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# The Socio-Legal Condition of the Woman in the Work Environment in Cameroon: Factor or Obstacle for Her Empowerment?

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## Abstract

This paper examines the socio-legal condition of the woman in the work environment in Cameroon to determine the extent to which it plays in favor of her empowerment. An extensive review of the laws and the literature relating to Labour law in Cameroon has revealed that several Women's Empowerment Principles (WEPs) launched by the United Nations in 2010 (WEP-Booklet, 2010) have been incorporated by the lawmaker. The principle of equality that drives all those principles is very present in the regulation as issues of discrimination in employment are a constant preoccupation of the lawmaker. Unfortunately, it is observed that the cultural context that keeps imprisoning the woman in Africa in general to the role of mother and wife has not eased her empowerment although she has even been given the opportunity to act in the political field. A more effective legislation that neutralises discriminations in employment and provide for a good sanction system against the violation of the principle of equality at work is unavoidable to empower women. But this is not enough as political awareness is the key that will boost their empowerment and thereof contribute to development.

**Keywords:** Culture, Discrimination, Employment, Empowerment, Equality, Traditions

## 1. Introduction

In modern industrial society, as apparently in all others, sex is at the base of a fundamental code in accordance with which social interactions and social structures are built up, a code which also establishes the conceptions individuals have concerning their fundamental human nature (Goffman, 1977, p. 301). This influence of gender on social structures in general and on public policies in particular is the reflection of the perception of the role and the position given to the woman in every society. But globally, equality of treatment between genders has been raised to the standard of a general principle of law to fight discrimination against women's rights in various sectors of life (family, politics, employment ...).

In the employment sector nowadays, the trend is to empower the woman whether as a self-employed person<sup>1</sup> or an employee. From the Universal Declaration of Human Rights (1948), the Protocol to the African Charter on

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<sup>1</sup>It is important to indicate that before the coming of the Organisation for the Harmonisation of Business Law in Africa (OHADA the French acronym is mostly used to refer to the organisation), a married woman could only be trader if her husband had consented as per article 4 of the Code of Commerce. With the coming of article 7 of the OHADA Uniform Act on General Commercial Law, the consent of her husband is no

Human and People's rights on the Rights of Women in Africa (2003 Maputo Protocol), the Convention on the Political Rights of Women (1952), the Convention on the elimination of all sorts of discriminations against women (1967) to the International Labour Organisation (ILO) Conventions, employment is an indisputable right for women. The Constitution of Cameroon<sup>2</sup> provides in its preamble that all persons shall have equal rights and obligations, and especially in the field of work, that every person shall have the right and the obligation to work. After defining the "worker" as any person irrespective of sex, article 2 of the Cameroon Labour Code establishes that the right to work shall be recognised as a basic right of each citizen, and that the State shall make every effort to help citizens to find and secure their employment. The same holds in Decree N° 94/199 dated 07 October 1994 relating to the General Statute of the Civil Service and Public Sector, supplemented by Decree number 2000/287 of 12 October 2000 applying to employees of the public service in Cameroon.

Although these beautiful legal instruments emphasise on an equal treatment of genders in the work environment, discriminations against women are still very perceptible. The International Labour Organisation's (ILO) analysis of 83 countries shows that women in paid work earn on average between 10 and 30 percent less than men (2008). A Report from the Cameroon Section of Women's International League for peace and freedom indicates that in social and economic terms, wages between men and women remain unfair, especially in the private sector where recruitment is often discriminatory against women (2019). In addition, the majority of women work in subsistence agriculture, informal sectors and underemployment. Most of these discriminations take their root from some legal and social hindrances that hamper the process of women empowerment in Cameroon. The observation is that the condition of the woman in the work environment remains problematic, notwithstanding the existence of a Ministry exclusively in charge of Women Empowerment and the Family since 1975.<sup>3</sup> It seems our culture and traditions are in contradiction with the idea of an "empowerment" of the woman.

The feminist movement in the Global South can be credited with the formal appearance of the term "empowerment" in the field of international development (Calvès, 2009), although the term is rarely defined. The lack of definition is particularly striking in "women empowerment," which is the term that has replaced "gender equality" and "women's status" in many policy and programme documents. (Calvès, 2009). However, without engaging into the debate about the various approaches of the notion of empowerment<sup>4</sup>, we have opted for a definition given by the work group "*Gender and indicators*" of the Commission "*Women and Development*" of the Directorate General for Belgian Development (2007) for his inclusion of the various approaches of the concept of empowerment. Close to the notion of "power", empowerment is considered as the process of acquisition of "power" at the individual and collective level. It designates in an individual or a community first of all the capacity to act autonomously, but also the necessary means and the process to reach that capacity to act, to take decisions in one's choices of life and society. The capacity for empowerment is linked to Institutions, to laws: what they allow to be done or not; moreover, this dimension is related to the cultural aspect of the society in which we live.

