

Request for Inspection

To: Executive Secretary, the Inspection Panel
1818 H Street NW, MSN 10-1007
Washington, DC 20433
USA

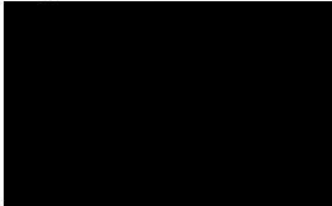
1. We [REDACTED] worked and represent others who worked in the Lom Pangar Hydropower Project in Cameroon.
2. We have suffered human rights violations as a result of the World Bank's failures or omissions in the Lom Pangar Hydropower Project located in East Cameroon.
3. As workers on the project, we suffered the following harms:
 - a) Unpaid overtime work
 - b) Indecent working conditions
 - c) Unpaid social security dues, hence, inability to benefit from the social security system
 - d) Employer dismissed all workers who contracted Hepatitis B on the project site
 - e) Employer abandoned workers who suffered drastic industrial accidents on the site to themselves
4. The employer violated the following contractual agreements:
 - a) Section 2.1 of the Environmental and Social Management Plan obliging project management to respect international standards in all construction works including workers' residences.
 - b) Section 1.3 of the Specific Contractual Engagement on Environmental and Social Management (French acronym is CCES) obliging the employer to respect national legal framework governing environmental and social protection of individuals and the environment.
5. [REDACTED] complained to World Bank staff on [REDACTED] 2016 received a response, had a couple of meetings and exchanges over the complaint but we believe that the response received is not satisfactory as it does not answer or solve [REDACTED] problems for the following reasons:
 - a) Workers dismissed for contracting Hepatitis B on the project were not recalled to the project. The employer abandoned the treatment of these workers and no one is sure if their health is still ok.
 - b) Employer has not paid the mandatory housing allowances provided for by national legislation as a result of constructing substandard, indecent, unsatisfactory houses and obliging four adults to share a single room.
 - c) Most workers still cannot benefit from their family allowances and not sure they will have retirement benefits because employer did not pay these mandatory dues to the National Social Insurance Fund.
 - d) After negotiations, contractor opted to pay a bonus to senior staff. GRS made [REDACTED] to believe this was payment for overtime work but it turned out that the document from the contractor requesting payment did not mention overtime pay. Before receiving this payment, [REDACTED] were obliged to withdraw all complaints before national courts. Payment of the bonus was

preconditioned on the withdrawal of all pending cases before national courts. We therefore consider that the overtime work was not paid.

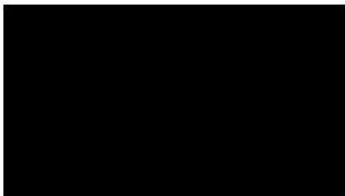
e) Victims of industrial accidents have been abandoned to themselves.

6. We request the Inspection Panel recommend to the World Bank's Executive Directors that an investigation of these matters be carried out.

Signatures:



Date: 01/12/2017



Date: 01/12/2017

Contact address, telephone number, fax number, and e-mail address:



List of attachments

We authorize the Bank to  case such disclosure can facilitate the resolution of the case.

N.B. We are available to submit any documents that may help edify our case.

WORLD BANK PROJECT EXPLOITING HUMAN LABOUR:

LOM PANGAR HYDRO PROJECT IN CAMEROON



September 2015

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Introduction

As Cameroon projects to become an emerging economy by the year 2035, the Government has embarked on major construction projects. One of such projects is the Lom Pangar Hydropower being executed by the [REDACTED] a [REDACTED] entity contracted for that purpose by the Electricity Development Corporation, a Cameroon para-statal. This project is funded in part by the World Bank, the African Development Bank, the French Agency for Development and the Bank for the Development of Central African States. Despite the World Bank's requirements in regard to the enforcement of human rights standards, workers at Lom Pangar operate under very difficult circumstances. This has led to a most deplorable human rights situation in Lom Pangar. This report has been produced after thorough desktop research, interviews, focus group discussions and literature review. The findings are presented below.

Considering that construction and installation works at the project are almost completed, water flow can be turned on into the dam by September 15, 2015. Such major progress in the construction of the dam would mean that [REDACTED] will have to lay off most of its domestic staff. Some of them could find themselves in very difficult situations as a result of the sacrifices they have endured and the prejudices they have suffered to ensure that this edifice is completed.

Though not exhaustive, this study focuses on a number of areas and highlights the difficulties faced by workers on the project.

I. Working Hours

Section 80 of the Cameroon Labour Code clearly states that working hours may not exceed 40 hours per week or 8 hours per day. Although, it also makes provision for possible waivers from these requirements, such derogations are spelt out in Ministerial Order N° 95/677/PM of 18 December 1995. The Order provides that extra hours of work must not exceed 10 hours per day or 60 per week. However, workers in Lom Pangar are engaged in excess of these provisions. Most of the workers confirmed during interviews that working overtime was not based on freewill but rather on fear. Though most of them preferred to work overtime to earn more money considering that wages were very low, they confessed that they could not refuse to comply with such instructions from their superiors as they would be sanctioned. The decision to engage in overtime work was therefore not voluntary, but rather performed under duress. Though Management has started observing the 10-hour work week due to the reduced work load, workers are primed on not having their normal weekly rest. Consequently, they work in excess of the 60-hours allowed by law. This leads to the second point which has to do with weekly rest.

II. Weekly Rest

As mentioned in the section above, the regulatory 40 hours of work is not observed. Section 80 of the Labour Code further specifies that weekly rest shall be compulsory. It shall consist of at least 24 (twenty-four) consecutive hours each week. Such rest shall fall as a rule on Sundays and may under no circumstances be replaced by a compensatory allowance. According to Taminang¹, the company has opted to pay a 35000 Francs compensation to all those who would prefer not to take a rest.

¹ Psuedonym

This amount has been on the increase. In May, it stood at 10.000FCFA, in June 20.000FCFA and in July 25.000FCFA. Since the project is located in the Deng Deng National park, some 86Km from Belabo, which is the nearest human settlement, the company opted prior to the existence of staff representatives, to accumulate the 4 Sundays of each month so that workers could have their weekly rest just once in a month.

