can provide skin cancer checks as part of regular workplace medical examinations and in pre-employment medical checks.

Musculoskeletal Disorders

Musculoskeletal disorders (MSDs) refer to any problems affecting your bones, muscles, blood vessels and nerves. "Mine workers are exposed to a variety of potential health risks that fall under this broad category. While musculoskeletal damage can occur due to a trip, fall or heavy lift, the more serious ones occur slowly over time. This could be due to ongoing heavy lifting or repetitive strains," says Clark. Preventing MSDs need to be a key part of every workplace health and safety program. In safe and healthy workplaces, employers should identify and assess job-related MSD hazards and put in place controls to reduce workers' exposure to MSD hazards. Furthermore, workers should be advised and trained about MSD hazards in their job and workplace and should be encouraged to participate in health and safety programs through early reporting of MSD symptoms or concerns to their supervisors. Employers should follow up to ensure preventative measures are working.

Thermal Stress

A common health risk that mineworkers at the mine site face are thermal or heat stress. "Mining environments are often very hot and humid; particularly those in outback Australia, which over time can cause thermal stress in workers." Overexposure to heat and humidity can cause the body to become fatigued and distressed. This can result in heat stroke or more serious ongoing health problems," Clark reveals. Where there is a possibility of heat stress occurring, companies need to carry out a risk assessment that considers the work rate, working climate and worker clothing and respiratory protective equipment. Where possible, control the temperature using engineering solutions, provide mechanical aids where possible to reduce the work rate, and regulate the length of exposure to hot environments. Furthermore, personal protective equipment should be provided, such as specialized protective clothing that incorporates personal cooling systems or breathable fabrics. Furthermore, companies should provide training for workers, especially new and young employees, and monitor the health of workers at risk.

Chemical Hazards

Mine workers are often exposed to harmful chemicals. "As an example, the most common group of chemicals that cause concern in a coal mining environment is polymeric chemicals. Regardless of the chemicals you work in close proximity to, appropriate

safety wear and precautions need to be taken to minimize your body's exposure to them. Risks include chemical burns, respiratory problems and poisoning," Clark outlines. Each chemical has a unique set of hazards and needs to be handled properly to ensure worker safety, so employers need to conduct risk assessments to establish best practices. A standard operating procedure (SOP) that addresses the use of correct personal protective equipment, safe handling, safe use, and proper disposal should be established. Ventilation is also an important factor in minimizing exposure, as well as general housekeeping and cleanliness. Thorough training and drills should be conducted regarding the company's spill response plans and chemical hygiene plans.

A MINERWORKER AND THE RIGHT TO HEALTH AND SAFETY AT THE MINES SITE

Most people usually come across the term a minerworker but what do the terms actually stand for? What do they do? Generally, a minerworker is a normal worker like any other worker. The only slight difference is that a minerworker works in a mine and is exposed to high risk such as occupational accident and disease as the case may be. From the foregoing, it is appropriate to furnish an explanation on the notion of a worker before proceeding to who is a minerworker. Generally, a worker is synonymous to an employee which means one employed to do work for another" [11]. The above definition though explicit omits the vital ingredient of remuneration. The Cameroonian labour code appears to be more satisfactory on the meaning of a worker. It makes reference to the term "worker", a term which in labour parlance is used interchangeably with employee, servant, workmen, etc. A worker according to the 1992 Cameroonian labour code is: Any person irrespective of sex or nationality who has undertaken to place his services under the direction and control of another person, whether an individual or public or private corporation, considered as the employer [12].