The concept of empowerment has been formalised by the United Nations Development Fund for Women which has put in place seven (7) Women Empowerment Principles (WEPs) that should guide the empowerment of women around the world: 1. Establish high-level corporate leadership for gender equality; 2. Treat all women and men fairly at work – respect and support human rights and non-discrimination; 3. Ensure the health, safety and well-being of all female and male workers; 4. Promote education, training and professional development for women;

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more required for her to be a trader on condition she has a separate business from that of her husband. Women can be self-employed whether in commercial or civil professions.

<sup>2</sup>Law N°96/06 of 18<sup>th</sup> January 1996 revising the Constitution of 02<sup>nd</sup> June 1972 as amended by Law N° 2008/001 of 14<sup>th</sup> April 2008.

<sup>3</sup> The said Ministry has experienced a change of nomenclature over the years. In 1975, it was initially created as the Ministry of Social Affairs, in 1984 it instead became the Ministry of Women Affairs, in 1988 the Ministry of Social and Women's Affairs. It went back to the appellation of 1984 before receiving the current nomenclature of the Ministry of Women Empowerment and the Family.

<sup>4</sup> Amongst the many inspirations on the writings on empowerment, one of the foremost is the conscientisation approach developed by the Brazilian theorist Paulo Freire in his *Pedagogy of the Oppressed*, published in 1968. According to him in every society a small number of people exert domination over the masses, resulting in "dominated consciousness." From the dominated consciousness present in rural Brazil, Freire wants to attain "critical consciousness." He advocates an active teaching method that would help the individual become aware of his own situation, of himself as "Subject," so that he may obtain the "instruments that would allow him to make choices" and become "politically conscious" (Freire, 1974 as cited by Calvès, 2009). It is this approach that the feminist movement in the Global South has always advocated for, although International development organisations have shifted from this vision to an individualist, de-politicised, vertical, and "instrumental" definition of empowerment for the fight against poverty. For more about the approaches of the concept of empowerment, see (Bacqué & Biewener, 2013).

5. Implement enterprise development, supply chain and marketing practices that empower women; 6. Promote equality through community initiatives and advocacy; 7. Measure and publicly report on progress to achieve gender equality. The WEPs is an initiative of the United Nations' Women and the United Nations Global Compact, which aims to promote gender equality and the empowerment of women in the workplace, market place and the community.

States' public employment policies shall nowadays incorporate these principles in order to promote the empowerment of women in the public or private sector although the said principles are initially addressed to corporations. Laws that regulate employment relations in Cameroon<sup>5</sup> cannot ignore these principles. Reason why the objective of this article is to examine the situation of the Cameroonian woman in the work environment to appreciate the extent to which the legislation applicable to employment matters empowers her.

## **2. Methodology and Results**

### *2.1 Methodology*

This research was conducted using the qualitative research methodology based on an extensive review of primary and secondary legal materials. The primary legal materials exploited here have included the various laws that regulates employment relationships in Cameroon whether at the national or international level. National legislation especially involved the Cameroon Constitution and Labour Code (Law N° 92/007 of 14 August 1992 governing employment in the private sector); Decree N° 94/199 dated 07 October 1994 relating to the General Statute of the Civil Service and Public Sector and supplemented by Decree number 2000/287 of 12 October 2000 applying to employees of the public service; Law n° 67-LF-8 of 12 June 1967 organising Social Security in Cameroon, Law N°2018/010 of 11 July 2018 governing Vocational Training in Cameroon; Ministerial Decree N°16/MTLS/DEGRE of 27 May 1969 relating to women's work.

At the international level, some ILO conventions were particularly exploited: Convention N°111 of the International Labour Organisation relating to Discrimination in Employment and Convention N° 89 on night work concerning women. These primary legal materials were scrutinised with the aim to analyse their level of inclusion of the WEPs put in place by the United Nations Development Fund for Women. Secondary legal material exploited in this work included: text books, scientific articles and reports discussing gender issues in relation to employment. Besides, empirical research methods were not left out as the researcher also made use of direct observation of the employment sector in Cameroon and one-on-one interview with female colleagues to sample their opinion on the issue. Factual evidence was also obtained from some official reports related to women's employment.

### *2.2 Results*

With the use of the above research methods, findings reveals that the Cameroonian legislation on employment has endeavor to incorporate a good number of WEPs. In fact, there exist favorable legal factors that promote the empowerment of women in the work place and it is important to indicate that most of the legislation had embodied several of the said principles even before they happened to be formalised by the United Nations. However, efforts still have to be done as some aspects of the legal primary materials exploited still drag a lot of obstacles to the empowerment of women. In fact some strong socio-cultural obstacles still have a negative influence on their empowerment.

## **3. Favorable legal factors to the empowerment of the woman in the work environment**

If women's access to work whether in the private or the public sector cannot be contested in Cameroon, the issue is now to see if the legislation is favorable to their empowerment. There is no possibility for empowerment in a context of discrimination and that is the second principle of WEPs, which is equal opportunity, inclusion and non-discrimination. An analysis of the regulation reveals that men and women are recognised as having similar rights

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<sup>5</sup> They have been listed under 2.1

(A). Besides, gender considerations even explain the presence within the legislation of specific rights regarding the female gender (B).

