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PROJET MINES-ENVIRONNEMENT-SANTÉ ET SOCIÉTÉ

ACQUISITION OF MINING SPACE IN CAMEROON

Artisanal and Industrial Mining in the East and Adamoua Regions

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Le contenu du présent rapport relève de la seule responsabilité de FODER, et ne peut en aucun cas être considéré comme reflétant l'avis de l'Union européenne.

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LIST OF ABBREVIATIONS

- Art**.....Article
- CED**.....Center for Environnement and Develpoment
- EITI**.....Extractive Industries Transparency International
- RELUFA**.....Network for the Fight against Hunger
- WWF**.....World Wide Fund

INTRODUCTION

According to a report on African Business published in 2008, recent geological surveys prove that Cameroon has an extremely rich mineral wealth with over fifty varieties occurring in commercial quantities. Indeed, Cameroon's mining potential has favored growing interest in its exploitation from both national and international businesses. The government of Cameroon has hinged its economic growth on mineral exploitation. Mineral exploitation appears to be the government's hope for economic development and the attainment of an emerging country status as outlined in the Growth and Employment Strategy Paper for the 2010-2020 period.

In order to facilitate the sustainable exploitation of mineral resources, the government of Cameroon amended the 1969 Mining Code in 2001 making it more investment friendly. These amendments overhauled the mining sector in Cameroon thereby modernizing and facilitating access to the acquisition of mining space in Cameroon. Consequently, the present mining legislation in Cameroon has been praised in certain quarters as investment friendly because it facilitates the acquisition of mining space by foreign investors. Although the mining legislation has the potential of modernizing the economy, this study aims at evaluating the effectiveness of the process of acquiring mining space in Cameroon.

The socio-economic and environmental impacts of mineral exploitation necessitate a regulated, rigid and fair access to the acquisition of mining space taking local realities into consideration. To begin with, the legal framework grants exclusive rights of ownership of mineral resources to the state. By this token, the state evaluates applications from interested investors and reserves the right to grant mining space to applicants. These rights are embedded in either mining titles (industrial mines) or mining authorizations (artisanal mines). These rights and application procedure, unfortunately are unknown to the population in the areas under

study. These areas coincidentally are the areas where mining activities have thrived since the early 1900s.

It was against this backdrop and drawing from the huge experience that Forêt et Développement Rural has gathered from their action on forest governance that the project on mines, health and society/community was conceived. The main aim of this study is to present the results of the study and hence contribute towards transparency in the mining sector specifically in the application and grant of access rights to mining space in Cameroon.

Forêts et Développement Rural, a civil society organization with experience in natural resources governance, conceived the project on Mines, Environment and Society/Community with the objective of improving governance in the mining sector through active public participation. Generally, studies and research in the mining sector have been limited to mining royalties and other financial revenues. Little attention has been paid to the acquisition of mining space. Whereas, the process through which mining space is acquired determines the degree transparency throughout the value chain in mining procedure in Cameroon.

Considering that Cameroon's mining code grants full rights of ownership of mineral resources to the state, the state alone is mandated to determine conditions of exploitation. Consequently, the mining code defines the procedure and conditions to be fulfilled in order to acquire access to mining space. To begin with, an artisanal mining authorization is granted to mature Cameroonian nationals who had previously obtained an individual artisanal mining prospector's card.

Objective of the study

The main objective of this study is to make an evaluation of the effectiveness of the

application and grant procedures leading to the acquisition of mining space in Cameroon. This study shall equally determine whether the population of the area under study knows the application procedure for the grant of artisanal mining authorizations and whether the parties concerned respect these procedures. Briefly put, is the procedure for the application and grant of an artisanal mining authorization transparent? The study was carried out in the following subdivisions in the East Region of Cameroon: Batouri, Betare-Oya, Ngoila, Ngoura and Yokadouma. In the Adamoua, the study was carried out in: Ngaoundal and Tibati subdivisions due to the industrial mining exploration that was carried out there and the envisaged exploitation of cobalt in the same sub divisions. These sub divisions have been the center of artisanal mining over decades. Choosing these sub divisions was

articulated on their long experience in the field of artisanal mineral exploitation.

Methodology of the study

The study was conducted using the following methodologies :

- Literature review of the legal and regulatory texts governing the procedure of acquiring mining space in Cameroon and other literature.
- Interview with 386 local residents and artisanal miners in the areas under study.
- Discussions with traditional rulers in the areas under study.
- Discussion with both Regional and Divisional representatives of the Ministry of Mines, Industry and Technological development.