The above definition has given rise to some controversy as to what conditions a person must fulfill in order to be qualified as a worker of another [13]. However, the condition that qualifies a person as an employee or a worker is that there must be complete subordination by the person under the direction and control of the employer. For informative purposes, it should be noted that a person is not a worker simply because he receives and obeys orders, or is paid for work done by him [14]. There must in addition, be complete subordination on the part of the worker. The purported employer must not only possess the power to direct and control the activity of the worker; he must also be responsible for the employment and termination of the contract of employment [15]. Within the context of this paper, a minerworker means: A person who works in a mine thereby removing or taking out any mineral substance from the surfaces of the earth, either below or above the top soil such as gold, coal, diamond, etc [16]. It is of interest to note that this definition does not apply

to all categories of persons involved in the extraction of mineral substance. That is, this definition does not cover private individual like the artisanal miners who always carry out mining operation on their own without anybody controlling them on how to go about it.

Right to Health and Safety at the mines site

Generally, the term right is something you as an individual human being deserve and not something you are looking for. Nonetheless, the term right to health and safety entails the physical and mental well-being of all citizens, through available adequate curative care and health care infrastructure [17]. That is, the right to health and safety constitutes both curative and preventive care [18]. The African Charter on Human and Peoples Right make an in-depth provision on the notion of the right to health and safety by stating that "Every individual shall have the right to enjoy the best attainable state of physical and mental health. States parties to the present Charter shall take the necessary measures to protect the health and safety of their people and to ensure that they receive medical attention when they are sick [19].

It is of interest to note that the right to health and safety can confers on state a negative obligation to 'respect'; as well as the positive obligations to 'protect' and to 'fulfill'. The obligation to respect the right to health and safety that African states undertake under article 2 (1) of ICESCR includes the obligation to refrain from activities that are detrimental to health and safety. Therefore, practices such as permitting workers, especially minerworkers to work in environment detrimental to their health and safety can be construed to constitute a violation of the obligation to respect.

The obligation to protect the right to health and safety includes the obligation to take legislative and other measures to protect people from health infringement by third parties. Lastly, the obligation to fulfill includes the adoption by the state of a national health policy, and the devotion of a sufficient percentage of budgets to health and safety. In this context the devotion of a sufficient budget would serve to monitor working conditions of workers especially minerworkers in order to ensure their health and safety at their places of work. However within the context of this dissertation, the right to health and safety means the protection of workers, especially minerworkers from occupational disease that may be contracted as a result of an exposure to risk factors arising from work activity [20] or it means any disease contemplated in section 65 (1) (a) or (b); (ix) [21] and injury which may occur arising out of or in the course of work which result in fatal occupational and non-fatal occupational injury [22] or it means any personal injury sustained as a result of an accident in the course of performing a particular task by a worker [23].

THE CONSECRATION OF PREVENTIVE PROVISIONS OF RISK COMMON TO ALL WORKERS UNDER THE 1992 LABOUR CODE OF CAMEROON

In order to ensure the health and safety of all workers at work, the Cameroonian Labour legislator has made it a condition sine qua non on employers of labour to that effect. These conditions are either provided by laws, decrees, regulations, ministerial orders and circulars as seen below.

Condition sine qua non relating to Health and safety of workers at work

Generally, the concept of Hygiene and safety constitutes an important component of the activity of an enterprise, especially industrial enterprise. The obligations of employer's are many and their executions most often require financial resources [24]. As a matter of fact, one can easily understand the natural tendency of entrepreneurs to shy away from the application of hygiene and safety measures which they consider too costly. This notwithstanding, the legislator and regulatory authorities remain very energetic (vigorous) with issues relating to the respect of hygiene and safety measures prescribed for the safeguard of the health of workers at work [25].

In this respect, the labour code of 14 August 1992, places a high premium on health and safety of workers, particularly in sections 95 and 103. The health and safety of workers are at the same time a right of workers and an obligation of the employer. The employer is obliged to ensure that the hygiene and safety conditions of workers are in consonant with those advocated by ILO and other world renowned technical organizations [26]. Arrêté no 39/MTPS of 26 November 1984, on the general modalities of hygiene and safety at work, rigorously regulate hygiene and safety at places of work in 131 articles. The rigorous regulation reflects the pre-occupation of public authorities to preserve the health and safety of workers at work and to institute mechanism of control of these hygiene and safety measures at work.