### *3.1 The recognition of similar rights to both male and female employees*

The equality at this level is expressed through three aspects: the right to an equal remuneration, same working conditions in general and the possibility to progress in the career.

#### 3.1.1 Right to equal pay

Workers in general without consideration of gender are entitled to a remuneration which is a fundamental element in an employment relationship. The second principle of WEPs stated above, recommends employers to pay an equal remuneration, including benefits, for work of equal value and strive to pay a living wage to all women and men.

Section 61 of the Labour Code defines the wage as remuneration or earnings, however designated or calculated, capable of being evaluated in terms of money and fixed by mutual agreement or by the provisions or regulations or collective agreements which are payable by virtue of a contract of employment by an employer to a worker for work done or to be done or for services rendered or to be rendered. It is the consideration expected by the employee from the employer in the employment contract. Section 61 (2) of the Labour Code provides that for the same type of work and level of proficiency, workers shall be entitled to the same remuneration, irrespective of their origin, sex, age, status and religion. Section 27 of the General Statutes of the Civil Service and Public Sector also recognises the right to remuneration to all civil servants, even if it does not emphasise as the Labour Code on equality of remuneration with regard to gender. But the emphasis is not necessary because a civil servant's salary is fixed according to an index grid determined by the public sector regulation. It applies regardless of gender. According to section 68 of the Labour Code, wages shall be paid at regular intervals not exceeding one month, except the worker chooses to receive at the end of fifteen days a payment on account equal to half the monthly balance due to him which shall be settled at the end of the month.

It is important to mention that the Labour Code has put in place privileges and guarantees of wage claims to protect the worker's wage. Section 70 of the Labour Code indicates that there is a limit on the percentage of wage not liable to attachment and determined by laws and regulations in force. This is established in order to secure the basic needs of the worker and his family. For workers of the public sector, section 28 (2) of the General Statutes of the Civil Service and Public Sector clearly provides that 1/3 of their wage should be free of any deduction.<sup>6</sup> Also, section 75 of the Labour Code stipulates that the employer has no right to do deductions from the employee's wage, except in some authorised circumstances. Firstly, where there is a court order for attachment. Secondly in case of deductions done for payment of ordinary trade union contribution. Thirdly, in case of voluntary assignment to which the worker has subscribed in person and notified for verification with the inspector of Labour of his place of residence. Fourthly, in case of repayment of cash advances made by the employer to the worker, and before the president of the competent court in other cases, and lastly where a friendly community providing for payment of contributions by the workers has been instituted within the framework of the laws and regulations in force.

#### 3.1.2 Right to same good working conditions

Good working conditions include a good and healthy environment, reasonable hours of work and right to rest. The third principle of WEPs is about health, safety and freedom from violence. The Cameroonian legislator has made the health of workers a priority from the moment of their employment. Article 100 of the Labour Code provides that all workers shall undergo a medical examination prior to engagement and shall also be subjected to medical supervision throughout their career. To this effect, section 98 of the Labour Code imposes that, every enterprise and establishment of any kind (public or private, lay or religious, civilian or military, including those belonging to

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<sup>6</sup> Except in case of compulsory levies like taxes or contributions for pension rights, deductions on the salary can only be done under two circumstances: court order for attachment or voluntary assignment according to regulations in force.

trade unions or professional associations ) shall provide medical and health services<sup>7</sup> for their employees. The functions of such services shall be to supervise conditions in respect of hygiene in the establishment, the risk of contagion and the state of health of workers, their spouses and children if housed by the employer as well as to take the appropriate preventive measures and provide the necessary medical care. If a worker or worker's spouses(s) or child(ren) housed by the employer falls ill, the employer shall provide medical care and the necessary medication and accessories, within the pecuniary limits determined by order of the Minister in charge of Labour issued after consultation with the National Commission for Industrial Hygiene and Safety. This falls in line with an aspect of the third principle of the WEPs which recommends to respect female and male workers' rights to time-off for medical care and counseling for themselves and their dependents. Under the same principle, the employer is also recommended to provide safe working conditions and protection from exposure to hazardous materials and disclose potential risks, including reproductive health.

In fact, no service can be efficiently delivered if the worker does not work under safe and hygienic conditions. According to section 95 of the Labour Code, hygiene and safety conditions at the work place shall be determined by orders of the Minister in charge of labour, issued after consultation with the National Commission on Industrial Hygiene and Safety. The said orders while taking local conditions and contingencies into account, shall be aimed at securing for the workers standards of hygiene and safety in conformity with those recommended by the International Labour Organisation and other internationally recognised technical bodies. They shall specify the cases and circumstances in which labour inspectors or the occupational health doctors shall have recourse to the procedure for serving formal notices to the employer. However, where there is an impending threat to the health and safety of workers, the labour Inspector or the occupational health doctor shall immediately order enforceable measures to be taken. Where safety conditions endangering the safety or health of the workers but not covered by the order of the Minister in charge of labour determining hygiene and safety conditions at the workplace are found to exist, the Labor Inspector or the Occupational Health Doctor shall request the employer to remedy the situation. If he objects, the dispute shall be referred to the National Commission on Industrial Hygiene and Safety which shall give a ruling. In all cases, the labour inspector or the occupational health doctors shall report to the said Commission on working conditions which are deemed to be dangerous, in order that, appropriate regulations may, if necessary be prepared.