LEGAL AND REGULATORY FRAMEWORK GOVERNING ACQUISITION OF MINING SPACE IN CAMEROON

The effective governance of natural resources necessitates transparency enforced through an effective public participation with regards to the extraction and management of these natural resources affecting the wellbeing of local populations. International good practices in the extractive industry have recommended that local populations be involved in the extraction of natural resources. In this case, it is important involve the Cameroonian public in the grant and acquisition of mining space in Cameroon. Public participation or local population participation is highly recommended by the Extractive Industries Transparency Initiative (EITI). The Extractive Industries Transparency Initiative is a global standard to promote open and accountable management of natural resources (www.eiti.org, 2016). In 2013, the EITI standards instituted the multi-stakeholder group with an objective to permit the effective inclusion of the public on issues concerning the governance of natural resources in EITI member countries. Cameroon being an EITI member country, it is expected that Cameroon complies with this requirement. The figure below presents EITI's definition and composition of the multi-stakeholder group.

This section examines the legal and institutional framework governing the application and acquisition of mining space in Cameroon with the aim of determining its effectiveness in practice.

I. Inappropriate Legal and Institutional Framework

A. Inappropriate Legal Framework

i) Absence of Public Participation

Despite the huge benefits that can be derived from seeking and responding to inputs and concerns raised by local populations when making decisions concerning environmental and natural resources management, the Mining Code of Cameroon is silent on the mandatory participation of local populations in the process leading to the acquisition of artisanal mining space. Though the Environmental Management Code mandates public consultation during environmental impact assessment studies, the practice has limited these studies to industrial or small mines. Concerning artisanal mining, the specifications issued upon the grant of an

EITI REQUIREMENT 1

The EITI requires effective oversight by the multi-stakeholder group.

Overview – The EITI requires effective multi-stakeholder oversight including a functioning multi-stakeholder group that involves the government, companies and the full, independent, active and effective participation of civil society. The key elements of this requirement include: (1.1) government commitment; (1.2) government oversight; (1.3) the establishment of a multi-stakeholder group; and (1.4) an agreed workplan with clear objectives for EITI implementation, and a timetable that is aligned with the deadlines established by the EITI Board (1.6-1.8).

Figure 1: EITI definition of multi-stakeholder group. Source, EITI Website

artisanal mining authorization require a summary environmental and social impact assessment study.

It should be noted that in practice the objective of impact assessment studies in Cameroon during which the populations impacted by mining activities are consulted, is in no way related to seeking the opinion of the local populations in the process of acquiring mining space. The positive effects of public participation are multitude as it could lead to conflict evasion and mitigation, conflict management, effective overview of taxes and royalty payment, effective sustainable development, environmental protection and effective use of available data amongst others. Despite the fact that Mining Law grants ownership of mining resources to the state, the state in its obligation to preserve social cohesion and align its legislation to the EITI requirement indicated above. Also, the mineral exploitation is a very environmentally sensitive venture requiring adequate cohesion between the miner and the local populations.

ii) Non-publication of contracts

Considering the positive and negative impacts of mining on the riparian communities, it is important that these communities be informed on the obligations, arrivals and departures of any mineral exploiters. The publication of mining contracts could be the best tool in achieving this goal. The publication of mining contracts will enable the riparian community track mineral exploiters and hence inform the government of any malpractices or give any useful information concerning mining to the government.

Unfortunately in Cameroon, artisanal mining authorizations and mining titles which grant access to mining space remain confidential. These instruments are the preserve of the grant authority and the applicant. The deconcentrated services of the grant authority, local and traditional authorities on the field are never informed when such an applicant is granted access to mining space. This non-publication therefore makes it extremely difficult to evaluate the effectiveness of legal enforcements. Section 26 of the Mining

Code states that: the surface area of each land for which an artisanal mining authorization shall be granted shall not exceed 100 meters square and a holder may not be granted more than 4 artisanal mining authorizations. The holder maybe granted 4 authorizations on the condition that they pertain to contiguous areas. The non-publication of these instruments granting access to mining space makes it extremely difficult to ensure transparency in the grant of access to mining space. For instance, if the local population know the various authorization holders, they could easily alert the services concerned if they realize an authorization holder holds more than 4 artisanal mining authorisations.

iii) Disregarded Customary Practices

Artisanal Gold Mining started in this deposit – (River Mari in Betare-Oya) in the early 1900s and has been carried out by successive generations of indigenous peoples (Samuel Tetsopgang et al, 2007). The situation in Betare-Oya represents the general situation in the areas under study where artisanal mining had started before the state of Cameroon was born. During this pre-colonial period, access to mining space was acquired through customary practices. The Mining Code and its implementing instruments do not in any way consider access to mining space through customary approaches. The law does not take the history and practices of mining into consideration. The law rather attempts to separate the local populations from minerals though these local populations have used mines as a source of identity, religion, economy, wealth and tradition for centuries. This separation between local populations and their mineral resources has wrongfully made customary acquisition of mining space illegal in Cameroon. Unfortunately, the law is contradictory in itself. While it recognizes customary rights of land ownership and occupancy, it gives mining precedence and more importance as compared to the protection of customary values. This is clearly demonstrated where the law says that land disputes may not impair any person's right to apply for and obtain a mining title or the renewal of a mining title which had been granted over such land. Corroborating this stance, where

mineral exploitation is given more importance, the law clearly states that where a dispute concerning the land over which the mining title has been granted cannot be resolved, the lands authority shall automatically determine the amount of compensation after ordering an expert assessment.