According to section 95 of the labour code, orders of the Minister of Labour taken after consultation on Industrial Hygiene and Safety fixes conditions of hygiene and safety at work, while taking local conditions and contingencies into account shall aim at securing workers standard of hygiene and safety conforming with those recommended by the International Labour Organization and other recognized International Bodies. While waiting for the promulgation of this new Arrêté, Arrêté no 39/MTPS of 26 November 1984 remains applicable. For an efficient preservation of the health and safety of workers, this text spelt out measure of hygiene and safety which must be observed in all enterprises in accordance with the provision of ILO Convention no155, on the health and safety of workers at work.

MEASURES OF ENSURING HYGIENE AT WORK

The Arrêté of 26 November 1984 sets out the general rules of basic hygiene and safety on the workplace for the most effective protection possible of the health of workers [27]. Equally, the implementation of this Arrêté does not exempt businesses and institutions from observing other provision concerning health and safety regulations laid down by individuals [28]. However, this Arrêté considers measure of hygiene at work from three main perspectives: construction norms, condition of ambiance and lastly installation of personal use by workers.

Construction norms substantially, the above Arrêté [29] holds that all premises must meet technical conditions that guarantee satisfactory conditions of health and safety for workers. To this effect, plans of construction, enlargement or transformation of buildings to serve as place of work, must prior to construction are addressed to the labour inspectorate for its opinion. In any case, the work premises must guarantee an acceptable air space for each worker and constantly satisfy conditions of cleanliness. Furthermore, each establishment must possess a sufficient number of doors, stair cases and emergency exits adapted to the number of workers capable of ensuring an easy evacuation in case of emergency. In this respect, visible signs must indicate the direction of the closest exit. More so, the stair case must be well constructed so as to ensure the protection of its users [30]. Atmosphere of the workplace This has to do with the atmosphere of the work environment.

The Arrêté of 26 November 1984, relating to health and safety at work successively deals with the atmosphere of the place of work, heating, lighting and sound [31]. With regards to ambiance of the place of work, aeration and ventilation, articles 28 to 35 of the above Arrêté, prescribe that the composition of air in the premises of work should have the characteristic of normal air [32]. In the event of the risk of serious pollution by dust, toxic or simply uncomfortable emission, mechanisms must be put in place to indicate concentration that is dangerous for health as well as appropriate anti-pollution mechanisms. These mechanisms are clearly described by the above Arrêté [33] and further reinforced by masks and other appropriate mechanisms put at the disposal of workers at the workplace.

The head of the enterprise must take all necessary measures to make sure that these masks and mechanisms be maintained in a good state of functioning and are disinfected before attributing to new users [34]. Furthermore, controls of the atmosphere should be periodically done at the initiative of the employer and the result of these control kept in special register for the purpose [35]. With respect to heating and thermal conditions, the 1984 Arrêté [36] on the general modalities of hygiene and safety at work requires that the degree of temperatures and atmospheric humidity at the

place of work should cause neither discomfort nor risk for the security of workers.

Appropriate measures must be taken each time that sources of heat exist or other causes likely to modify the temperature and the humidity of the work place to bring them back to acceptable limit. With regards to lighting, Arrêté of 26 November 1984, on the general modalities of hygiene and safety at work [37] provide that all places of work passages and stair cases must be sufficiently lighted to assure safety at work and circulation of persons. The lighting must as much as possible comes from natural light through openings, the total surface area which must be at least one over sixteen (1/16) of its entire surface. Dispositions must be taking so that the lighting is uniformly shade on the area of work so as to avoid any inconvenience to workers through intense reflection or shadows. With regards to sound, measures must be taken to protect workers from the effect of noise and vibration of intensity above 85 decibels. Workers exposed to a harmful condition of sound must periodically be subjected to an audio metric examination at least once per year [38].

