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Human Rights Violations by Transnational Corporates and Their Subsidiaries in Sub-Saharan Africa: Selected Cases

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Abstract: It will soon be six decades since the States of sub-Saharan Africa gained their independence and initiated multiple industrialization projects, following the discovery of a large quantity of raw materials, in this case natural resources, a development factor. But also, many years of human rights violations in the triptych multinationals - populations - natural resources. These violations concern in particular the land rights of the populations, the degradation of the environment, the right to a healthy environment and the right to health. In order to guarantee the respect of the legal norms that protect human rights, the observation of the texts by the multinationals is imperative because, the salient aspect of these violations affects more women who pay a heavy price. However, although the legal framework for the protection of human rights in the face of the activities of multinationals is defined, various violations persist. To solve this, civil remedies are the most common means of redress in this case, although effective redress in the host state is quite limited. Much more, this can also be done by implementing effective recourse modalities for the guarantee of human rights while attaching the effective respect of human rights to the activities of companies, as well as the effective respect of the Maputo Protocol and the inclusion of women as a factor of development impetus within the riparian communities. This article's objective aims to understand and to unpack the status of respect of human rights by multinational companies in sub-Saharan Africa, in order to propose remedies that do not leave gender aside and an approach that calls on judicial and non-judicial mechanisms.

Keywords: Human Rights, Violations, Protection, Women Rights, Multinational Companies, Corporate Social Responsibility (CSR)

1. Introduction

With a list of the hundred largest transnational corporations in the world at the beginning of 2010 [36], it can be observed the absence of a reference instrument that unanimously defines the concepts of transnational corporation or multinational enterprise. Moreover, they are used indiscriminately in the literature or according to the orientations of the institution concerned. For example, a multinational enterprise is a, multinational group of companies, i.e. a set of companies located in different countries and obeying a common strategy defined by one or more parent companies [16]. For its part, the International Labour Organization (ILO), in its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, uses the notion of multinational enterprise [35][1], unlike the Commission on Human Rights, which uses the word enterprise [39][2], which is more globalizing. Nevertheless, these different aspects refer to a single notion, understood in a general way as an enterprise with several subsidiaries operating in different States [9].

If the various debates do not identify the multinational enterprise as a subject of international law because it cannot produce its own *sui generis* law, various arguments subject

1 The term is used throughout the document as such: The purpose of this Declaration is to encourage multinational enterprises to make a positive contribution to economic and social progress and to the realization of decent work [35]. A precise legal definition of multinational enterprises is not essential for the MNE Declaration to fulfil its purpose.

2 This term is used to refer to any type of business, whether commercial, transnational or otherwise. Thus, in each of the three parts of the document, there is a systematic reference to the word *enterprise*.

its field of action to a framework where international law applies. On the one hand, from the point of view of the law of international organizations (World Trade Organization (WTO), Organization for Economic Cooperation and Development (OECD)...) which secrete legal instruments to which it is subject; on the other hand, from the point of view of the jurisdictional competence to which it is subject and which can mobilize specialized international bodies (International Centre for Settlement of Investment Disputes (ICSID)).

With regard to the objectives of these companies, there is an abundant literature in which a certain number of authors, notably Milton Friedman, consider that the only responsibility of a company is to generate profit [24][3]. The latter defends the existence of a boundary between the economic and social aspects of the enterprise. This cold statement is justified by the economic function that the company plays in a society. The pursuit of this objective has unfortunately sometimes led to serious violations of human dignity. Thus, many human rights violations are committed by large companies.

However, this paradigm[4] of the primary objective of the company has been weakened, or even overturned, insofar as new elements allow aspects other than the economic aspect to be taken into account in the activity of companies [24]. While it is true that many transnational corporations and multinational companies recognize the existence of and submit to the legal framework defined by international law, it is important to note here that human rights violations persist, despite the additional contribution of voluntary codes and instruments enacted by States or institutions. Thus, the main human rights violations by companies most often concerns working conditions and the improvement of the living environment of employees and neighboring populations, the right to health, the right to a healthy environment and even property rights. The major weakness that affects the effectiveness of human rights standards in the activities of multinationals is their lack of binding force. This lack of binding force attached to the legal norm (*hard law*) is the stumbling block that brings to the forefront the incentive norm (*soft law*), devoid of any binding force.