However, such rest period does not match legal requirements for the following reasons:

- The day of departure and of return is counted as a day of rest. Consequently, the worker has just two days of rest. Workers whose families reside in Yaounde, Douala, Bamenda, Kribi practically don't have enough time to commune with their families. Worse, when a worker returns a day later than scheduled, he is penalized.
- There is no public transport between Belabo and Lom Pangar. That makes matters worse! The company only makes available vehicles for the transportation of workers to and from their monthly rest. Such transportation is exclusively between Lom Pangar and Belabo on the 5th and the 11th of each month. Workers who are unable to report at the pick-up site on the day of pick due to family constraints are stranded and left to fend for themselves.
- The right to weekly rest as made mandatory by the law is subject to the approval of the line manager. Where the line manager refuses to grant permission, the worker is deprived of his legal right to weekly rest. As such, many workers prefer to remain at Lom Pangar during such rest periods separated from their families. The adverse effects of separation from family and friends are quite significant and impacts especially on the health of the

workers. HIV prevalence is on the rise. As at July 2015, 10% of the 850 Cameroonian workers were HIV positive.²

- Matters are made worse by the fact that the company claims that its vehicles can only accommodate 120 persons per day. As a result, worker's right to a weekly rest authorized by law is subverted because the company is unable or unwilling to provide transport. This is further compounded by the fact that there is no public transport between the project site and the nearest settlement. This in effect, undermines the good faith on the basis of which the employment contract was signed.
- Furthermore, the [REDACTED] workers on the project face a more difficult situation as they have to work for one full year before they are permitted to benefit from an annual leave of 40 days. In that regard, the company argues that the [REDACTED] workers had signed their contracts in [REDACTED] and should therefore respect the terms of their contracts. This argument is in violation of Cameroon's sovereignty because Section 24 of the Cameroon Labour Code states very clearly that *"Irrespective of the place where the contract (was) made and the place of residence of either party, every contract of employment which is to be performed in Cameroon shall be governed by the provisions of this Cameroonian law"*
- Section 88 of the Labour Code makes weekly rest compulsory and provides that such rest shall consist of at least 24 (twenty-four) consecutive hours each week. It shall fall, as a rule, on Sundays and may under no circumstances be replaced by a compensatory allowance. However, at Lom Pangar, the [REDACTED] has put this rest on offer as demonstrated by Tamining's declaration supra.

² Monthly reports submitted to COB-ISL (Control Mission) and EDC (Project Owner)

III. Annual Leave

Considering that the human body needs to rest after a period of active service and that workers also need to deal with personal issues, annual leave becomes compulsory. To that end, Section 89 of the Labour Code provides that “In the absence of more favourable conditions in the collective agreement or individual employment contract, paid leave at the employer's expense shall accrue to the worker at the rate of one and a half working days for each month of actual service.

Despite these provisions, some workers have been in active service for 3 years without benefiting from a single annual leave. Unfortunately for them, whenever they applied for annual leave, the line manager must be sought. If the line manager refuses, the worker in question risks not enjoying his legal right to rest. Most often, the company requests the workers to reduce the number of days they seek for annual leave. This is expressly contrary to the spirit of the Labour Code. The law gives room for more favorable conditions for the workers and not for the company. It should be noted that a distracted and exhausted (mentally or physically) worker becomes a hazard at the workplace and can easily cause an accident.

IV. Housing

It is common knowledge that people, who move away from home to reside elsewhere for purposes of employment, need adequate accommodation for rest, safety and shelter. It is for this reason that section 66 of the Cameroon Labour Code provides: An employer shall be bound to provide housing for any worker he has transferred for the purpose of performance on employment contract requiring movement and settlement of such worker outside his normal place of residence. The accommodation shall be adequate and correspond to the family status of the worker, and shall satisfy the conditions to be determined by order of the Minister in charge

of Labour issued after consultation with the National Labour Advisory Board. If no housing is provided, the employer shall be bound to pay the worker concerned a housing allowance. The minimum rate and methods of payment shall be fixed by the above-mentioned Order. The minimum rate and methods of payment are defined by Ministerial Order N° 018/MTPS/SG/CJ of 26 May 1993.

Further, Article 66 of the Labour Code provides that the lodging conditions of displaced workers must be suitable, sufficient and decent and must correspond to family situation of the worker. Article 3 of Ministerial Order 18 cited above obliges employers to submit their proposed plans for approval to the Inspector of Labour with jurisdiction over the area for approval. If the inspector is of the view that the lodging facilities do not comply with the requirements of the law or that it is unsuitable, inadequate, indecent and does not respect the family conditions of workers, he shall file a report thereon. Article 3 (1) of the same Ministerial Order allows for some waivers from the above conditions provided in the case of individual apartments for single workers. Where for instance the employer is of the view that it is impossible to provide individual housing for single unmarried workers, he shall group two or more single and unmarried workers of the same sex in the same apartment. However, they shall only share the living room and kitchen but each worker must have his own bedroom alone.

It is implied in this text that each room shall have its toilet separate from the others. The living conditions of workers at Lom Pangar is courageously in violation of these legal provisions. Not only are three single unmarried workers grouped into a single room but they share toilets and worse, the toilets are in most cases located out of the rooms. Senior staff also share unfurnished rooms. **(See pictures below)**



Internal view of senior staff room. Apart from beds every other thing is provided by the staff himself.