Installation of personal use facilities for workers Under this title, chapter three (3) of the Arrêté of 26 November 1984, on general measure of hygiene and safety at work regulate drinks, places for meals, washing sinks and bath, dressing rooms, rest rooms and ease rooms. With regard to drinks, the employers must freely put at the disposal of workers fresh drinking water in sufficient quantity. When workers are habitually subjected to certain difficult conditions of work relating to temperatures and atmospheric conditions or atmospheric pollution, the employers must give them nonalcoholic drinks which may be cold or warm depending on the taste of the worker and company doctor [39]. The labour code forbids the bringing and consumption of alcoholic drinks at the place of work and during working hours [40].

The consumption of such beverages within the establishment may be authorized only during normal break period and exclusively within the canteens and refectories placed at the disposal of workers by the employer [41]. Concerning places of meals, the employer is called upon to set up refectories must completely separate from the place of work when workers are called upon to habitually take their meals at the place of work due to the far distances of their homes. These refectories must be kept in a good state of cleanliness and endowed with appropriate furniture's and installations [42]. The consumption of meals at places of work is forbidden [43] except with the authorization of the Medical Labour Inspector [44].

Concerning washing sinks and bath, each establishment must have washing sinks with running water at a ratio of one washing sink for 15 persons. One bath must be set up for 10 people when the nature of work

exposes the workers to excessive temperature and dust [45]. With regards to dressing rooms, they must have seats and individual wardrobes with a lock and key [46]. Concerning rest rooms, they must be set up and furnished by the employer when working hours or the nature of the activities so require [47]. Furthermore, regarding ease rooms, workers must have one toilet and urinary for 25 men and at least a toilet for female [48]. These facilities must have a suitable flushing system and proper hygienic condition [49]. Seats made for the workers are distinct from those that could be made available to the public [50]. Equally, seats assigned to workers must have the character of their comfort for performing their duties without hindrance [51]. When the schedules or the nature of the workers require, rest rooms are made available to workers. Rooms are furnished to provide the conditions for staff suitable comfort [52]. These are the hygienic measures to be observed by all employers. Safety measures are much more constraining.

THE IMPLEMENTATION OF SAFETY MEASURE AT WORK

Provided for by article 58 to 128 of the Arrêté of 26 November 1984, safety relates to general measures of safety, measures of protection against the fall of persons or objects, the use of dangerous equipment and machines, to lifting equipment, to dangerous substances, electrical energy production facilities, and to measures of prevention and fight against fire outbreaks. General measures of safety at work The Arrêté of 26 November 1984, relating to health and safety of workers at work forbid the installation of equipment, engines, materials, machines and other dangerous means of work without putting in place security mechanisms responding to international norms and certified by the Ministry of Labour and Social Security [53]. The application for homologation addressed to the minister of labour must include a general plan of the machine and protective mechanisms; detail plan of elements of protection; and eventually, a photograph of the machine or protection mechanism.

Furthermore, the materials engines, installations and protection set up must be subject to periodic control in conformity with the instruction of the constructor. The result of these controls is kept in a special register opened to the nature of the control, the name, qualification and signature of the control agent. Electrical current Electric installations are classified into four groups I, 2, 3 and 4, according to the electric tension [54]. Before use, those of groups 2, 3 and 4 must be controlled by a specialist designated by the Minister of Labour after consultation with the ministry in charge of energy. Those of group 1 are only subject to this obligation when they are connected to those of higher tension [55]. Electric machines are kept in isolation and secured to avoid electric discharges, fire explosions or sparks. As such, they must be periodically verified and maintained [56].