Similar to artisanal mining authorizations, the artisanal miner's card authorizes only mature Cameroonians to exploit mineral resources. Though a great step towards the recognition of local rights to mineral exploitation, the card leaves much to be desired. The card unlike other mining titles does not attribute a particular area of land to the holder of the card. Unfortunately, if the holder of an artisanal miner's card is exploiting over a piece of land and the holder of either a mining permit or authorization intends to exploit over the same piece of land, priority is given the holder of the permit or authorization. This leaves much to be desired on mineral exploitation in Cameroon. However, it is important, local miners abide by the law through the procurement of the artisanal miner's card.

II. Inadequate Institutional Framework

The institutional framework governing the acquisition of mining space clearly identifies all actors and stakeholders legally expected to intervene in the application and grant chain. Some actors and stakeholders not identified in legal and regulatory instruments intervene in the application and grant chain either due to necessity on the field or otherwise. This section shall analyze the relationship between local authorities and their hierarchies.

A. Lack of Coordination between Regional and Local Authorities

i) Relationship with Local Delegates of Mines

Article 41 of the Decree of application of the Mining Code vests the authority to issue

artisanal mining authorizations on the Regional Delegate of Mines. This is subsequent to an application filed at the Divisional Delegation of Mines by the interested miner for onward transmission to the Regional Delegate. Curiously enough, the Regional Delegate is not obliged by law to inform or communicate the outcome of the application to the Divisional Delegate. The Divisional Delegate is the head of the basic deconcentrated organ of the Ministry of Mines on the field. Hence, the Divisional Delegate is on the field with the exploiters and can better appraise any violations that could arise in the course of occupation and use of mining space. The Divisional Delegate due to his proximity with miners, is the competent authority to evaluate any legal violations and inform the authorities that be. Although Article 11 (3) of the 2010 amendment of the Mining Code mandates the divisional delegate of mines to ensure miners do not exceed the regulated one dimensions (one hectare) during demarcations, it remains that the divisional delegate's role is limited to the respect of the artisanal mining surface area. Considering that the divisional delegate is not involved in the grant procedure and the law does not oblige the regional delegate to inform the divisional delegate of authorisations granted, it will be difficult or impossible for that the divisional delegate locates mineral exploiters who have exceeded the regulated dimensions. As it concerns industrial mineral exploitation, applications for mining research or mineral exploitation are addressed to the Minister of Mines and deposited at the Mining registrar's office. When the Minister of Mines receives applications for mineral research and exploitation, he transmits them within 15 days to the Presidency of the Republic. Upon approval of the President of the Republic, the Minister of Mines grants the mining research permit. Whereas, the Minister of Mines grants the research permit on the approval of the President of the Republic, the mining permit is issued by the decree of the President of the Republic. Again, the process for the grant and acquisition of the industrial mining permits do not oblige the grantors to communicate these permits to their field representatives.

ii) Relationship with Traditional Authorities

The postcolonial difficulties and mutations of traditional authorities or chiefdoms have indeed constituted the subject of vast scholarly interest, and traditional authorities have in the process served diverse purposes (Cheka, 2008). In Cameroon today, traditional authority is exercised at the grassroots level and is governed by decree No. 77/245 of 15 July 1977 organizing the chiefdoms (Cheka, 2008). The main duties of traditional authorities constitute in :

- 1) Transmitting the directives of the administrative authorities to their people and ensuring that such directives are implemented.
- 2) Helping as directed by the competent administrative authorities in the maintenance of law and order and also ensures the economic, social and cultural development of the areas under them. (Metiege, 2002). It can be deduced from these legal requirements that the law permits traditional authorities to mediate between administrative authorities and their subjects. In the same manner, traditional authorities should intervene in the application and grant of access to mining space considering that they are at the base. However, the mining code is silent as to the inclusion of traditional authorities in the whole process of gaining access rights to mining space in Cameroon.

The decree of application in Article 12 (4) states 'in the case of non-industrial mining authorizations, the demarcation shall be carried out according to the customary demarcation procedures.' Deducing from the wordings of this article, traditional authorities who are custodians of customary procedures need be included in the demarcation procedure. Including traditional authorities in the demarcation procedure appears very logical and correct considering their mastery of local realities.