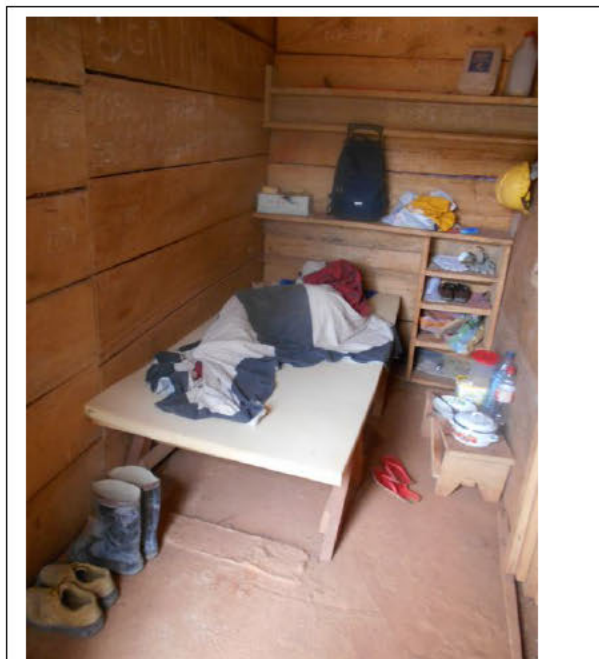
Internal view of beds in the Cameroonian workers quarters. Note the bed and the floor. 95% Cameroonian senior staff live here.

The Ministerial Order goes further in Article 10 to introduce a compensatory allowance at a rate of 25% of the net monthly salary when housing facilities are not provided. The pictures above clearly underscore the fact that the lodging facilities provided for workers in Lom Pangar are not only inadequate and offensively indecent, they also do not respect the family situation of workers. It should be noted, as a matter of interest that despite such obviously horrendous living conditions in Lom Pangar, the Labour Inspector is expected, in keeping with Article 3 of Ministerial Order N° 18 to approve the plan presented by [REDACTED]. If dissatisfied, employees of [REDACTED] would expect the Labour Inspector to use the powers vested in him by Article 109 of the Labour Code to submit a report on oath on the violation of the conditions provided in Ministerial Order N° 18 and thus trigger legal action against [REDACTED]. During the Industrial

Action of June 2012, when employees petitioned for better living conditions, the General Manager of [REDACTED] said inter alia that “some problems such as housing facilities for employees (lodged 4 per room) are up for discussion simply because the company is still to construct the employees quarters.”³ See **picture of workers’ houses below:**



External view of employees’ house. Note that the window is blocked with black polythene paper to avoid dust and rains from pouring in.



Employee sleeping after spending the whole night at work. Cameroonian senior staff share this apartment!

The above statement when fully scrutinized, gives the impression that the General Manager is conversant with the legal provisions governing housing conditions. Unfortunately, as of August 2015, workers are still lodged at 4 per room. To

³ My translation of *certain problèmes soulevés aujourd’hui comme le logement des ouvriers (qui sont logés à 4 par chambre: ndlr) existent simplement parce que l’entreprise n’a pas encore construit sa base vie. C.f [REDACTED] last consulted on August 15, 2015*

compound the situation, workers are yet to receive the compensatory allowance as mandated by law.

By virtue of the fact that employees share a room, they enjoy no privacy nor intimacy. Employees have incurred serious prejudice due to the sharing of bedrooms.

According to Nsaminang⁴, he is very busy during the day and is therefore unable to talk to his family. The opportunity is only at night and to ensure privacy and confidentiality, this must be done outside in the cold. First, very confidential information has to be exchanged and secondly, the peace and quiet of the other roommates must not be disturbed. This exposes workers to potential attacks from wild animals and insects and to make matters worse, an onset of disease and illness.

Worse, when a roommate is using the toilet, or easing himself, the others suffer from the stench and odour. Where does one seek refuge in the middle of the night?

Despite these very basic mandatory requirements, the realities in Lom Pangar are as follows:

- Workers of the same sex are grouped in one room.
- Employees are grouped two/three/four per room while senior staff are three per room.
- Employees' rooms (Cameroonian workers camp) are made of poorly assembled wood without a ceiling. This makes the rooms extremely hot or cold depending on the season.

⁴ Pseudo name

- The poorly constructed rooms allow frequent visits from rats and other rodents.

V. Workers' Health

Article 101 of the Labour Code obliges employers to ensure and provide medical care for all sick and displaced workers lodged by the employer. To that end, the employer is expected to provide treatment and food to the sick employee. Article 23 of the Collective Bargaining Agreement of the Construction Industry in Cameroon spells out the conditions under which a worker is paid while he is ill and incapable of working and/or when his contract should be suspended.

Unfortunately, the [REDACTED] has vehemently refused to apply the provisions of both the Labour Code and the Collective Bargaining Agreement.

Following a public campaign to sensitise the workforce and check on their Hepatitis B status on August 3 2014, 67 employees tested positive with the Hepatitis B virus. All attempts by the project owner to ensure that these employees start receiving treatment have proven to be futile. None of the 67 employees has received treatment of any kind. [REDACTED] has rather caused or compelled more than half of them to leave the company. While some have been dismissed, others have been misled to quit with meagre compensation dues.

Victims of occupational accidents have also been abandoned to themselves. Article 2 of Law N° 78-546 of 22 December 1978. Requires that all industrial accidents be reported to the National Social Insurance Fund within three days of the said accident. As of December 2014, the National Social Insurance Fund admitted that no industrial accident had been reported by [REDACTED]

██████████ at Lom Pangar. This is evidenced by ██████████
██████████ addressed to ██████████
██████████ in response to his petition to the company.

VI. Right to Work

The right to work, as enshrined in the Universal Declaration of Human Rights and recognized in international human rights law by way of the International Covenant on Economic, Social and Cultural Rights, emphasizes economic, social and cultural development, it forms part of Cameroonian legislation in both the Constitution and the Labour Code. The preamble of the Constitution of Cameroon provides that every Cameroonian shall have the right and the obligation to work. This is reiterated in Article 2 of the Labour Code which states that the right to work shall be recognized as a basic right of each citizen. The State shall therefore make every effort to help citizens to find and secure employment. It goes further to make work an obligation by stipulating that work shall also be a national duty incumbent on every able-bodied adult citizen.

In an attempt to help citizens find work, the State has launched large scale infrastructural construction projects across the country. The Lom Pangar hydropower project is an example amongst many. However, ██████████
██████████ significantly undermines the right of Cameroonians to find work and pursue their constitutional right to work.