Workers called to work with electricity must have adequate security materials [57]. Furthermore, the concerned establishment must have rescuers capable of giving first aid in case of any accident; and appropriate materials for first aid [58]. Protection against the fall off of persons or objects They essentially concerned workers working at a height of above 2 meters and those working underground. The set up protecting the workers against any risk of fall may be shields of at least 15 cm high. When the execution of work on a ladder is risky for the worker, scaffolds of qualities constructed with solid and resistant material with sight shields and base boards, must be provided [59]. In all, the measures must be put in place to avoid risk of collapse, the fall of persons or objects and drowning before the execution of underground works [60].

Protection against dangerous equipment and machines in workplaces Rooms in which generators and other engines are kept must be enclosed and protected by a rigid protection of at least 1 meter high [61]. Passages between machines or other engines must be at least 80 cm wide. Between these passages the floor roughened and made non slippery to be dangerous must be protected so as to render voluntary and involuntary contact with them difficult [62]. Protection against use of Hazardous substances at work Lifting equipment, lifters, cranes and transporters These types of materials should be provided for and built so as to provide all necessary guarantees of resistant and security [65]. Chains, cables, ropes, poles, suspension hooks must be verified at least twice a year and at 6 months intervals [66]. Each equipment must carry a visible indication of the maximum permitted load in different situations of use. The circulation root of engines must be sufficiently lighted and endowed with adequate signals [67].

Measures of prevention and the fight against fire outbreaks at work

Establishments with risk of fire outbreaks must be separated from others to facilitate the fight against any such incident [68]. Enough equipment must be put in place to detect and fight fires. To this effect, they must set up an automatic alert, have pressure water, several water sources, pipes and automatic water spraying system; have sufficient number of extinguishers using a product adapted to the types of fire that can occur; they must be maintained in a good state and periodically verified and control form is established after each control; have containers containing sand pairs; and anti-fire wears for exposed persons. The Company's head must make sure that personnel are trained on evacuation measures and equipment used during fire outbreaks. As it can be seen, measures of hygiene and safety of workers are important and costly to the enterprise.

THE CONSECRATION OF PREVENTIVE PROVISIONS OF RISK SPECIFIC TO MINeworkERS UNDER THE CAMEROONIAN MINING LEGISLATION

Generally, with regards to mining operations in Cameroon, efforts have been made by the Government of Cameroon in trying to regulate the activities of the mining sector, especially as far as the health and safety of the mineworkers are concerned. This is evident from the putting in place of the recent 2016 mining code of Cameroon. For instance, 2016 Mining code dedicate in its Part V and specifically under its chapter IV, provisions relating to the health and safety at the mine sites. These are explosive, inflammable, toxic, corrosive substances and substances emitting ionizing radiation [63]. Special disposition must be taken in places of work where dangerous substances are produced, manipulated, used stock, transported notably as concerns the conception of the premises; the choice of construction, lighting; temperature humidity; and ventilation. Workers assigned to activities bringing them in contact with these activities must be subject to the appropriate medical examination and follow up. It is forbidden to assign women and children below 18 years without the authorization of the company doctors [64].

Conditions sine qua non to ensure the health and safety of mineworkers by holders of a mining permit at the mine sites

Cameroonian 2016 Mining code, in its chapter IV of part V, has made provisions about safety and health of mineworkers This chapter is to the effect that any natural or legal person carrying out exploration or mining works pursuant to this law shall be bound to do so according to standard practice and in such manner as to safeguard the safety of persons and property. The safety and health rules applicable to prospecting, exploration and mining works, as well as to transportation, storage and the use of mineral or dangerous substances shall comply with the law in force. Before undertaking exploration or mining works, the holder of a mining title or authorization shall first draw up the rules relating to safety and health for the proposed works. Such rules shall then be submitted for approval to the Minister in charge of mines. Once such approval is granted, the holder shall be bound to comply therewith.

However, any accident occurring or any danger detected at a work site, mine quarry or in its outbuildings must be reported to the Ministry in charge of mines. In the case of impending danger or accident at the work site or a mine, the mining engineers and the other officials of the Ministry in charge of mines as well as the criminal investigation officers, may take all the necessary measures to end or prevent such danger. In case of emergency or refusal by the persons concerned to comply, these measures shall be enforced as of right at the expense of the parties concerned. Equally, adapted techniques and methods must be used to protect

environment, ensure the safety of workers and the local population [69].