This legal provision does not specify the members of the demarcation team thereby encouraging ambiguity and inefficiency in its application. Hence, reading from the letter of

the law, it is difficult to assume *stricto-sensu* that traditional authorities are mandatory members of the demarcation team. During the field study, a discussion with five traditional authorities in the area under study revealed that they are not consulted during the demarcation procedure. It is therefore interesting to understand the use of 'customary' as used in the Article 12 (4). As it concerns industrial mining, traditional authorities are not involved in any manner in the application and grant procedures.

B. Poor Coordination of Ministerial Departments concerned with the protection of nature.

As mentioned above, coordination between the mining title grantors and local mining authorities/traditional authorities is very minimal or inexistent. As a result, the follow up of conditions accompanying these title grants are very weak thereby paving way for non-respect of these conditions and general violation of the mining code and other duties and obligations generating from the mining code. Mining legislation confers autonomous and collective authority to the various sectorial stakeholders to implement the laws as need be. The Ministers in charge of mines, the economy and finance, the environment and forestry, Town planning and housing are responsible, each in his own sphere, for the implementation of this decree (Article 167 Decree of Application).

i) Ministry of Environment and Nature Protection

According to the decree organizing the 2004 Decree organ sing the government of Cameroon, the Ministry of Environment and Nature Protection amongst other duties is responsible for the rational management of natural resources. This is done in collaboration with the specialized ministries concerned. (Art. 19).

With regards to the mining sector, the Decree of Application of the Mining Code reiterates this collaboration by specifying that the specifications for artisanal mining shall be jointly prepared

by the Ministries of Mines and Environment. (Article 123). Despite these legal constraints, collaboration between the two ministerial departments appears to be inexistent. Whereas, the Decree of Application of the Mining Code makes it clear that all applicants for a mining or carrier authorization or permit shall submit an environmental impact study accompanied by an environmental management plan, it was observed that all exploiters holding artisanal mining authorization do not have these. It is understood that the Ministry of Mines grants these mining authorizations without concerting with the Ministry of Environment which is responsible for environmental impact studies. The obvious effect of lack of consultation is that all artisanal miners including semi mechanized miners operating under the artisanal mining authorization did not present any environmental impact studies.

is causing more environmental harm in the artisanal mining areas. The picture below depicts the negative effects of the lack of cooperation between these sectorial actors.

ii) Ministry of Forestry

The Ministry of Forestry and Fauna is a key sectorial stakeholder in the management of natural resources. It is responsible for the management and conservation of forests and all biodiversity. Consequently, it is of interest that this ministerial department be involved in the grant of mining titles. The ministry of forestry and fauna is by right a member of all commissions responsible with environmental impact studies concerning industrial, mining, agro, sylvo-pastoral projects likely to affect the objective of conservation of protected areas. (Decree No.95/466/PM).



Picture 1: Excavator abandoned in unrehabilitated Mining site

This confusion maybe accentuated by the provisions of the second part of article 123 which exempts artisanal miners from producing an environmental impact assessment study, an environmental management plan and from creating an environmental sequester account. The bottom line however is that the absence of collaboration between the two ministries

A joint WWF-CED-RELUFA study published in 2012 stated that there existed 30 mining exploration permits overlapping 12 protected areas, and dozens more are in the immediate vicinity of protected areas, with a high potential for conflicting with the Government's conservation objectives. (Schwartz, David , & Nguiffo, 2012).

Whereas, Article 4 of the Mining Code is explicit that 'except otherwise provided by law, all land, including water lying over the land, shall be available for the granting of mining titles.'Article 62 on its part states 'No prospecting, exploration or mining operation may be undertaken without the authorization of the appropriate authorities ... in any national park.'Article 64 (2) of the Environmental management Framework law on its part emphasis that 'biodiversity conservation through the protection of the flora and fauna, the creation and management of natural

reserves and natural parks shall be governed by the laws and regulations in force.'The creation, extension, classification or declassification of a forest reserve, a sanctuary, and a zoological garden or game ranch is sanctioned by a decree of the Prime Minister upon presentation of a document presented by the Minister of Forestry. (Decree No.95/466/PM).

Consequently, the law calls for an effective collaboration between the various stakeholders. Sustainable mining could eventually lead to the emergence of Cameroon but this is dependent on the level of coordination and cooperation between sectorial stakeholders.

SECTION B

RESULTS OF THE STUDY

I. Rational for Artisanal Mining

It could be inferred from the Mining Code that the state of Cameroon aims at protecting the local populations who may not have the necessary financial power to compete with the foreign businesses. Similarly, one may note that the legislator intended to enhance local entrepreneurship where local populations could positively invest in small scale artisanal mining. In order to effectively evaluate the effectiveness of these legal provisions governing the application and grant of artisanal mining authorizations, the next section shall present the results of the study.