Being guided by the concept that Cameroonians should work in order to enjoy their right to existence and human dignity, Section 113 of the Labour Code and Decree No 93/571/PM of 15 July 1993 set the conditions for the employment of foreigners in Cameroon. In Article 2 of the Decree, foreign unskilled and/or partially skilled labour shall be employed upon the presentation of an attestation issued by the

services responsible for manpower attesting that there is shortage of Cameroonian manpower in that particular field. However, [REDACTED] employs 596 [REDACTED] in the Lom Pangar project.

These employees range from unskilled laborers through to senior company administrators. On the 5th of May 2012, the Prime Minister issued a Circular setting out the general clauses applicable to foreign investors in Cameroon. Part II, Article 9 of that Circular is unambiguous as it provides that in every case, positions should be occupied by competent Cameroon nationals. Failure to find competent Cameroon nationals, the quota to be occupied by Cameroon nationals should be as follows: 50% of senior staff, 60% of semi-skilled labor, 85% of unskilled labor.

As a matter of fact, [REDACTED] counted 596 [REDACTED] as of 03 August 2015⁵, of which 95% were unskilled. Importing such a huge number of unskilled workers reduces access by Cameroonians thereby violating their fundamental and constitutional right to work. **See the pictures below:**



Unskilled [REDACTED] bending iron.



Truck driver recruited from [REDACTED] despite the huge numbers of truck drivers in Cameroon.

⁵ Source: Official document prepared for National Social Insurance Fund. According to this report, presently there are 363 [REDACTED] in Lom Pangar. This is in contrast with the figures [REDACTED] submits every month to COB-ISL and EDC, Control Mission and Project Owner respectively. In April, May, June and July 2015, the number of [REDACTED] were as follows: 375, 409, 425 and 439 respectively. Source: [REDACTED].

Article 10 of the same circular provides that the employment of foreign labour should comply with the conditions set in the Labour Code and subsequent legislation, as well as with the provisions of Decree N° 93/575/PM of 15 July 1993 outlining the terms and conditions for the establishment and approval of some employment contracts. Article 4 of the above Decree also refers to Article 27 (2) of the Labour Code which makes it clear that that the employment contracts of foreign nationals must be approved by the Minister of Labour prior to its entry into force. Unfortunately, foreign workers employed by [REDACTED] [REDACTED] have never submitted their employment contracts for such clearance or certification. [REDACTED] has argued that it is a State-owned company and that their [REDACTED] employees are recruited in compliance with civil service procedures. Being civil servants, these employees were therefore not in possession of employment contracts. However, Cameroonian law does not recognize them as civil servants. Hence, they are governed by the Labour Code as provided for in Article 1 of the Labour Code.

Article 11 of the Circular on general clauses applicable to foreign investors cited above obliges foreign companies to provide a plan for the *cameroonisation*⁶ of the company in the short run. Unfortunately, as far as the Lom Pangar Project is concerned, this has not been done. According to a report prepared by the company and submitted to the National Social Agency Fund, there are currently [REDACTED] in Lom Pangar. This is in contrast with the figures [REDACTED] [REDACTED] submits every month to COB-ISL and EDC, the Control Mission and the

⁶ Term used by the Prime Ministerial Circular to co-opt Cameroonians into management functions.

Project Owner respectively. In April, May, June and July 2015, the number of [REDACTED] were as follows: 375, 409, 425 and 439 respectively. Source: [REDACTED]. It is disheartening to note that no Cameroonian is employed in the technical department of the [REDACTED]

Article 1 (3) of the Labour code provides a list of employees who do not fall under the ambit of the code. Among these are personnel whose employment is governed by the Statutes of the Public Service. This article is referring to the Statutes of the Cameroonian Public Service. [REDACTED]

[REDACTED] is a private entity under Cameroonian law and therefore all employment contracts with its staff must comply with the provisions of Article 24 (1) of the Cameroonian Labour Code which is to the effect that ‘irrespective of the place of conclusion of the contract and residence of any of the parties, all employment contracts concluded to be executed in Cameroon must respect the provisions of this law’ that is the Labour Code. Considering that [REDACTED] is a corporate private entity under Cameroonian law, all its employees must enter employment relationships governed by Cameroonian legislation.

The fiscal and social implications of failure to comply with Cameroonian legislation in the case of [REDACTED] contracts of employment are significant. Refusal to observe Cameroonian legislation means [REDACTED] does not pay taxes on behalf of its employees nor does it register its employees with the National Social Insurance Fund. On the social welfare front, the presence of a huge [REDACTED] work force has contributed to the arbitrary disciplinary procedures instituted and applied in Lom Pangar.

Since the company is aware that [REDACTED] laborers are prepared to succumb to irresponsible and illegal labour practices, it has decided to extend such treatment to its Cameroonian workers. Most workers wonder whether [REDACTED] workers at the site do not constitute slave labour. As mentioned above, they put in between 9 and 10 hours of work every day for 12 months. Despite such inhuman conditions, they never complain. Such anti-human dignity practice orchestrated by the [REDACTED] has pushed them to attempt to impose the same practice on Cameroonians. Though it was difficult to interview a few [REDACTED] as they wouldn't respond to questions, one [REDACTED] confided during an interview that such lengthy hours of work were strenuous and led to frequent blackouts. Despite such long and strenuous working conditions, once the [REDACTED] arrive Lom Pangar, their passports are all withdrawn by the corporation.

VII. Job security

There is no guarantee that an employee of [REDACTED] can lay claim to job security as provided in Article 2 (1) of the Labour Code. This is due to two main factors. Firstly, the total and absolute disregard for Cameroon's labour laws and labour practice and secondly, the desire to impose the [REDACTED] labour practice and labour legislation in Cameroon.

VIII. Occupational Health and Safety

Security at the workplace contributes towards a positive and caring image of the company and also enhances staff morale. It helps to reduce employee stress thus boosting productivity. Safety at the workplace in Cameroon is governed by Ministerial Order 039/MTPS/IMT of 26 November 1984. Since there is no specific set of rules governing safety in the construction industry in Cameroon, the

Ministerial Order allows for international standards to be applied where there is a legal vacuum. Unfortunately, the project at Lom Pangar began in 2012 with no pre-defined safety procedures.