Finally, good working conditions also entail reasonable hours of work and rest periods. Section 80 (1) of the Labour Code stipulates that statutory hours of work in all public and private non-agricultural establishments shall not exceed forty hours per week. As for agricultural and related endeavours, the hours of work shall be based on a total of two thousand four hundred hours per year, within the maximum limits of forty-eight hours per week. It is clearly stated by the Code that, provisions concerning hours of work shall apply to all workers, irrespective of age and sex and irrespective of mode of payment.

Work without rest is almost impossible, reason why the law provides for leave so that workers rest for a determined period of time whether from the public<sup>8</sup> or the private sector. No form of compensation in lieu of the right to leave is accepted (Labour Code, section 95(2)). 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, in the absence of more favorable in the collective-labour agreement or individual employment contract. One month of effective service is equivalent to four weeks or twenty-four days of work. Period of effective service here include among others; a maternity leave<sup>9</sup> and for mothers the leave shall be increased by either two working days for each child under six years of age on the date of the departure on leave who is officially registered and lives in the home, or one day only if the mother's accrued leave does not exceed six days. This specific provision shows that the legislator is very attentive to the status of female employees. The law also provides for unpaid leave whose duration shall not be deducted from the

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<sup>7</sup> The medical and health service shall be under the responsibility of medical doctors who shall be recruited preferably among practitioners holding diplomas in industrial medicine and who shall be assisted by qualified paramedical personnel. All persons so employed shall have been previously approved by a decision of the Minister in charge of Labour issued after consultation with the Minister of Public Health, in case of paramedical personnel, consultation with the medical association, in case of doctors. (Labour Code, Section 99).

<sup>8</sup> According to section 33 of the General Statute of the Civil Service and Public Sector, the civil servant shall benefit from administrative leave for sickness or maternity according to modalities determined by a decree of the Prime Minister.

<sup>9</sup> Are also considered to be part of effective period of service: periods of unavailability due to industrial accident or occupational disease, Absences not exceeding six months stemming from illness duly certified, lay-offs as provided under section 32 of the Labour Code.

annual paid leave. It is granted at the request of the worker or apprentice who wishes to attend a course exclusively devoted to the worker's education, or trade union training. Finally, a maximum of ten days per year of paid special leave of absence, not deductible from the annual leave shall be granted to workers on the occasion of family events directly concerning their own home.

All these rights are enjoyed by workers in general without gender considerations, and it is within the same perspective of equality that the law organises the possibility for any worker to grow in his career.

### 3.1.3 Right to growth in one's career

The fourth principle of WEPs promotes education, training and professional development for women. It encourages employers to invest in workplace policies and programmes that open avenues for the advancement of women at all levels and across all business areas, and encourage women to enter non-traditional job fields. The principle also requires to ensure equal access to all company-supported education and training programmes, including literacy classes, vocational and information technology training. This incitement to devise mechanisms to promote training and therefore the development of women at work is a strong empowerment tool. The Cameroonian legislator has taken this need into consideration as Law N°2018/010 of 11 July 2018 governing Vocational Training in Cameroon newly introduced continuing vocational training among vocational trainings.<sup>10</sup> This law that explicitly promotes equal training opportunities for all and gender equality under article 5 has clearly stated the aims of continuing vocational training: providing further training or retraining to professionals, fostering professional integration, reintegration and mobility on one hand, and on the other hand, upgrading workers' capacities to meet technical, technological and trade-related developments. By so doing the legislator who has covered the silence of the Labour Code on that matter has put in place a strong tool of empowerment for women at work.

Besides, civil servants also have the opportunity to go in for internship and studies according to article 68 of the General Statutes of the Civil Service and Public Sector. As further training, this additional training enables competence upgrade or capacity-building in a given branch of activity. A civil servant admitted for a training internship or an internship for professional improvement is considered to be in position of regular activity. Workers can even obtain sabbatical leave to undertake studies or personal research and if need be, the administration can designate a worker on duty to pursue an internship for specialisation or improvement or to do specialised studies to increase his efficacy and productivity. These opportunities of further training offered to workers in general give to women the possibility to empower themselves at work so long as the code has not instituted any discrimination with regards to who can benefit from such training opportunities. Meanwhile, the law, at the same time, does positive discrimination when specific rights are recognised to women.

### 3.2 *The recognition of specific rights to women (a good policy of empowerment should consider the special status of the woman)*

The sexuation of norms has been for a long time the reflection of the assignment of different social roles to men and women (Lochak, 2008). Gender consideration is a primordial issue in the enactment of laws in general. The role of procreation inherent to female nature and eventual natural physical limits of women have not been ignored by the legislator. That is the reason why the Labour Code and the law organising Social Security have attributed specific rights to women, in order to protect their physical and moral integrity.