This being said, how is the positive law articulated in the face of human rights violations, framing the activities of multinational companies or their subsidiaries? How is the protection of human rights in the face of their activities structured? Two levels of discussion need to be defined and specified here: On the one hand, it is a matter of assessing the consistency of the international normative framework, and on the other hand, of evaluating its operationality through the questioning of related jurisprudence, if necessary, and suggesting means of consolidating the protection of human rights.

The empirical method will be used and stick to legal data drawn largely from international and national law in some French-speaking African countries. Also, some African and Western states will be looked at, as a comparative law, to provide a suggestion in terms of improving the respect of human rights [4].

While outlining a descriptive approach to cases in certain states south of the Sahara (specifically the Democratic Republic of Congo, Cameroon, Central African Republic, Nigeria, South Africa and Eritrea), it is important to make proposals at the end of this analysis in order to guarantee the promotion of and respect for human rights by multinational companies. Let us recall in passing that the major concerns that make it difficult to guarantee human rights are mainly conflicts that originate in the fraudulent exploitation of precious minerals; the negative local impacts of companies that have effects on the environment, health, land ownership and development; corruption and tax evasion by companies that deprive host countries of revenues that would have allowed them to undertake projects to improve the living conditions of the populations, and aspects of labor law with all its elements: forced labor, child labor, occupational safety and health (violation of the main ILO conventions on decent work).

2. The Relative Effectiveness of Human Rights Protection in the Face of Violations by Multinationals

States have the primary responsibility to protect and ensure respect for human rights recognized in international law. To this end, they have a duty under numerous legal instruments to ensure that multinationals comply with the full body of law in this area. Although companies promote economic growth, this is not a guarantee of human development. Human development is about putting the rights of citizens and communities at the center of responsible natural resource use. This was reaffirmed by the Rio Declaration on Sustainable Development in its Principle 27 which states that human beings are at the center of concerns for sustainable development [32]. They have the right to a healthy and productive life in harmony with nature. In South Africa as an example, everyone remembers the massacre in mondo vision of workers (including women) of the platinum mine in Marikana on August 16, 2012. They had opted to strike and march to the company's headquarters, demanding decent living and working conditions as well as an increase in their wages. According to official figures, the confrontation left 44 people dead, 70 injured and more than 200 arrested. If in this context it becomes important that, in order to ensure the

3 Mentioned in the American daily New York Times Magazine of September 13, 1970. p. 17. Milton Friedman does not conceive of the purpose of a business in any other way than to generate profit.

4 Here, Milton Friedman of the Chicago School argued that the primary purpose of business is to make a profit. For him, the only responsibility of a company is to maximize the profit of its owners. At the very least, he noted, the firm can engage in other activities as long as they contribute, directly or indirectly, to profit maximization. It is therefore inconceivable that another orientation could be given to the pursuit of this obvious objective - the search for profit in order to ensure its continuity. Moreover, this argument has been repeatedly beaten to the point where there is increasing agreement on the integration of new purposes in the goals of the company, such as social purpose and societal purpose (which refers to external aspects related to the company).

protection of these rights, measures of promotion and protection are effective, it is necessary to present these legal mechanisms and the content of the obligations of the multinationals intended to make respect human rights. These mechanisms appear at two levels, the interregional level and the regional level [3].

2.1. A legal Entrusted Framework of Activities

The inter-regional level includes a variety of instruments that have been adopted both at the United Nations level and at the level of various regional groupings. At the inter-regional level, many instruments have been developed to contribute to the implementation of a legal framework for business, aimed at the protection of human rights.