To make matters worse, the first safety inspectors at the construction site were recruited in April 2014. In like manner, the corporation finds it absolutely difficult to provide workers with adequate personal protective equipment (PPE). When they do, the PPE is of such poor quality that it exposes the workers to potential risks on the job. While I was compiling this report, a blacksmith informed me that his line manager had refused to provide him with protective goggles and gloves while he was welding iron. The request for gloves resulted in the line manager initiating disciplinary action against the worker concerned. **See pictures below:**



Note the quality of his safety boot!



Wearing canvass in an area full of half pieces of iron. Industrial Safety at its worse.



No goggles and he exposes his eyes straight into the metal



No welding goggles and gloves!

According to World Bank Standard 2.23, the client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards. Unfortunately for workers at the Lom Pangar project, occupational safety as mentioned above. Is at its barest minimum as mentioned above. Workers are very often exposed to high degrees of accident risks. Unfortunately, any complaint or refusal to execute risky instructions from the [REDACTED] hierarchy exposes the worker to unfair disciplinary action.

IX. Hygiene and Feeding

Hygiene has improved at Lom Pangar with the assignment of some labourers to handle sanitation problems at the labourers' camp. The company has also hired two service providers to feed the workers. However, a plate of food costs 800FCFA

which is significantly inadequate to feed a worker and enable the provider to break even.

That aside, the conditions of hygiene imposed by Ministerial Order N° 39/MTPS/IMT of 26 November 1984 are hardly respected. The Order provides that when workers are required to have their meals within the company premises especially due to their work schedule, the employer must build refectories far from the work site. The refectory is to be kept clean at the employer's expense.

However, at Lom Pangar, the reality is that these standards are not observed. Workers are obliged to either take their meals outside in the open or in their rooms. It should be noted that these rooms are infected by rats and other rodents as mentioned in 3.4 above. **(See picture of refectory below):**



Cameroonians' refectory



Off to his room for lunch due to lack of sitting space in the open air refectory

X. Discrimination

Discrimination at the workplace can easily lead to frustration and stress and even cause industrial accidents. Though discrimination is not defined in the Cameroon Code, in this report it will be considered as defined by the International Labour Organisation. The ILO in Convention C111 defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

Discrimination in Lom Pangar is based on race and national extraction. Generally speaking, there are two main races (on the Lom Pangar Project) working with the [REDACTED]. These are the black Africans made up mainly of Cameroonians and the [REDACTED]. Personal management style at the construction site is extremely discriminatory. **Examples are outlined below:**

Accommodation: Cameroonian labourers and some senior staff live in poorly assembled wooden structures while all [REDACTED] both labourers and senior staff, live in buildings constructed with durable material. World Bank performance standard 2.12 is to the effect that *“Where accommodation⁷ services are provided to workers covered by the scope of this Performance Standard, the client will put in place and implement policies on the quality and⁸ those services might be provided either directly by the client or by third parties.*

The accommodation services will be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Workers’ accommodation arrangements should not restrict workers’ freedom of movement or of association.

See pictures below.



External view of [REDACTED] employees’ homes



External view of Cameroonian living quarters.

⁷ Those services might be provided either directly by the client or by third parties.

⁸ Basic services requirements refer to minimum space, supply of water, adequate sewage and garbage disposal system, appropriate protection against heat, cold, damp, noise, fire and disease-carrying animals, adequate sanitary and washing facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and in some cases basic medical services



Internal view of [redacted] employees' homes



Internal view of Cameroonian employees' homes. Note the structure of the bed and floor



[redacted] employees' rooms have internal toilets



Untiled toilet in Cameroonian living quarters. Tiled gutter is used to defecate and wait for water to be released which takes some time to be released.

Basic service requirements refer to minimum space, supply of water, adequate sewage and garbage disposal system, appropriate protection against heat, cold, damp, noise, fire and disease-carrying animals, adequate sanitary and washing facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and in some cases basic medical services. Despite this discrimination in housing facilities, the improved conditions of the [REDACTED] living quarters do not comply with the basic minima required by law.

- **Promotion and management:** All the departments of the company are headed by [REDACTED]. Some of them lack the technical skills required to manage such departments. Most departmental heads were previously unskilled laborers who were promoted to administrative and managerial positions simply because the corporation was either unable or unwilling to promote Cameroonians to such positions. A case in point is a caterpillar driver who was promoted to the rank of Director of Human Resources. His inefficiency and short-comings have since proven themselves does not understand the basics of human resource management. This explains why against Performance Standard 2.8, there is no written human resource policy in [REDACTED]. The main difficulties in the project emanate from personnel management.
- **Discipline:** Any dispute between a Cameroonian and [REDACTED] is prima facie lost by the Cameroonian. The principle in the Lom Pangar project is ‘the [REDACTED] is always right.’ Cameroonians are in fact disgusted with the disciplinary system in the company so much so that they feel frustrated at any point when they object to the conduct of a [REDACTED]. The [REDACTED] go as far as inflicting corporal punishment on some workers. The Commission on Labour

management dialogue officially instituted a disciplinary committee to enable a joint review of the facts before disciplinary action is taken. Unfortunately for the workers, the company has since rendered the disciplinary committee obsolete on the grounds that workers' representatives at such committees prevent management from dismissing guilty workers. It is worth noting that the few times this committee had sat and considered cases of indiscipline, it had recommended the dismissal of some employees. However, the company sees this committee as a clog in the wheel of their arbitrary disciplinary procedure.

- **Health:** The Company runs two health centers; one is for the Cameroonians and the other for the [REDACTED]. The health center for Cameroonians is headed by Cameroonian doctors while the [REDACTED] health center is headed by a [REDACTED] nurse. It should be noted that the [REDACTED] health center was fully established at the commencement of the project while the Cameroonian health center was created after serious pressure was mounted by the funders of the project. Medicines are always available at the [REDACTED] health center while in the case of Cameroonian workers, there are constant and regular complaints over the lack of medication. To make matters worse, Cameroonian workers are prohibited from consulting at the [REDACTED] Health Center.
- **Biased Conflict Resolution:** Handling and resolving conflicts at the workplace is one of the major challenges faced in Lom Pangar. It is aggravated by the fact that there are two main races at the construction site. Conflict resolution is hugely biased against Cameroonians. The least complaint against a Cameroonian by a [REDACTED] ends up in disciplinary action. Whereas, complaints about [REDACTED] are never considered.