The Labour Code provides that women shall not be kept on any job which has been so found beyond their strength and shall be transferred to a suitable work. The woman is even given the right to request that an approved medical practitioner examine her to ascertain that the work allotted to her is not beyond her strength. In addition, women, pregnant women and breastfeeding mothers are not authorised to perform certain activities. The latter demands a physical effort that the legislator deems them unfit to do and thus tries to protect their physical integrity. According to article 83 of the Labour Code, an order by the Minister in charge of Labour issued after consultation with the

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<sup>10</sup> According to article 10, Vocational training shall comprise: initial vocational training, continuing vocational training and apprenticeship.

National Commission on Industrial Hygiene and Safety provided for under article 120, shall specify the type of tasks which women and pregnant women, respectively, shall not perform. Thus, Ministerial Decree N°16/MTLS/DEGRE of 27 May 1969 relating to women's work points out three categories: work that go beyond their physical strength<sup>11</sup>, dangerous or unhealthy work<sup>12</sup>, and immoral work<sup>13</sup>.

The Labour Code also regulates the daily work period of women in general, in view of giving them reasonable hours of work with regard to their home occupations. With respect to the ILO Convention N° 89 on night work concerning women, section 82 (1) of the Labour Code provides that the rest period for women shall not be less than 12 (twelve) consecutive hours. Night work in industries that is any work done between 10pm and 6am is forbidden for women. But two categories of women are not concerned with the above provisions as per section 82 (3) of the Labour Code: women with executive duties and women in services not involving manual labour<sup>14</sup>.

The pregnant woman in particular has been attributed specific rights by both the Labour Code and the Social Security Law. Those rights stretch from: the right to terminate her employment contract in case of pregnancy, the right to maternity leave and some related benefits, the right to daily allowance while on maternity leave and the right to nursing breaks.

Maternity leave has been granted to all women employees as well as apprentices. Maternity leave has been organised by section 84 of the Labour Code which distinguishes the situation of a woman who intends to terminate her employment contract because of her pregnancy, and a woman who would not like to terminate her contract.<sup>15</sup> Where a pregnant woman does not terminate her contract, she shall be entitled to fourteen weeks of maternity leave starting four weeks before the due date of confinement<sup>16</sup>. Such leave may be extended by six weeks in case of a duly certified illness resulting either from the pregnancy or the confinement and the employer shall not terminate her employment contract during such leave. She is also entitled to a nursing break, following the birth of the child, for a period of fifteen months as per section 85 of the Labour Code. The total duration of the breaks shall not exceed one hour per working day and she still has the right to terminate her contract of employment without notice. Besides, during maternity leave, a daily allowance, equal to the amount of the wage, actually received at the time of suspension of the employment contract is to be paid by the National Social Insurance Fund.

As for the woman who intends to terminate her contract, after the pregnancy has been medically certified she has the right to terminate her contract of employment without notice and without being obliged on that account to pay the compensation due in case of termination of an employment contract of an unspecified duration without notice or without the full period of notice being observed. That right to terminate the contract is unilateral because the law imposes that the employer shall not terminate the employment contract of the woman concerned because of the pregnancy as it will fall under discrimination.

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<sup>11</sup> It is a general principle laid down by article 6 of the Ministerial Order and article 7 determines minimum weights that women are authorized to carry, push or drag. It is in the same perspective that article 87 sub 2 of the Labour Code states that a woman cannot be kept on any job which has been so found to be beyond their strength and shall be transferred to more suitable work. In case this is not possible, the contract shall be terminated without notice and without either party being responsible.

<sup>12</sup> Articles 8 to 13 of the Ministerial Order forbids to employ women in Underground works in mines, quarries and galleries, the lubrication, cleaning, repair of machines or mechanisms in motion. It also prohibits to employ women in premises where there are machines operated by hand or by an engine, the dangerous part of which are not covered with an appropriate protective device etc.

<sup>13</sup> According to article 14 of the Order, it is forbidden to employ women in the manufacture, handling, sale of writings, printed matter, poster drawings, engravings, photographs, emblems, images and other objects whose manufacture, sale, display offer or distribution are punishable by penal laws as tending to corrupt morals. Article 265 of the Cameroon Penal Code sanctions with imprisonment from 1 (one) month to 2 (two) years and with a fine ranging from CFA F ten thousand to half a million, whoever manufactures, keeps, imports, transports, or exports with a view to trade or whether or not for game or whether or not publicly exhibits or distributes any picture or object liable to corrupt morals.

<sup>14</sup> If this provision protects the role played by women at home (care for the house and the children), and caters for their security against nocturnal assaults, it nevertheless institutes a discrimination in access to industrial jobs. Besides, it even places the categories of women exempted in a situation of discrimination against others as if they too do not have to care for their home or their security.

<sup>15</sup> For women working in the public sector, see section 66 of the Civil Service Code, maternity leave is granted at her request after presentation of the pregnancy certificate of 6 months with payment of full wage. The leave is granted for 14 weeks of which 4 before the presumed date of confinement and 10 from the date of confinement.