2.1.1. Standard-Setting Instruments for the Protection of Human Rights at the United Nations

The protection of human rights implemented by the United Nations system is not limited only to violations whose origin is specific, but this protection extends to any cause that could affect the human rights that its instruments enshrine and protect.

At the level of the United Nations, this approach to the protection of human rights refers to the set of normative instruments that protect the inalienable and imprescriptible rights of individuals, to borrow the expression from the Declaration of the Rights of Man and of the Citizen of 1789 in its article 2. It is composed of several texts, mainly the Universal Declaration of Human Rights of December 10, 1948, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights of December 16, 1966, as well as their two Optional Protocols.

With regard to the violation of human rights by multinationals, it can be, in order to situate this protection, joined to this group of other specific instruments, notably the Convention on the Elimination of All Forms of Discrimination against Women of December 18, 1979: article 6 of this Convention deals with the prohibition of all kinds of trafficking in women, when it is known that most often, when a multinational company settles in a region, the development and the recrudescence of activities like prostitution is observed. Similarly, article 11 asks States to take measures to avoid discrimination in employment between men and women.

The 1989 Convention on the Rights of the Child takes care to specify from the outset the definition of a child in its article 1: A child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier [6]. Further on, articles 34 and 36 assign to the States, the protection of the child against any form of exploitation or any activity that could harm his or her well-being [14].

For its part, the International Convention on the Rights of Migrant Workers and their Families of November 18, 1990 enshrines in its third part, the protection of the rights of all migrant workers and members of their families. It places the protection of human rights at the center of any relationship in society, and moreover, attaches a sacredness to it. Finally, given the environmental risk associated with the activities of multinationals at sea, the United Nations Convention on the Law of the Sea, which provides for the obligations of States to establish measures to prevent, reduce and control pollution in the marine environment, in order to obtain compensation for damage resulting from pollution in the marine environment (Articles 208 and 235) [37].

In addition to these normative instruments of the United Nations system, it can be added the main institutional monitoring initiatives, which gives a more or less periodic overview of the activities of multinationals with their human rights reports.

For its part, the ILO, an international and specialized agency of the United Nations in charge of decent work and social justice founded in 1919, has as its main mission the promotion and protection of human rights related to work. In relation to this objective, there are 189 Conventions covering many aspects of human rights in the field of decent work. These include Conventions on employment, social policy and human rights, labour and social security. These conventions are legally binding on the states that ratify them. Alongside these texts is the ILO Declaration on Fundamental Principles and Rights at Work.

Adopted in 1998, the Declaration obliges member states, whether or not they have ratified the relevant conventions, to respect and promote the principles and rights in four categories. These four categories include: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labor, the effective abolition of child labor, the elimination of discrimination in respect of employment and occupation.

Also, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted in 1998, clearly states that these rights are universal and apply to all peoples and states, regardless of their level of economic development. Special mention is made of vulnerable groups, including job seekers and migrant workers. It makes us understand that economic growth alone cannot ensure equality, social progress, or eradicate poverty. This commitment is reinforced by a monitoring procedure. Member states that have not ratified one or more of the core conventions are required to report annually on national progress in relation to these rights and principles, specifying obstacles to ratification and areas where assistance is needed [28].

Furthermore, with regard to the applicability of the Conventions, it is mentioned that all Members, even when they have not ratified the Conventions in question, have the obligation, by the mere fact of their membership in the Organization, to respect, promote and fulfill, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of the said Conventions, namely:

1) freedom of association and the effective recognition of the right to collective bargaining;

2) the elimination of all forms of forced or compulsory labor;
3) the effective abolition of child labor and;
4) the elimination of discrimination in employment and occupation.

The Tripartite Declaration is an important recognition by companies of their obligations to respect human rights. It also refers to the obligations to realize the full range of rights that companies must respect. Nevertheless, the main weaknesses are:

1) Apart from labor rights, other human rights obligations and their relationship to corporations are not well specified.
2) This is a purely voluntary initiative.
3) Mechanisms for monitoring companies' compliance with human rights are weak.