II. Rational for Industrial Mining

Industrial mining in Cameroon is separated into small mines and large mines. Small mines include the use of semi-industrial or industrial proceedings in the extraction of minerals. Large or industrial mineral exploitation on its part consists in the use of superior techniques and industrial processes in the extraction of mineral processes.

III. Practices in the Acquisition of Mining Space in Cameroon

A. Application without Applicant's Consent

As mentioned above, the Mining Code makes it explicit that artisanal mining authorizations are granted only to mature Cameroonians wishing to exploit minerals in Cameroon. The implementation decree of the Mining Code also makes it clear that the acquisition of an artisanal mining authorization is subsequent to the possession of an artisanal miner's prospecting card. The Cameroonian nationality is a *condicio sine qua non* in the application for the prospecting card. Also, the applicant must prove residency within the sub division where the mineral is found.

During the study as demonstrated by the graph in figure 1 below, only 2% of respondents were holders of artisanal mining authorization.

This relatively weak percentage of the respondent population holding artisanal mining authorizations is in stark contrast with the amount of mining operations ongoing in the areas under study. In an attempt to fully understand the discrepancy between the very tiny fraction of local populations holding artisanal mining authorizations and the huge volume of ongoing

artisanal mining operations, it was realized that some applications were lodged without the consent of the applicant. During interviews, it was made known that some companies (both national and foreign) used the national identity cards of their employees to apply for artisanal mining authorizations. Most workers are either induced into error or out rightly deceived that the collection of their national identity cards were aimed at some administrative procedures. Whereas, the collection of these nationality identity cards were aimed at filing applications for either an individual prospector's card or artisanal mining authorization. The objective of collecting the national identity cards of their employees was aimed at conforming to legal specifications. These specifications are in conformity with Article 40 of the Decree of Application, which makes proof of Cameroonian nationality mandatory. In addition, an applicant cannot hold more than four artisanal mining authorizations with a maximum land surface area of 100 hectares each. This practice has led to one company have artisanal mining authorisations over 1000 hectares across four different project sites. These are Djengou, Kambele, Dimako, Adoumboum right over the river Kadey. During investigations, it was reported that some officials in the ministry of mines are involved in this unorthodox transfer of mining authorizations. They do not seek to inquire whether the applicant has affixed his signature on the deal.

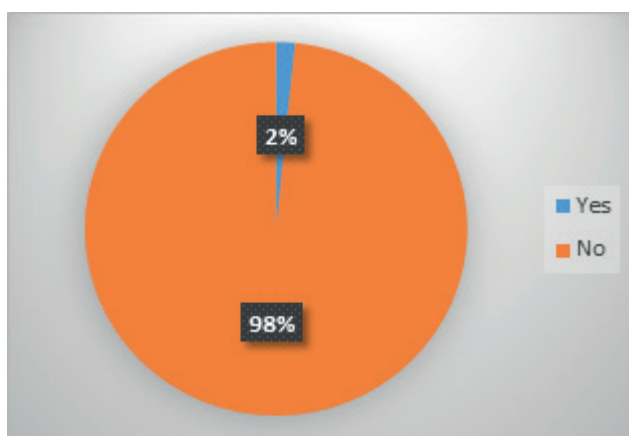


Figure 2 : Percentage of the population who hold artisanal mining authorizations

B. Customary Acquisition of Mining Space

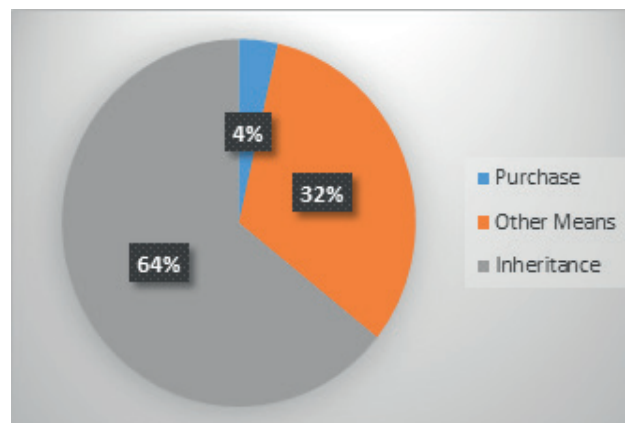


Figure 3: Percentage of the population who own mining sites.