There is a [REDACTED] in the Human Resource Department who spends all his time threatening, intimidating and bullying Cameroonians when they are in difficulty and rather need support from the Administration. Despite complaints brought by Cameroonians against [REDACTED] the company has never conducted any investigation into his case.

- **Mission allowances:** It is no secret that once the company commissions an employee to perform his duties out of his normal place of work and residence, it is bound to cater for the feeding and accommodation of the worker. Unfortunately, at Lom Pangar, only the [REDACTED] benefit from that legal obligation. When a [REDACTED] is on mission he is accommodated in a luxurious and well secured hotel in town. Cameroonians are forced to lodge under very poor conditions because either the mission allowance is so meager that the employee cannot afford decent accommodation or such accommodation is not at all provided. Since the very beginning of the project, this has been the fate of the drivers; that situation has continued to this day. On one occasion, the Director's driver requested for his mission allowance, he was dismissed on the grounds that there was no job for him. Initially, the company claimed that he was sick and needed to be treated. They accompanied him to the hospital to be tested for hepatitis C. The results of the test (which were given to the [REDACTED] but never to the driver himself) turned out to be positive. The very fact that the driver's medical report was given to a third party amounts to a breach of the confidentiality of such information. This leads to some other matter that warrants investigation: it is to ascertain how and why the driver's medical results were sent to the [REDACTED] if at all they emanated from the Centre Pasteur, which is the leading hospital in the country.

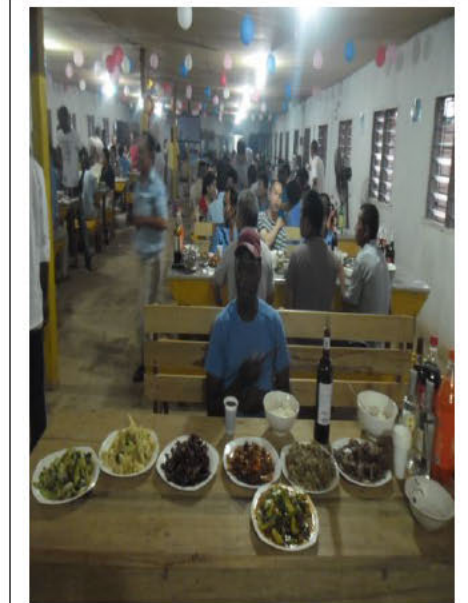
Article 40 of the Collective Bargaining Agreement of the Construction Industry lays down the conditions and the amount to be paid to workers as mission allowance.

Unfortunately, this is only good for the books. The [REDACTED] have never paid mission allowance to the drivers and medical staff in Lom Pangar. A driver confided that when they were on mission in Bertoua, they received 1000FCFA. In Yaounde and Douala, they would receive 10.000FCFA. These amounts include feeding and lodging. However, Article 40 of the Collective Bargaining Agreement provides that for workers between categories 1 to 5, one meal should cost 2.500FCFA, and in the event they have to spend the night, 12.000FCFA which would include feeding and lodging. The reality in Lom Pangar has reduced drivers and other workers to beggars. What can a human being do with 1000FCFA? What is most annoying to the workers is the fact that the [REDACTED] do not pay themselves such meager amounts.

- **Refectory:** At Lom Pangar, the [REDACTED] runs two refectories: One for the Cameroonians and the other for the [REDACTED]. The Cameroonian refectory is almost virtually in the open without tables and chairs whereas the [REDACTED] refectory is well equipped with tables and seats. (See pictures below)



Cameroonians' refectory!



refectory! In the picture is a Cameroonian staff who shares

XI. Retrenchment

In view of the fact that the Lom Pangar Hydro project is time bound, there comes a time when the company must lay off workers. The International Financial Credit, advises that a well-managed process can help avoid a host of problems and result in better outcomes for the company, its employees, and the wider community. To properly manage the retrenchment, the Environmental and Social Standards of the World Bank require that 'the retrenchment plan be based on the principle of non-discrimination and reflect the client's consultation with workers, their organizations, and, where appropriate, the government as well as comply with collective bargaining agreements if they exist.'

It is in that light that Article 40 of the Labour Code together with Ministerial Order No 21/MTPS/SG/CJ jointly provide that the employer should negotiate with staff representatives in order to arrive at a joint agreement in matters of retrenchment.

Despite these provisions and considering that a significant portion of the construction phase of the project is almost complete, most workers are wondering about their fate and what the company has in store with regard to their retrenchment. Despite numerous attempts at bringing the company to order, it has stayed mute. They alleges that there will be no layoffs prior to the partial handing over of the project scheduled for September 15, 2015. However, it fails to make any pronouncements as to what happens after September 2015.

After private discussions with some staff, it is evident that the company does not intend to make any statements prior to the handing over of the dam to the project owner as they foresee that it could cause some social unrest. This is because they neither treat nor do they intend to treat Cameroonian workers fairly. Some workers who had been employed by the [REDACTED] at the [REDACTED] and at the [REDACTED] do confess that the company did not observe the provisions of Article 40 of the Labour Code or of Ministerial Order 21 cited above. The company rather decided to transfer them to Lom Pangar though in itself such a move was not a bad idea.

The malicious intent as well as the violation of the law regarding the transfer of staff however equate such a move to something sinister aimed and intended at circumventing compliance with the legal provisions governing layoffs. Such practice is not in keeping with the provisions of the Environmental and Social Performance Standard of the World Bank which prescribe that: ‘All outstanding back pay and social security benefits and pension contributions and benefits should be paid:

- (i) To the workers on or before termination of the working relationship,
- (ii) where appropriate, for the benefit of the workers, and/or

(iii) In accordance with a timeline agreed through a collective agreement.

Where payments are made for the benefit of workers, workers will be provided with evidence of such payments.¹⁰ All these prescriptions are violated in their entirety in Lom Pangar.