OBLIGATION OF HOLDER OF A MINING TITLE WITH REGARDS TO THE HEALTH AND SAFETY OF MINeworkERS AT THE MINE SITE

Notwithstanding, with regard to mining activities in Cameroon, the Cameroon's labour legislation has made provisions pertaining to general hygiene and safety measures in all types of establishments, which are applicable to mining activities, quarries and subsidiary installations. That is, special regulations relating to explosives, gas and steam pressure equipment, unhealthy and obnoxious establishments whose staff is exposed to silicone, shall be applicable to mining activities, quarries and their subsidiary installations. The question therefore is, can an individual petitioned the court to stop an agreement between company and the Government on the ground that their land would be destroyed if the project is implemented? The answer to this question is no. For instance in the case of *Bulankulama v. The Secretary, Ministry of Industrial Development* [70], the court ordered the respondents to desist from entering into the proposed agreement pending a comprehensive Environmental Impact Assessment study. Equally, where, for any reason, the safety of persons and property may be undermined, the miner must inform the Divisional Delegate in charge of mines having jurisdiction, who shall inform his superior for appropriate measures to arrest the danger. The miner shall be informed of such measures. In case he refuses to abide by the laid down measures, it shall be implemented automatically by the service at his expense. It should be noted that the exploitation of any mineral substance may be banned by the Minister in charge of mines in forbidden and/or reputed dangerous areas.

Consequently, at the end of the work or each phase in the case of work by phase, the holder of an authorization or permit (either an individual or a corporate body or a mining company) to work a quarry must carry out the works ensuring the protection of interests as defined in the specifications, especially restoring the sites and places affected by the works and any installations set up for the operation. That is, if the works referred to as mentioned in paragraph 1 of the 2002 Decree are not carried out, the prescribed measures shall be automatically taken by the service at the expense of the holder of the authorization or permit. Similarly, mining is an activity that is characterized with a lot of high risk. Due to the high risk that is associated with mining operations in Cameroon, it has prompted the Minister in charge of mines to in some circumstances, order for the closure of a mine where its conditions poses a threat to the safety of its workers as well as the safety of third parties, their property and the environment. The decision to close the mine shall specify the conditions for re-opening.

There are, however, situations where even if the activity in question is posing a threat to the safety of its workers as well as the safety of third parties, their properties and the environment, the closure of the establishment will not be the main solution since the closure of the establishment will cause many workers to lose their job as a result of such a closure (large scale unemployment). In the case of *Keangnam Enterprises Limited v. E.A. Abeyasinghe and eleven others* [71], in the course of the proceedings, the court had to allowed separate applications from the Road Development Authority and four workers from the quarry who claimed that their livelihood would be affected if the quarry was shut down. Notwithstanding, the social legislation on the declaration of industrial accidents that occur during prospecting, research or mining, must be reported in writing to the Minister in charge of mines, the labour inspectorate having jurisdiction, and the local administration. In case of any deadly accident, the miner must take all protective measures to ensure the safety of employees on the site, immediately contact the administrative authority closest to the place of the accident as well as the Divisional Delegate in charge of mines having jurisdiction who shall prescribe protective measures to arrest the danger and inform his superiors in writing within 24 hours. Where the miner cannot promptly contact the authorities mentioned above, he shall assume responsibility for his actions. However, if the accident is very serious, the miner shall discontinue work and leave the work and leave the site unhampered where the resumption of work is likely to jeopardize the safety of persons, property, and the protection of the environment and mining or quarry installations. Works may only resume upon the authorization of the minister in charge of mines.