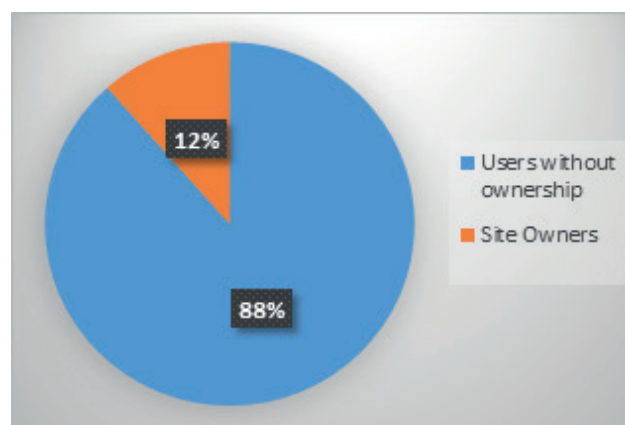


Figure 4 : Percentage indicating means of acquisition

The study revealed that mining space was equally acquired through customary practices i.e. access to mining sites is gained in some cases through inheritance and customary prospection. 12% of the respondent population attested to ownership of mining space. Figure 3 below demonstrates this percentage.

As a reminder, the Mining Code does not recognise local practices and rather grants all ownership of mineral resources to the state. Consequently, only the state has the right to grant acquisition of mining space in Cameroon. Despite these legal provisions, customary practices dating as back as 1900s still thrive given that mineral resources exploration and exploitation in some cases constitute the identity, source of income and even religion of some local populations. Withdrawing this customary right is in other

words withdrawing the identity and livelihood of the local populations.

Mining space is acquired through varied customary means. The study identified customary prospection and inheritance as the main customary means through which mining sites are acquired and owned. Also, some mining sites were bought from the customary owners. The customary owners of these mining spaces become permanent occupants of the mining space and are referred to as the Lords of the Site (Chef chantier). 64% of respondents acquired mining space through inheritance, 32% acquired mining space through customary prospection and 4% bought the mining space. Figure 4 on its part shows the different percentages of means of acquisition of mining space.

As demonstrated above, customary practices have for at least a century dictated the manner in which mining sites are acquired and owned by the local populations. The Lords of the Site, in the eyes of the law are illegal owners of minerals or mining sites. However, those who exploit these mines owned and controlled by the lords of site conduct purely artisanal mining without the use of chemicals and machinery. These purely artisanal miners base their ownership and occupation of mining space on customary laws. Hence, they believe they do not deem it necessary to apply to for any official mining rights. However, it is very important that they comply with legislation by at least procuring the artisanal miners' card. This card in itself does not grant them any particular piece of land for mining neither does it protect the artisanal miner against mechanized artisanal miners with mining authorisations. Procuring the artisanal miner's card makes the local miner conform with the law.

Despite this legal conformity, local miners still need adequate protection through the legal recognition of customary rights and the right to an obligatory consultation during attribution of mining authorities. Recognizing customary rights to mineral exploitation by local communities is fundamental importance. Unfortunately, for local citizens, once a mining title has been

granted over a piece of land, local populations lose their rights to exploit any minerals from same piece of land.



C. Predominance of Foreign Exploiters

The study proved that semi mechanized artisanal mining which according to the Mining Code is reserved to Cameroonians is largely carried out by foreigners. During the study, the main companies were identified from the following countries: Chinese, Australian, German, and Cameroonian. Cameroonians who are directly involved in small mechanized artisanal mining are mainly employees of foreign miners.

The high incidence of foreign exploitation in artisanal mining raises pertinent questions. It has earlier been evoked that artisanal mining in the words Article 9 of the Mining Code: An Artisanal mining license shall be granted only to Cameroonian nationals, subject to obtaining an individual prospector's card and/or the artisanal mining authorization issued under the conditions laid down by this law. The 2014 amendment of the implementation decree of the Mining Code redirected the course of the artisanal mining in Cameroon. Article 2 of the decree states the definition of small scale artisanal mining. The same article goes further that holders of semi-mechanized artisanal authorizations could enter into techno-financial agreements with foreign companies duly registered in Cameroon. This amendment came to recognize the practice that was introduced with the operation save gold in

the River Lom due to the construction of the Lom Pangar hydropower project. This power was going to cause water upstream to pile and increase in volume right into Betera-Oya. The piled water would evidently hinder gold exploitation. Though the operation save Lom was designed in order to remedy as much gold as possible from the bed of the river Lom, it is important to reiterate the fact that artisanal mining has been transformed into semi-mechanised mining. Foreign companies have as a result acquired numerous artisanal mining authorisations not only along the bed of the River Lom but also along the Kadei and other localities like Ngoura, Kette, Colomie etc. These localities lie miles away from the River Lom.

