

LEGAL AVENUES FOR WORKERS IN CAMEROON TO SEEK PAY RAISE

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1. Overview

The Heavily Indebted Poor Countries (HIPC) Completion Point is an interesting episode in Cameroon. Government is understandably obsessed with putting a positive spin on it while armchair sceptics are bent on reading all sorts of malevolent intent into it. Yet, very few will deny that it marks a significant socio-economic development in the country. Optimism or scepticism aside, it seems appropriate to reflect on the question of how this HIPC stuff will mix with an important straightforward legal question. Put simply, since we have collectively been declared poor, beggarly, and indebted, how do workers, for instance, ensure that the spoils (money) of HIPC enter their poor pockets?

Certainly, this angle to HIPC may not equate with the need to construct the deplorable road network in the country, but it is nevertheless important for many reasons, not least because officially our minimum wage in the private sector is still in the region of 23,000 frs CFA a month. What with university lecturers in Cameroon earning less than administrative clerks in South African universities and journalists of the private press receiving what can be best described as a slave wage? The examples can in fact be multiplied infinitely. There are deliberations as to whether workers could seek better pay through law suits or whether this is an objective that could be achieved only through a strike.

2. Challenge Employer

I thought it a smart idea to share my street legal opinion with my fellow country people in the hope that their subsequent contributions would enrich the debate. I

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observed to my curious friend that there are two distinct types of workers (public employees and private sector workers), with each regulated by different laws.

In principle, an aggrieved worker in both categories should be able to challenge his employer in court for whatever remedy he perceives himself entitled to including, of course, the claim to a pay rise. In practice, however, a worker in the private sector seeking a pay rise or insisting on being paid the prescribed minimum wage through the courts will be confronted with two formidable obstacles.

Under Cameroon's Labour Code, last revised in 1992, such a worker must depend on the good will of the Labour Inspector to go to court. This antic Code continues to vest the discretion on the Labour Inspector to prepare the relevant statements of non-conciliation or partial conciliation with which all labour actions are commenced. The question may be asked: Given the prevalence of the one party mentality among government employees, what if the Labour Inspector deliberately declines to endorse these statements? If this happens, then too bad - unlike in the past where he could be compelled by mandamus, this is no longer possible after the monstrous Judicial Organization Act of 1989 took away this priceless tool for dealing with official arbitrariness in the English legal culture.

The second obstacle has to do with the nature of employments. Ordinarily, pay results from the expressed or implied agreement of the parties. In theory, except if it is arrived at by dubious means, the courts would ideally not interfere with such agreements. This principle applies with equal force to both public and private sector employments. Flowing from the above, it will be interesting to examine the options for a CDC/PAMOL labourer who does backbreaking work at a ridiculous salary of about 20,000 frs CFA a month. Very little indeed! If he succeeds in getting to court at all, he will have to grapple with the obvious question, "Why not leave if the pay is not right?" Would the response that HIPC money has made the question unnecessary be a fitting answer?

The case of the public employee is only marginally different. He could technically sue the state for a pay rise, breach of statutory right (like the one to further training) etc. However, the rules are bureaucratic and unfriendly. Section 40 of the 1996 constitution, for instance, vests the determination of all disputes of this nature involving the state and other public authorities in the Administrative Bench of the Supreme Court in Yaounde. Can the poor and heavily indebted civil servant in Akwaya, for instance, be said to have a realistic possibility of challenging the state in Yaounde? Even if there was a remote possibility, would this still be so during the wet seasons when the roads become something else? Your guess may be better than mine!

3. Strike Option

It seems reasonable to conclude that the strike weapon may be the most reliable strategy in any enterprise for workers to grab their own fallouts from the HIPC Completion Point. This will, however, depend on who, at the moment, has the president's ear. Experience with the lone union of teachers of higher education, SYNES, at the University of Buea has shown that politburo heavy weights tend to see all strikes as foolhardy impudence fit only to be crushed by the sacking of all those who participate in them.