2.1.2. The Main International Initiatives Aimed at the Institutional Control of Multinationals

Several initiatives are worth to be mentioned here.

(i). The 1999 World Economic Forum

The first initiative came out of the 1999 World Economic Forum (29th World Economic Forum held from January 28 to February 2, 1999 in Davos) where the then Secretary General of the United Nations, Koffi Annan, proposed the adoption of a Global Compact. This is an initiative that aims to encourage multinationals to adopt a socially responsible attitude by committing to integrate and promote several principles. The Compact includes ten principles, four of which deal with labor standards, three with environmental standards, two with human rights, and one with anti-corruption. The human rights principles state that Businesses should support and respect the protection of internationally proclaimed human rights… and…ensure that they are not complicit in human rights abuses [38]. The obligation of companies to contribute and participate actively in the respect of human dignity in the exercise of their activities can be noted here.

(ii). The Kimberley Process

It is an international diamond certification scheme and its objective is to prevent conflict diamonds from entering the international market. This initiative follows the problem of so-called blood diamonds [33]. The idea is to exclude from the international market any diamond that is not traceable from its place of extraction, through the respect of workers' conditions and the respect of human rights in general. In the Central African Republic prior to the March 2013 crisis, diamond mining was used to finance clashes between groups according to a report by the *International Crisis Group*. This prompted the Kimberley Process to make decisions, including suspending the country, with the objective of preventing companies from cornering and trading, despite the country's good rankings in the world's diamond producing countries due to the quality of diamonds. Thus, while this decision seemed to alert to the financing of the crisis, it did not present the serious human rights violations and abuses in the entire diamond production chain.

(iii). The Extractive Industries Transparency Initiative (EITI)

This is the global standard for good governance of oil, gas and mineral resources. It requires states to publish regular and reliable information on the management of extractive resources, focusing on specific issues such as the amounts paid by companies in taxes and social contributions and the destination of these payments, as well as the publication of information on companies in the sector and the conditions governing their operations. It includes 12 principles aimed at increasing the transparency of payments and revenues in the extractive sector, including seven minimum requirements that must be implemented by member countries. Member countries publish annual reports that include information on contracts, resource extraction, etc., which are then verified through various technical mechanisms.

These initiatives specifically support the respect and consideration of human rights in the activities of multinationals in the countries where they operate [23].

2.2. Insufficient Protection of Human Rights by African Bodies

Despite the fact that there is a body of normative instruments (African Charter on Human and Peoples' Rights and Community Mining Directives), the protection of human rights is less consistent. It is important to mention here the role of regional institutions in relation to this objective.

2.2.1. The Case of African Human Rights Institutions: The African Commission and the African Court on Human and Peoples' Rights

It is important to recall at the outset the legal architecture that underlies the protection of human rights in Africa. Thus, the main texts on the subject will be recalled and evaluated with regard to the disputes presented before the competent regional institutions in the matter.

The African human rights protection system is the set of norms and institutions in charge of the promotion and protection of human rights at the African regional level. This mechanism is instituted by the reference instrument for the protection and promotion of human rights, the African Charter on Human and Peoples' Rights (ACHPR), adopted on 28 June 1981 in Nairobi. Indeed, it does not deal specifically with the relationship between human rights and multinationals, but some of its provisions that are related to it can be identified. However, it is important to divide these into two groups, namely, that of the rights protected and that of the mechanisms for protecting these rights.