D. Anonymous demarcation Teams of Mining Spaces

Considering that minerals are exploited from underground and that miners may not necessarily be the owners of the land on which the minerals are found, there is a prima facie procedure to obtain lands for mineral exploitation. Obtaining land for mineral exploitation does not in any way transfer land ownership to the miner. A miner is entitled to at most four artisanal mining authorisation therefore, many miners would find themselves in the same environment. This could generate overlapping authorisations, encroachment into others' mining space etc. It is for these reasons that Articles 11 and 12 of the Implementation Decree oblige miners to proceed to demarcate the mining perimeter over which their authorisations are granted. This law equally provides that demarcating mining perimeters under artisanal mining authorisations shall be done according to customary demarcation procedures. The study revealed that 99% of respondents do not know the demarcation team whereas, 1% know this team. The figure below demonstrates the percentage of respondents who acknowledged they know the team that demarcates mining space.

Inferring from Article 12 (4) which states that: In the case of non-industrial mining authorizations, the demarcation shall be carried out according to the customary demarcation procedures. By this token, it is inferred that traditional authorities are

custodians of customary law and are therefore a key part in the demarcation procedure.

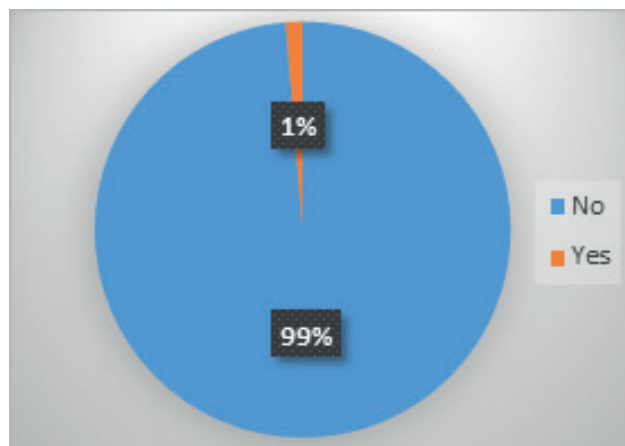


Figure 5 : Percentage who identify the demarcation team

During the study 92% of the respondent population said traditional authorities are not involved in the demarcation of mining space. While 2% are of the opinion that local chiefs are involved in the demarcation team whereas, 6% do not know whether or not local chiefs are involved in the demarcation team.

In order to confirm this information, interviews were conducted with five local traditional authorities in the area under study.



Picture 3: During Discussion with the Traditional Rule of Betera-Oya

The Individual interviews with 5 traditional rulers, it was revealed that none of them is involved in the demarcation team. The picture below presents the discussion with the traditional ruler of Betare-Oya.

E. An Uninformed Public

One of the major objectives of this study was to evaluate the local population's access to information regarding the attribution of artisanal mining authorizations. The riparian or affected community i.e. the community that is directly impacted by the exploitation of mineral resources is a key stakeholder in the mining process.



Picture 4 : Focus group discussion with the population of Nyambonda in Yokadouma

This is made evident by Article 98 (1) of the Mining Code, which states that local populations affected by mining operations shall be entitled to compensation that shall be extracted from the tax *advolorem*. In order to enforce this right to compensation, local communities need to be aware of the amount of compensation raised from *ad valorem* taxes, they equally need to know holders and exploiters of these natural resources.

During the study, it was revealed that 97% of respondents have never been consulted during the attribution of artisanal mining authorizations. On the other hand, 2% of respondents agree to have been consulted during the attribution of artisanal mining authorizations. The figure below shows the percentage of the population consulted during the attribution of artisanal mining authorizations.

The above statistics reveal that local populations who constitute a key stakeholder in the management of mineral resources are not consulted during the application and grant of an artisanal mining authorization. As earlier mentioned, local populations are not informed during the grant and acquisition processes.

In a similar manner, contracts and all contractual documents entered into by the government and miner remain confidential. As such local communities are not informed on their rights related to the exploitation of mineral resources within their communities. It is safe to conclude that the above analysis clearly portrays the fact that local populations do not have access to information on the acquisition of mining space in Cameroon.

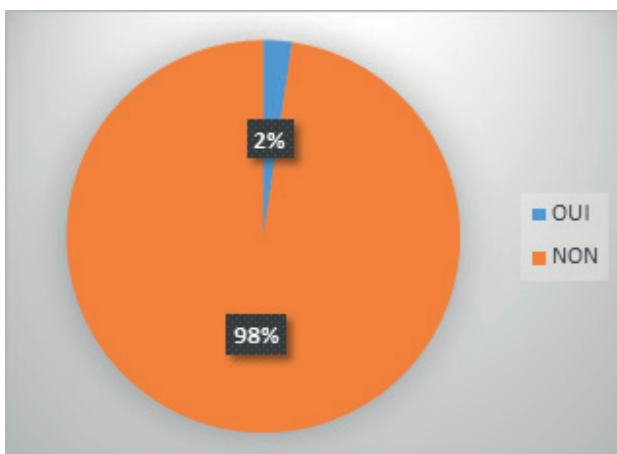


Figure 6 : population consulted during the attribution of artisanal mining authorizations