THE ROLE OF STATE INSTITUTIONS WITH REGARDS TO THE PROTECTION OF THE HEALTH AND SAFETY OF MINeworkERS IN THE MINING SECTOR

As concerns the high risk in the mining sector, various institutions and organs exist to that effect, especially as the health and safety of mineworkers are concerned. Ministry of mines, industry and technological development In Cameroon, MINMITD is in charge of mines but various ministries have been created specifically to ensure administrative management and control of their assigned responsibilities in relation to certain aspects of mining operations by the Government of Cameroon [72]. As far as mining control is concerned, many ministries offer services and expertise in related areas in an effort to enhance the effective control mechanism over mining activities irrespective of the stage of the mining life cycle. The short list includes contributions within the code to enhance the health and safety of workers at work and environmental protection. Hence, certain laws to prohibit negative environmental impacts will be closely supervised by various ministries in determining their effective application by mining companies [73].

The rights of the MINMITD with regards to health and safety of mineworkers

Aside the specific rights of the administration under the various licenses, the Ministry enjoys certain general rights which apply to all mining operations [74]. As far as the general right of control and supervisions being exercised by the Ministry over mining operations are concerned, the 1996 Decree [75] confers it the following rights as seen below.

The right of free access to mining sites to check any infringement of health and safety rules

Free access to the mining sites is necessary if the administration has to monitor the miner and ensure that the various regulations are respected. This regulation includes labour, health, fair treatment of the workers; etc can only be implemented if the different inspection teams from the local administration have such access rights [76].

The right of the Ministry to make recommendations concerning the health and safety of mineworkers

The Ministry in charge of Mines, as a supervisory authority can make recommendations as concerns the technical operation of the mines. Such recommendations can be made with respect to the extraction methods used, the consolidation of the various mines and excavation works, the use of explosives and the use of mercury, cyanide or any other product which may affect the health of human beings, especially mineworkers that are directly exposed to such explosives and the preservation of the environment. Indeed, under article 57 of the law on the protection of the environment such dangerous substance must be used under the permanent supervision of the Ministry [77].

The right to suspend any operation posing a threat to human health at the work sites

Besides the general rights, the ministry has under administrative contracts to unilaterally suspend any mining operations, and the specific right of suspension under individual permits as seen above, the ministry is given a general right under article 41 to suspend operations. This right is exercised under specified conditions. Firstly, the Ministry can order the use of any chemical substances or machines considered to be dangerous to human health and safety. Secondly, the Ministry may order a stop to any work at the site from being carried out if it considers such work as constituting a permanent danger to workers working at the mine site [78].

The rule of the Cameroonian Mining Federation in the promotion of the health and safety of mineworkers

The most recently established state agency is the mining federation created on August 28th 2014 [79]. It was created to cater for Cameroonian mineworkers and to promote and boost mining operations and enhance control of the mining operations within Cameroon. It is

however noted that the Mining Federation's structure is yet to be put in place [80].

The rule of the Chamber of Mines in the promotion of the health and safety of mineworkers

The Chamber of Mines works with Government, labour and Small Scale Miner organizations to ensure that mining operations cause no harm or injury to those working in mines. This is done through encouraging mines to develop and implement safety, occupational health and environmental systems at their operations. In this regard the Chamber of Mines of Cameroon works with the Ministry of Mines and Mining Development's Mining Engineering Department that is responsible for the safety and health inspectorate function. It works with National Social Security Authority which is the lead agency for occupational health and safety in the country. In addition it works with the Environmental management Agency the national authority on environmental management. The Chamber of Mines of Cameroon established a standing committee of Safety Health and Environment, the SHE Committee, whose mandate is to make recommendation to the Executive Committee on SHE issues in the mining industry. Membership to this committee is open to all members of the Chamber of Mines of Cameroon.