The first aspect includes articles 5, 14, 15, 21 and 24[5]. It can

5 Article 5: Everyone has the right to respect for the inherent dignity of the human person and to recognition of his legal personality. All forms of exploitation and degradation of man, in particular slavery, slave trade, physical or moral torture, and cruel, inhuman or degrading treatment or punishment, are prohibited.
Article 14: The right of ownership is guaranteed. It can only be infringed by public necessity or in the general interest of the community, in accordance with the provisions of the appropriate laws.
Article 15: Everyone has the right to work under fair and satisfactory conditions

be noted that these are human rights that are repeatedly violated. For example, in the case of property and the environment, an example taken from case law perfectly illustrates the violation of human rights. This is *Communication 155/96: Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria* where articles 2, 4, 14, 16, 18, 21 and 24 of the Charter were violated[6].

With regard to the second aspect, the implementation of protection mechanisms must be carried out by the African Commission. This is prescribed by articles 30, 45, 47 and more specifically article 50 which deals with the exhaustion of domestic remedies as a condition for the implementation of the protection mechanism[7]. According to Keba Mbaye, just as promotion aims to prevent human rights violations, protection also plays a preventive role [20].

Indeed, one could say, by comparison with criminal law, that protection, like penal sanction, is one of the forms of promotion of human rights, since its purpose is also to ensure prevention. To impose a sanction is obviously to punish a culprit and to bring into play the principle of the responsibility of the human being towards his acts, but it is also to contribute in an individual or collective way to ensure the prevention of the sanctioned behavior. In his commentary on Article 25 of the African Charter on Human and Peoples' Rights, he states that the drafters of the African Charter on Human and Peoples' Rights clearly understood that respect for human rights can only be effectively ensured if there is a system and mechanisms in place within States that enable every man and woman to be aware of his or her rights [20].

Recently in *Communication 393/10, Institute for Human Rights and Development in Africa and Others v. Democratic Republic of Congo*, the African Commission found the government of the Democratic Republic of Congo responsible for the massacre of more than 70 people in Kilwa, in the southeastern part of the country, and awarded US$2.5 million in compensation to the victims and their families. According to the facts, Anvil Mining, an Australian mining conglomerate operating a copper and silver mine in Dikulushi, about 50 kilometers from Kilwa, provided logistical support to soldiers who indiscriminately shelled civilians, summarily executed at least 28 people and made many others disappear after a small group of lightly armed rebels tried to take control of the town. The complaint, on behalf of eight of the victims, was filed with the African Commission in November 2010. The African Commission found a violation of Article 1 of the African Charter, in part because the state had failed not only to investigate and punish the involvement of the Anvil Mining Company, but also to provide remedies to the victims against the company for its role in perpetrating the violations[8].

The African Court on Human and Peoples' Rights was established in 1998 to complement the African Commission's mandate to interpret and protect the ACHPR. It began its activities in 2004 and issued its first decision on December 15, 2009. However, its jurisdiction does not yet allow it to rule on criminal cases or violations involving multinational companies.

However, the ACHPR has established the Working Group on Extractive Industries to carry out activities to help protect human rights from violations by extractive companies[9].

2.2.2. The Case of Certain African Community Courts

At the level of sub-Saharan African state groupings, standards have been established that serve as a community reference, making it possible to guide the behavior of multinationals in their activities in any country in the subregion. This is the case, for example, with community mining regulations and, step by step, there is seeing a pattern of conduct inspired by community texts that is intended to push companies to display the discipline imposed by supra-state standards[10].

On the one hand, it can be mentioned the Mining Code of the West African Economic and Monetary Union (WAEMU): this instrument was adopted by a text dated December 23, 2003[11]. In this sub-region, this Treaty is applicable in all member states by virtue of its article 43[12]. One of the objectives of this Mining Code is to modernize, harmonize and clarify mining legislation in the subregion and thus encourage companies to comply with human rights and other issues. States are also called upon to comply with this

and to receive equal pay for equal work.

Article 21: The peoples have the free disposal of their natural wealth and resources. This right is exercised in the exclusive interest of the populations. In no case, a people can be deprived of it...

Article 24: All peoples have the right to a satisfactory and comprehensive environment, conducive to their development [2].