HURDLES TO THE EFFECTIVE APPLICATION OF THE LAW ON ACQUISITION OF MINING SPACE

The best laws will be worthless if they are not complied with or effectively enforced. Compliance and enforcement therefore ensure transparency, good governance and respect for the rule of law. It is equally important that these characteristics promote compatibility with good practices, practical realities and provide an excellent benchmark to determine their effectivity and contribution towards sustainable development. After examining the legal framework governing the application and grant of the acquisition of mining space in Cameroon, the practices on the field in relation to such acquisition, it is very important to evaluate the causes leading to the incompatibility and hurdles in the effective application and enforcement of laid down procedure. These hurdles are analysed below.

1. Ignorance of the Law

Though the government of Cameroon has hinged the economic emergence of the nation on mining, Cameroonian mining legislation is still at its infancy. As demonstrated in the study, most Cameroonians are ignorant of legal provisions governing the application for and acquisition of mining space. The truth is that one cannot do what he does not know. Most citizens at the base are not aware of mining legislation despite the fact that mining activities and legislation are as old as Cameroon. On the sidelines, NGOs and civil society organisations which usually empower local communities on their communal rights only recently got interested in mining issues. Consequently, the local populations have not been able to benefit from the proceeds of the mining industry. This explains why foreign industries have taken over mineral exploitation in the areas under study.

2. Human Incapacity

As demonstrated above, staff of the ministry of mines and technological development are required to enforce mining legislation. Ironically, these are staff face lots of difficulties on the field. Considering that the law does not empower the basic organs of the Ministry of Mines and Technological Development on the field to enforce control over the application and acquisition of mining space. They do not only lack the competence on enforcing control over the acquisition of mining space, they also lack customary knowledge of the areas under study. In addition, the human resources of the ministerial department of the areas under study are numerically inadequate to ensure the control over the region. Apart from the numerical inadequacy of the human resources, logistics also pose a serious problem to these staff. They find it practically impossible to organize field trips to supervise and enforce legal provisions as defined by mining legislation.

3. Fragmented Legislation

One of the most significant obstacles to the enforcement of mining legislation is the incidence of fragmented or incomplete laws governing mineral exploitation. The acquisition of mining space is governed by framework laws which are not entirely enforcement on their own. Their enforcements are usually subject to either implementation decrees to be signed by the president or prime minister or ministerial orders or other laws in force. For example, the financial regulations governing the acquisition and renewal of the acquisition of mining space are defined by the Finance Law.

4. Disorganised local communities

Local communities hosting mineral resources in the East and Adamaoua regions have manifested an inability of their members to achieve shared values in the exploitation of mineral resources. Members of these communities do not master their land boundaries and consequently mineral exploiters exceed their regulated dimensions attributed by the state for mineral exploitation. Most often, local communities

are only interested in fringe benefits like the provision of bags of rice, meat and alcohol at the beginning of exploitation. In addition, the law provides that local communities should benefit from ad valorem taxes. Unfortunately, the disorganized nature of local communities hinders them from advocating for better and sustainable mineral exploitation. Again, local communities are ignorant of the law. Whereas, this ignorance hinders them from aligning with mining legislation. This explains why most local communities do not own artisanal miners card though they exploit mineral resources.



CONCLUSION AND RECOMMENDATIONS

Sustainable mineral exploitation can transform a poor economy into an emerging economy if properly managed. To conveniently attain the emergent country status, Cameroon needs to sustainably manage access to mining space. Sustainable management will include the publication of mining authorizations and the obligations of miners, consultation and involvement of local populations, improvement of coordination between sectorial stakeholders and amendment of the law to recognize customary practices. The Mining Code, its decree of application and related legislation have laid down the procedure for the acquisition of mining space in Cameroon. With respect to the field study, it could be concluded that the procedure for the grant and acquisition of artisanal mining space is not fully respected and could be said to be shrouded in translucency. It is also important to highlight the fact that the law has some loopholes which if clarified will enhance the enforcement and regulation of the artisanal mining sector in Cameroon. Including all stakeholders including, miners, local populations, civil society and government in the current revision of the mining code will definitely produce a mining code that will enhance the sustainable acquisition of mining space in Cameroon.

Major Recommendations

Government

1. Amend laws to consider customary practices in the mineral industry.
2. Amend laws to clearly define the role of each stakeholder in the application process.
Local Populations
3. Study and have a mastery of mining laws.
4. Master community boundaries and identify all new miners.
5. Group into development associations and lobbying for improvements in mining governance.

Miners

6. Make mining titles public.
7. Respect environmental prescriptions.
8. Rehabilitate mining sites.

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