<sup>16</sup> If confinement delays or happens before, it does not negatively impact the fourteen weeks period. The law indicates to this effect that where confinement occurs before due date, the rest period shall be extended so that the worker receives the full fourteen weeks of leave and it occurs after the due date, leave taken before may be extended to the date of confinement without such extension leading to the reduction of post-natal confinement (Labour Code, Section 84.3 and 4).



Besides these rights, the legislation in matter of social and family welfare entitles the woman to various social benefits. It is of importance however to indicate that these benefits can only be given to women that are working for entities that have registered with the National Social Insurance Fund<sup>17</sup>. The social security provides various types of cash benefits before and after childbirth: pre-natal allowances, maternity allowances<sup>18</sup> and daily allowances for salaried workers when they stop working to give birth.

This special consideration given to women by the law couple to similar rights they have with men at the work place is proof that the lawmaker is willing to empower them, even though some legal and socio-cultural obstacles persist.

#### **4. Legal and socio-cultural obstacles to the empowerment of women in the work milieu**

One cannot contest that Employment law in Cameroon has considerably empowered the woman in the work environment from the moment it makes the right to work a fundamental human right and puts equality of rights at work at the center of the labour law regulations. But notwithstanding these laudable efforts, some elements within the legislation are still plaguing the status of women at work. This is not to ameliorate their condition in a context where the level of empowerment of women deeply reflects our culture and traditions.

##### *4.1 Legal obstacles to the empowerment of women*

WEP's main objective is to completely eradicate discriminations against women in the work environment. Despite the appreciated level of presence of the said principles in the legislation, discrimination remains present as all its aspects have not been considered. This situation is aggravated by an insufficient system of sanction against discrimination which renders weak the status of workers in general.

##### **4.1.1 An insufficient enunciation of discrimination criteria in employment**

Notwithstanding efforts put in place in the Cameroon legislation to fight against discrimination in the employment of women, the phenomenon is still to be completely eradicated. There is an insufficient enunciation of discrimination criteria in employment, coupled with the fact that women are still being excluded from access to certain jobs.

Convention N°111 of the International Labour Organisation relating to Discrimination in Employment and Occupation has established seven (7) forbidden criteria of discrimination. Article one provides that discrimination includes (a) 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. The domestic laws do not conform to all these seven criteria. The preamble of Cameroon's Constitution does not make mention of colour, political opinion, national extraction or social origin. The Labour Code of 1992 lacks the criteria of race, colour, political opinion, national extraction and social origin. The Penal Code<sup>19</sup> and article 11 of Law N° 2001/005 of 16 April 2001 on the orientation of Higher Education do not include colour, political opinion, national extraction and social origin. Decree N° 68-DF-253, of 10<sup>th</sup> July 1968 to lay down the general conditions of employment of domestic workers and house-helpers, amended by Decree N°76/162 of 22<sup>nd</sup> April 1976 has only mentioned sex. The Civil Servant Code without listing any particular criterion just states that access to public function is opened to any person with Cameroonian nationality

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<sup>17</sup> Section 4 of Ordinance n° 73-17 of 22 may 1973 organising Social Security as amended by Law n° 84-006 of 4 July 1984 makes it an obligation that every person natural or corporate body who employs one or more workers under the Labour Code must register with the National Social Insurance Fund.

<sup>18</sup> Pre-natal allowance is regulated by sections 13 to 16 of Law n° 67-LF-7 of 12 June 1967 instituting the Family Allowance Code and maternity allowance by sections 17 and 19.

<sup>19</sup> It is important to indicate that before 2016, article 242 of the Penal Code that sanctions discrimination in employment was only mentioning race and religion. In 2016 with the reform, two other criteria were included: Sex and medical status that do not endanger any person.

without any discrimination. However, the Cameroonian lawmaker has recently improved the status of women at work with the institution of two new criteria of discrimination in the Penal Code: Sex and the health status<sup>20</sup>.

All these domestic statutes need to conform with ILO Convention N° 111 in order to ensure that workers regardless of their gender do not face discrimination in seeking for a job or in the course of their employment because there is no possible empowerment where discrimination reigns.

#### 4.1.2 An insufficient system of sanctions against discriminations

The status of women in the work environment in Cameroon is impacted by the numerous insufficiencies that plague the legislation where discriminations still persist regardless of gender. Any worker whether man or woman who is the victim of discriminations in employment has the right to seize the courts to put an end to that. But this is difficult to achieve in practice because it is observed that the sanction system put in place is not appropriate to fight against such discriminations. Two major factors act in favour of that: the presence of too many deficiencies in the sanction system and the freedom of the employer in the exercise of his powers.

The system of sanctions against discriminations is weak for at least four reasons. Firstly, the practical impossibility to seize courts whenever faced with a discrimination. It is not a secret that the powerful economic position of the employer is the cause of the disequilibrium observed in an employer-employee relationship. It is difficult to imagine in practice that an employee who is a victim of discrimination from his employer files a case in court. That action is naturally neutralised by the fear of potential reprisals from the employer and especially the fear to lose their job. Nothing within the legislation guarantees their protection against the reaction of their employer once they introduce such an action, in a context where getting a job has become very difficult. Coupled with this, the worker cannot provide proof that he has suffered some discrimination.