No one can predict the behaviour and reaction of workers if the conditions for layoff are not properly negotiated and/or violate the law. In an interview at the workers' Trade Union headquarters in Bertoua, it was revealed that the rate of dismissal of workers in anticipation of the layoff had increased. Since the company is aware that it is supposed to pay workers their benefits, dismissal rates have risen and thus caused serious hardship and prejudice to Cameroonian workers. In order to benefit from end-of-project benefits, workers are now compelled to succumb to all the irregular and illegal policies and instructions issued by the Management. In June 2015, the company threatened to dismiss electricians and mechanics who sought to have their professional categories upgraded in compliance with the provisions of the Collective Bargaining Agreement. Electricians and mechanics upon employment were classified in professional categories that matched the jobs they performed. However, with the progress of the construction, their responsibilities changed and became more complex. This required an upgrading in their professional categories and a subsequent increase in salaries. The company's decision not to upgrade was premised on bad faith because it did not want to raise the salaries of the workers. Electricians and mechanics continue to work and dare not request for increment simply because they have been threatened with dismissal if they did.

It would be advisable for the company to adopt a retrenchment policy to be shared with the stakeholders prior to the completion of the project. Not only should the company seek to avoid social unrest, they should also pursue appropriate

corporate social responsibility in dealing with their workers. Workers are the primary assets of the company and their dignity as human beings should be upheld.

XII. Disregard for Cameroonian law, Public Authorities and Administrators of Justice

The description above is an illustration of the extent to which [REDACTED] violates Cameroonian law. Since 2012, [REDACTED] has defrauded the State of Cameroon of personal income tax as provided for in the Tax Code and has equally not paid the social welfare contribution of [REDACTED] workers as prescribed by law N° 2001/017 of 18 December 2001 and Ministerial Order METPS/MINEFI 035 of 12 July 2002.

On the issue of personal income tax, the [REDACTED] argue that the Convention between them and the State of Cameroon exonerates all foreign personnel from paying taxes. However, the Tax Code does not provide for nor does it grant any waivers to foreign personnel. Article 25 of the Tax Code of 2014 specifies in that those who operate any professional or salaried activity in Cameroon shall pay the physical personal income tax unless they can prove that the activity is an accessory to work.

The company also argues that it pays the social welfare contributions of its workers in [REDACTED]. That does not fall within the ambit of the law. Again, the law does not provide for any such exoneration. Such exonerations if not mentioned in the Tax Code could form part of a Reciprocal Tax Agreement with the aim of avoiding double taxation. Research has shown that Cameroon and [REDACTED] have never entered

into any such agreement before. It is therefore important to emphasise the need to comply with host state legislation in international investment practice.

The non-payment of social welfare contributions to the National Social Insurance Fund has a most harmful effect on the ██████████ personnel at the project. The purpose of contributions to social welfare is to enable the National Social Insurance Fund to cover the costs of treatment in case of industrial or occupational accidents or illnesses. This definitely is to the advantage of the company. However, ██████████ has opted to waive the payment of such dues. At the beginning of the project in 2012, the company did not pay the social welfare contributions of the Cameroonians. This led to a strike action during which Cameroonian workers obliged the company to start paying their social welfare contributions to the National Social Insurance Fund as explained earlier.

It is worthy of note that Article 3 of Ministerial Order METPS/MINEFI N⁰ 035 of 12 July 2002 obliges employers to declare the salaries of their employees at the local branch of the National Social Insurance Fund each month. Article 6 of the same Ministerial Order makes it mandatory to declare the recruitment and departure of all employees to both the National Social Insurance Fund and the administrator of taxes of the area concerned. The rationale behind these obligations is to enable public authorities to design a system whereby they could monitor and ensure that taxes and social welfare contributions are made in accordance with the law.

Although ██████████ heeded to the demands of Cameroonian workers, they did not register ██████████ workers with both the National Social Insurance Fund and the Tax Administration of Bertoua. This situation clearly casts serious doubts on the management of retirement, industrial

accidents, professional illnesses and the retrenchment benefits of the [REDACTED] workers.

[REDACTED] argues that Ministerial Order METPS/MINEFI N° 035 of 12 July 2002 does not apply to [REDACTED] or to foreign employees working in Cameroon. It must be noted that the law does not define such exceptions or possible waivers. The law is unambiguous in its use of the term ‘employer’. It does not provide for any waivers or exemptions.

All attempts to bring [REDACTED] to order have proven futile. On many occasions, the company has disregarded the authority of the National Social Insurance Fund and the bailiff contracted to mediate in the matter. It has refused to acknowledge receipt of all processes, letters and documents served to them either by the National Social Insurance Fund or the bailiff. This demonstrates absolute disregard for both Cameroonian laws and the authorities of the country.

Furthermore, [REDACTED] does not apply resolutions adopted during meetings between Labour and Management chaired by the Regional Delegate of Labour and Social Security of the East Region. A typical example lies in the principle of referral of cases of indiscipline to a disciplinary board for consideration prior to dismissal.

On the 5th of August 2014, the Regional Delegate of Labour and Social Security chaired a Labour/Management Commission Meeting and reminded the [REDACTED] to set up the disciplinary board to consider all cases of indiscipline. Surprisingly, [REDACTED] on July 31 insisted that they would not set up the disciplinary board. They made it clear-

unequivocally- that they will continue to punish workers based on their own judgement.

Despite the mandate and authority of the Regional Delegate of Labour and Social Security, [REDACTED] exhibits absolute disregard for Cameroonian authorities and the laws of the country.

XIII. Recommendations

From the above analysis based on the human rights situation of the workers at the Lom Pangar Hydropower project, the following recommendations can be made:

To the Government of Cameroon/Electricity Development of Cameroon (World Bank Client)

- I. Harmonise the approach of all public bodies in the drafting and formulation of foreign direct investment contracts and in the execution and monitoring of projects. Key areas to consider include human and environmental rights.
- II. Take appropriate measures to ensure, either through administrative, legislative, judicial or other appropriate means, that the workers and former workers of [REDACTED] in Lom Pangar are actually compensated for the losses they have incurred and for the violations they have suffered.
- III. Empower and integrate trade union representatives in the preparation of foreign direct investment contracts.
- IV. Make public all investment contracts because an informed citizenry will better appreciate the importance of a project, their rights and obligations when they are aware of the details of the contract.