6 In this case, the African Commission on Human Rights found violations of the rights to health, a healthy environment and food of the Ogoni people by the Nigerian state due to the involvement of state-owned companies in oil exploitation and also for complicity in the prevention of the violations by the oil giant Shell which exploited the oil reserves without regard to the health and environment of the Ogoni people. These activities caused serious environmental damage and health problems among the Ogoni people due to environmental contamination.

7 Article 50 states that the Commission may not hear a case submitted to it until it is satisfied that all domestic remedies, if any, have been exhausted, unless it is clear to the Commission that the procedure for such remedies is being unreasonably prolonged [2]. However, it can be added as a derogation to this formulation, the fact that there are no reliable mechanisms in the country that can guarantee the proper administration of justice through equity.

8 The complainants also argued that the Anvil Mining Company had participated in the commission of the alleged violations of various rights enshrined in the African Charter. While this raises the issue of the multinational's responsibility for violations of the rights guaranteed in the African Charter, it is primarily a matter of the state's duty to protect. This duty requires the state to take all necessary measures to protect itself from human rights abuses by third parties, including corporations, including measures to prevent, investigate, punish and compensate victims.

9 By its resolution ACHPR / Res.148 (XLVI) 09, adopted at the 46th Ordinary Session from November 11 to 25, 2009.

10 For example, the Organization for the Harmonization of Business Law in Africa (OHADA) governs the law of commercial companies, which is in force in French-speaking African countries. For more information, see [14].

11 Regulation n°18/2003/CM/UEMOA of December 23, 2003 adopting the WAEMU Community Mining Code.

12 According to Article 43 of the Treaty, regulations have general application. They are binding in their entirety and directly applicable in all Member States. Directives are binding, as to the result to be achieved, upon each Member State. Decisions shall be binding in their entirety upon those to whom they are addressed. Recommendations and opinions are not binding.

legislation. For example, according to Article 18 of this Code, mining title holders are required to comply with general obligations, including conducting environmental impact studies for the exploitation phase and complying with environmental regulations, while putting in place a monitoring plan and an environmental rehabilitation program.

On the other hand, the Economic Community of West African States (ECOWAS) has established a legal framework governing mining activities within the community. This is the ECOWAS Mining Directive (Directive *C/DIR3/D5/D9* on the harmonization of guidelines and policies in the mining sector) and the Supplementary Act adopting the ECOWAS Mineral Resources Development Policy and its Action Plan (Supplementary Act *A/SA.18/02/12* adopting the ECOWAS Mineral Resources Development Policy (EMRDP). However, the directive is binding in its objectives but the modalities for achieving these objectives are left to the discretion of the Member States.

Regarding the protection of human rights, she assures that these must be rigorously safeguarded. The mining companies must scrupulously observe the laws of the countries, especially the prohibition of carrying weapons by their agents. Also, the rights of local communities must be safeguarded, especially in the provision of arable land to investors without ensuring the importance of the minerals contained in the subsoil. Finally, the member states shall create a socio-economic development fund to which the titleholders and permit holders are obliged to contribute for post-mine activities. Ultimately, it is a matter of creating a mining environment favorable to sustainable macroeconomic development and putting in place incentives to attract investors while protecting the human rights, revenues and resources of the Member States.

Finally, in the Economic and Monetary Community of Central Africa, a draft mining code that is still pending has fueled and continues to give hope for fair regulation in this sector. However, no case law relating to human rights violations has been recorded at the Court.

Unfortunately, it is observed that in all these sub-regional groupings, there is very little jurisprudence, mainly from the ECOWAS Court of Justice, whose powers are described in Articles 15 and 76 of the revised Treaty.

Judgments *No. ECW/CCJ/JUD/15/15* of June 30, 2015[13] and *Suit No. ECW/CCJ/APP/24/17*, *Judgment No.: ECW/CCJ/JUD/ 03/19* [14] , although involving national companies, one realizes the difficult preservation in both cases of human rights.