In addition to that, although the law encourages workers in general to go for continuous training in order to perfect their skills, there is no obligation on the employer with regards to vocational training as it was rightly observed that the 2018 law remains weak since it did not make vocational training an obligation for employers (Monkam, 2020). This exposes employees to the goodwill of the employer, who in some cases will voluntarily deprive workers of professional progress when we know what continuing training is to empowerment. For instance, no employer will explicitly justify denial to employ, promote or allow access to vocational training to a worker on the basis of national extraction, sex, religion or social origin. Neither will he commit the imprudence of motivating an employee's dismissal by his religious or political opinions or his membership to a syndicate of workers (Miendjiem, 2011). Except the case of dismissal where article 30 sub 3 of the Labour Code clearly stipulates that it shall be up to the employer to show that the grounds for dismissal alleged by him are well-founded, discrimination is difficult to prove in other instances. Since there are no specific Labour law rules to guide the matter, it is ordinary law rules on evidence that shall apply. In this context, it is the principle *actori incumbit probatio* that shall apply, meaning that he who alleges a fact shall prove it. How will the worker prove the discrimination of the employer? It is a difficult exercise and one can already predict the failure of his action.

Furthermore, the system of sanctions is deficient because of the inexistence of sanctions to protect against discriminations in general. When article 61 sub 2 of the Labour Code provides that for the same type of work and level of proficiency, workers shall be entitled to the same remuneration, irrespective of their origin, sex, age, status and religion, it does not proceed with sanctions that shall apply in case of violation. This observation also applies in the case of the woman who after giving birth must be given the right to a nursing break as per article 85 of the Labour Code.<sup>21</sup> No sanction exists in case of violation by the employer of that legal prescription. This lack of sanction is also observed at the international level where there also exists no sanction attached to the rules of non-discrimination in employment in the International Labour Organisation

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<sup>20</sup> Article 242 of the new version of the Penal Code (2016) sanctions whoever excludes another from an employment by reason of his race, religion, sex, or health status, where such status does not endanger anyone with a prison term from one (1) month to two (2) years and with fine of from CFAF 5000 (five thousand) to CFAF 500.000 (Five hundred thousand).

<sup>21</sup> According to article 85 (2) of the Labour Code, the total duration of the breaks (granted 15 months after the child is delivered) cannot exceed one hour per working day.

Finally, the sanction in case of discriminative dismissal is not appropriate. In fact, article 39 of the Labour Code provides that any wrongful termination of a contract may entail damages. In particular, dismissal effected because of the opinions of the worker or his membership or non-membership to a particular trade union shall be considered to be unlawful. Payment for damages does not bring back the worker to his position, it is a mere compensation for the fact that he suffered from discrimination. He loses his job with no possibility of reintegration.

#### 4.2 *Socio-cultural and political obstacles to the empowerment of women*

The second principle under WEPs which promotes equality of opportunity, inclusion and non-discrimination recommends to appoint women to managerial and executive positions and to the corporate board of directors and to ensure sufficient participation of women – 30% or more – in decision-making and governance at all levels and across all business areas. In the African context where women still suffer from the weight of tradition and culture, it is difficult to expect such an empowerment of women in the decision-making process in Africa in general and in Cameroon in particular. Besides the fact that the law still allows a discrimination in the employment of women, it appears that the society itself has placed women in a position of dependence towards men. In Cameroon like in most African states, women are seen as weak, feeble-minded with limited reasoning faculty, incompetent to assume leadership positions and incapable of devoting more of their time in demanding jobs because of their family responsibilities (*EKO and Serah Mbole Ngome*, Suit N°28/86-87 C.R, BK. 1/86-87, p.55, Bojongo Customary Court, unreported, as cited by Ngaoundje & Frii-Manyi, 2021). As a result of such vision, the woman is traditionally considered as a mother, a house wife or a house keeper and the jobs they exercise can only fit into this range. This special place which is granted to women necessarily leads to their domination by men, to prejudices that are unfavorable to them, the labour market and to occupational segregation (Miendjiem, 2011). Even though Cameroonian women are more and more emancipated and educated, a good number of them are still relegated to domestic work and farming as a result of a lack of evolution of traditions.<sup>22</sup> The legislator himself allows that superiority of men as the Labour Code still forbids women to perform night jobs. Article 212 of the Civil Code in Cameroon makes the man the head of the family and gives him authority over his family. Even the coming of international instruments proclaiming the rights of women have not been able to eradicate that domination of men. If it is visible at one point that it is the protection of the family which guides the intention of the legislator, it produces a negative effect on the status of women at work. In this context, women leadership is hardly in progress especially as a majority of them do not even show interest in politics.