To Workers

- V. Workers should join trade unions and actively participate in negotiations.
- VI. Undergo training courses to understand their rights and obligations at the workplace.
- VII. Submit all their concerns within the company in writing.

- VIII. Inform and submit their problems to senior officials of trade unions and NGOs.

To Civil Society Organisations

- IX. Build their capacity and report on violations of the rights of workers in Cameroon especially in the case of major projects.
- X. Observe and report on human rights violations in those projects.

To

- XI. Compensate both current and former workers for the prejudice they have suffered as a result of poor lodging conditions and from now pay on the housing allowance as mandated by law.
- XII. Compensate drivers and all other workers who are yet to receive their mission allowances and henceforth pay any such allowances.
- XIII. Immediately produce and communicate the retrenchment policy and plan of action. All stakeholders especially workers should be consulted in the process.
- XIV. Recall all hepatitis B patients dismissed or caused to leave the company and provide treatment for all of them.
- XV. Compensate all victims of accidents who have been left to fend on their own and address issues related to their reconversion with the seriousness they deserve. Also define the duration for which they shall be placed under the care of the company.
- XVI. Produce and enforce an accident and sickness management policy.

In the long term

XVII. The company should endeavor to honestly consult national legislation before engaging in the signing of contracts. It should also know that investment contracts have no precedence over the law. They should be in conformity with the law.

XVIII. Recruit a Cameroonian professional as Head of the Human Resources department. He should equally be vested with the authority to perform his duties without interference from the [REDACTED]. Over the years, the attempt by the company to use a [REDACTED] to manage the Human Resources department has largely failed. [REDACTED] Human Resource managers do not master Cameroonian labour practices and legislation. It will be beneficial for the company and other companies in the same field to understand that the worker is the most important asset of the company.

XIX. It would be advantageous for the [REDACTED] [REDACTED] to do a cost/benefit analysis before engaging in projects especially those linked to personnel management. A sincere cost/benefit analysis will prove to the [REDACTED] [REDACTED] that importing [REDACTED] labour is rather more costly to the Corporations.

Conclusion

Due diligence is a pre-requisite for any multinational company with the intention to invest overseas.

It is for that reason that multinational companies are required to carry out a thorough study of the legal and fiscal requirements of the host nation before investing there. It is therefore an affront to common sense to imagine that [REDACTED] [REDACTED] is surprised at the legal requirements expected of it in Cameroon. The World Bank Performance Standards 2 on working conditions obliges clients to prove they shall observe the labour and employment conditions of the host country. Though [REDACTED] [REDACTED] was not the client in this case, it was assumed that [REDACTED] [REDACTED] [REDACTED] [REDACTED] had proved to Electricity Development Corporation (World Bank's Client) that she could execute the project in conformity with the labour laws of Cameroon. Adducing ignorance in defense of their failure to comply with labour legislation is inconceivable.

It is a universally acknowledged principle in law that ignorance of the law is no excuse. Strange enough, [REDACTED] most often justifies its misdeeds on the basis of ignorance of the law. This in my view is not tenable given that most labour practices are universal. Human dignity is a truism and any attempt at devaluing it has universal effects. Furthermore, determining the veracity of legal ignorance is tested by making reference to [REDACTED] labour law.

[REDACTED] shall practice a working hour system wherein labourers shall work for no more than eight hours a day and no more than 44 hours a week on the average. [REDACTED]

[REDACTED] The employer can prolong work hours due to the needs of production or business after consultation with its trade union and

labourers. The work hours to be prolonged, in general, shall be no longer than one hour a day, or no more than three hours a day if such extension is request for special reasons and on condition that the physical health of labourers is guaranteed. The work time to be prolonged shall not exceed, however, 36 hours a month. [REDACTED] on its part specifies that labourers shall be entitled to annual leave with pay after working for more than one year continuously. Specific rules on this shall be worked out by the State Council.

It is therefore inconceivable that the [REDACTED] [REDACTED] a State-owned company with years of experience in labour relations, would claim ignorance as defense in its failures to comply with the legal requirements. Besides, all [REDACTED] on the project enjoy their annual leave of 40 days every year.

It should be noted that during the industrial actions initiated by Cameroonian workers in June and December 2012, July 2014 and November 2014, all the problems listed above were presented as grievances. The commitment made by [REDACTED] to have them resolved has never been fulfilled. Thus, [REDACTED] is either exhibiting bad faith or engaging in criminal behaviour. As many workers confirmed during interviews, they are sure they are working to lose their lives immediately after the project. [REDACTED] is no stranger to Cameroon. They constructed the [REDACTED] [REDACTED] During their time in Yaounde, workers raised the same concerns. Their decision to continue with this same habits at Lom Pangar is proof of bad faith.

Given that the company will be laying off the overwhelming majority of its workforce in September due to the reduced volume of work, it is important that they

compensate all the workers who have suffered any form of prejudice before any such retrenchment occurs. This should be done under the supervision of the World Bank, Independent Observers, the Trade Union and all other stakeholders.

Glossary of terms

Annual Leave: Time away from work to rest or do any private businesses.

Control Mission: Organisation that oversees the construction works and makes sure every endeavor respects the specifications agreed between project owner and contractor.

FCFA: Legal tender in Cameroon. \$1= 570FCFA

Industrial Accident: Accident that happens at the workplace generally due to work.

Industrial Action: Collective action undertaken by workers to send a message through to hierarchy.

Occupational Illness: An illness that occurs because of work done.


Personal Protective Equipment: Clothing, helmets, shoes, belts or other garments used to protect workers' bodies from any injury or infection.

Project Owner: Organisation that initiates a project, finances it, contracts it out to a contractor.

Social Contributions: Money set aside by employers and employees as social insurance.

Unskilled labour: Generally, work with little or no education/training.

Work: An activity done regularly in order to earn money.

Cover picture: Cameroonians and  workers working on the construction of the Lom Pangar Dam.