EMERGING CHALLENGES

They include the following

Failure to embrace protective mechanisms for mineworkers under International Convention International Labour Organization is an organization that is made up of so many nations around the world. One of the main aims of the organization has been the extension of social security measures and the protection of life and health of all workers of all undertakings [81]. With regards to the health and safety of workers in mines, the International Labour Organization contains a number of well-established Conventions relating to health and safety of mineworkers in mines. As far as state parties to the Organization are concerned, Cameroon is a member of the organization but she is yet to ratify some important ILO Conventions such as Convention no31 limiting the hours of work in mines (coal mines), Convention no124 concerning the medical examination for fitness of adolescents to work underground in mines, Convention no 176 concerning safety and health in mines whose purpose is to ensure the social protection of workers and to safeguard fundamental human rights in the mineral exploitation sector. Lack of political will by the government to follow up laid down rules concerning the status of the health and safety of mineworkers at mine site.

The missions traditionally assigned to the various implementations and enforcement mechanism of regulation relating to the health and safety of mineworkers across the economy of Cameroon seems not to be effectively those which the initiators of the regulation had in mind when it was conceived. As long

as there is no political will to make our implementations and enforcement mechanism play a truly and essentially practical role, Cameroonian implementations and enforcement mechanism will always remain only a utopian and imperfect example in the domain of promoting and protecting the health and safety of mineworkers. There is still a long way to go before we can talk about real promotion and protection of the health and safety of mineworkers in Cameroon.

CONCLUSION

Generally, the protection accorded to mineworkers under the Cameroonian law consist on the one hand, the protection of the health and safety of mineworkers through preventive mechanisms common to all workers and on the other hand the protection of the health and safety of mineworkers through preventive mechanisms specific to mineworkers. With regards to the protection of the health and safety of mineworkers through preventive mechanisms common to all workers, the law protects the health and safety of mineworkers through obligation imposed on parties to the contract of employment. This obligation on the part of the employer obliges him to ensure health and safety measure at work.

The protection of the health and safety of mineworkers through preventive mechanisms specific to mineworkers are of paramount importance to mineworkers. That is, the consecration of health and safety measures under the Cameroon mining legislation through obligation imposed on holder of mining title and the role of state or administration, especially where the holder of mining title is recalcitrant has greatly influence the lives of mineworkers in the mining sector positively. This means that the employer would have to respect the obligation scrupulously bestow on him for fear of any sanctions. Notwithstanding, the legal framework for the protection of the health and safety of mineworkers can constantly be improved at the national level with inspiration from international standards. The ILO and other standards have placed much emphasis on promoting the legal education on the health and safety of mineworkers. However, a gap still remains between the protection of the health and safety of mineworkers granted “on paper” and the actual situation. Even the best legal provisions cannot be of much use if they are not known and not used in practice by mining companies. Knowledge about the protection of mineworkers in order to defend their interest and the machinery to enforce them is needed to ensure the health and safety at work and promote decent work in mining.

THE WAY FORWARD

As far as the health and safety of mineworkers are concerned, the Minister of mines, industry and technological development and the Minister of labour and social security should always make an impromptu visit to the various enterprises in Cameroon, with more emphasis laid down in the mining sector in order to avoid conflict and work related injuries or a regular routine

check to ensure that health and safety conditions are provided to mineworkers. In addition, Cameroon Government as a member of ILO should make efforts to ratify certain other ILO Conventions which are critically important for mineworker’s.

These conventions includes convention 81 regarding labour inspection, Convention 148 regarding working environment, Convention 155 and 161 regarding occupational health and safety and convention 176 of health and safety in mines. The above cited Conventions if ratified by the Cameroon Government and respected by the all the mining companies in Cameroon; it would go a long way to guarantee the health and safety of mineworkers in Cameroon. Furthermore, all the mining companies in Cameroon should be encouraged by the Government to follow guidelines in ILO Convention on safety and health in mines (ILO 176), which stipulates that the companies should provide for adequate training, retraining and instruments, supervision and control on each shifts, investigation of all accidents, with remedial action taken and a report made, and regular health surveillance of mineworkers.

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