In Cameroon, the marginalisation of women takes several forms: numerical invisibility, in the sphere of power, low mobility for those who exist at strategic positions and confinement to less strategic and symbolically marginal positions (Biwole, 2021, p. 10). Their level of implication is very low meanwhile they constitute the majority of the population. They do not show enthusiasm for politics whether for participation as citizens<sup>23</sup> or candidates for an election, meanwhile the Electoral Code does not discriminate them for whatever positions they are interested in.<sup>24</sup> There are currently only two women presidents of political parties in Cameroon: Edith Kah Walla of the CCP and Hermine Patricia Toumaino Ndam Njoya of the UDC, and this attests to the lack of interest women show in politics. For instance, in 2013, out of 291 political parties registered, only 13 had a woman at its head (Abessolo, 2019, p.33).<sup>25</sup>

The presence of women in the decisional process in Cameroon is very weak. Appointment to the post of minister is at the sole discretion of the Head of State and at the statutory level, there is no commitment to positive discrimination that will ensure a good representation of women in this high responsibility (Biwole, 2021, p. 36). It has been rightly observed that positions offered to women are generally described as ‘non-technical industries’

<sup>22</sup> The North Region of Cameroon is more affected by these traditions as the girl child is exposed to early marriages in general.

<sup>23</sup> Article 45 of the Electoral Code (Law N° 2012/001 of 19<sup>th</sup> April 2012 laying down the Electoral Code as supplemented by Law N° 2012/017 of 21<sup>st</sup> December 2012) which establishes electoral capacity, does not exclude women. Every Cameroonian aged 20 years old and registered on an electoral list has the capacity to vote.

<sup>24</sup> The position of President of the Republic, parliamentarian, municipal council and even senator is not exclusive to men. See respectively article 116, 156, 175 and 120 of the Electoral Code.

<sup>25</sup> It is important to observe that women are hardly accepted to hold the position of political leaders in Cameroon; one can point out the recent case of Michelle NDOKI member of a political party called Movement for the Rebirth of Cameroon (MRC) who has been extensively criticised to have announced her will to present her candidacy for the MRC headed by Maurice KAMTO.

and concern health, education and well-being. They are rarely offered an executive decisional power in more powerful domains or associated to traditional domains of masculinity as finance and defence (Noukio, 2020 p. 244). But though poorly represented, one cannot say women are left behind in the public sector in Cameroon. In fact, a couple of them are Ministers, Directors General, Chairpersons of Boards of Directors, Secretaries General, Technical Advisers, Deans and Vice-Deans (Biwole, 2021, p. 51). The public sector plays an essential role in Cameroon's economic policy due to its size and its intervention in areas of sovereignty (Biwole, 2021, p. 51) and women involved in the said public sector therefore have a heavy responsibility in the development of the State. As for the private sector, women's promotion also depends on the employer and this exposes women to all sorts of abuse.

## 5 Conclusion

An analysis of the employment law in Cameroon has revealed that so many aspects of the legislation are still discriminatory when it comes to workers in general and to women in particular. Discrimination can take place from the recruitment process, in the course of the employment contract and at the termination of the contract. The lawmaker should be more efficient in the fight against discrimination at whatever stage in the employment chain. Domestic laws should conform to the seven criteria of discrimination of the ILO Convention (race, colour, sex, religion, political opinion, national extraction or social origin) as it was noticed that all of them did not capture them fully. The draft bill of the OHADA Uniform Act relating to the labour law contains all these criteria under articles 8 to 10, even though it contains the same lacuna for the regime of proof of discrimination and the ineffectiveness of sanctions. The law should clearly provide sanctions against discrimination at all stages of the employment chain although the proof of discrimination remains complicated as no employer will explicitly motivate his refusal to employ or his decision to dismiss a worker.

This study also decried the lack of interest in politics by women in Cameroon even though this does not explain why they are not appointed in numbers and in strategic managerial positions in the government. WEPs number two on equal opportunity, inclusion and non-discrimination recommends that women be appointed to managerial and executive positions and to the corporate board of directors<sup>26</sup>. To empower women also means to give them the opportunity to actively participate in the management of the country. The electoral code recognises both their rights to vote and to even present themselves as candidates at the different elections. But to render this feasible, cultures and traditions that keep sustaining inequality in the society should be abandoned because they prevent women from being actors of economic development, in a context where women contribution to the development is no more questionable. For this purpose, women should be conscious of the fact that they should get involved in politics. Networks like *More Women in Politics*<sup>27</sup> that sensitises women on the importance of politics should be multiplied in Cameroon so as to create political awareness in women.

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<sup>26</sup> In France for instance, a Law n° 2011-103 of 27 January 2011 has imposed that 40 percent of the board members of companies that list stock on the stock exchange should be women.

<sup>27</sup> The Non-Governmental Organisation More Women in Politics was created in 2006 in Cameroon and is regulated by Law n°90/053 of 19 December 1990 on freedom of association in Cameroon. It is made up of associations, Non-Governmental Organisations and individuals working for civic education and civic engagement, the enhancement of women's skills, the promotion of women's leadership in public and political life, in the socio-professional and economic fields.

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