It also ruled against Nigeria and found the government responsible for failing to regulate companies whose oil extraction activities have degraded the Niger Delta, for being in violation of its obligations under the Charter (section 1) and the right to an adequate general environment (section 24). The Court called on Nigeria to take effective measures, as soon as possible, to ensure the restoration of the Niger Delta environment and to take all necessary measures to hold the perpetrators of environmental damage accountable[15].

3. The Controversy over the Criminal Liability of Multinationals and the Demand for Self-regulation

The primary function of the State is to ensure that the rights of its citizens are respected by instituting a set of legal texts that frame the effects of large companies against the environment, employees or consumers. International law, through a whole set of instruments and mechanisms, plays an important role because it provides new aspects and tools to grasp problems that escape traditional disputes and solutions.

One tool for accountability at this level is the *Due Intelligence Test* mechanism [13]. This mechanism measures the actions of the state in the protection of human rights against violations by transnational corporations, notably through investigations and compensation, and requires that the state has taken reasonable and concrete measures. This test was first used by the Inter-American Court of Human Rights in the *Velasquez Rodriguez* case in 1988[16].

In most cases of human rights violations by multinationals or their subsidiaries, the question has always arisen as to which court would have jurisdiction to rule on the dispute, and if so, to decide on the nature of the compensation for the damage. Indeed, this is quite interesting insofar as many elements are taken into account to determine this jurisdiction upstream. However, on many occasions, it has become apparent that it is difficult to easily determine the competent jurisdiction, or that there is a legal vagueness that does not facilitate the reparation of violated rights, thus leaving the victims in disarray.

This question leads to two levels of reflection. On the one hand, at the level of the competent jurisdiction, and consequently, the difficult equation of the criminal responsibility of multinationals and their subsidiaries, and on

13 167 former agents of the Société Nigérienne des Produits Pétroliers (SONIDEP) against the State of Niger and the Société Nigérienne des Produits Pétroliers (SONIDEP). The Court, ruling publicly, contradictorily, in matters of human rights violations and in first and last resort, and accepting the objection of inadmissibility based on the access of the applicants to the national courts presented by the defendants, declared the action of the "167 ex-agents of the Société Nigérienne des Produits Pétroliers (SONIDEP)" ill-founded and dismissed it as inadmissible because of the anonymity of their request and the lack of standing of those who could represent them.

14 Dexter Oil Limited and Republic of Liberia. In this case, the judge's solution stated that:

- The Court has jurisdiction to rule on this case since the application is in violation of human rights.
- The suit cannot be maintained against the Respondent as a Member State under Article 10 (c) of the text.
- The applicant is a proper party under Article 10(d) to the extent of the internationally recognized exception.
- The plaintiff's property rights were not violated by the defendant.
- The case is dismissed and the parties must bear their own costs.

15 Serap vs. Federal Republic of Nigeria, Case, ECOWAS, ECW/CCJ/JUD/18/12

16 Judgment of the Inter-American Court of Human Rights, San José, July 29, 1988.

the other hand, at the level of alternative means of protecting human rights.

3.1. Controversies on the Competent Jurisdiction(s) for the Implementation of Corporate Criminal Liability

The rule is that the parent company cannot be held responsible for the acts of its subsidiaries with respect to third parties and conversely [17], it is not supposed to be held responsible for the acts of its subsidiaries simply because it has control, the sacrosanct principle of the autonomy of legal persons obliging[18]. However, because international law is fluid, the responsibility of a subsidiary has come to be defined and linked to that of the parent company [22]. Thus, a State has the duty to ensure that the activities carried out on its territory by multinational enterprises, or under its control, do not cause damage of any kind. This highlights the importance of the territorial criterion, but above all of the control criterion. As soon as the State has control over the activity of an entity or a private person, the latter's behavior can be attributable to it [30].

3.1.1. The Criminal Liability of Multinationals and Their Subsidiaries Under Debate

First of all, the parent company may decide to carry out its activity externally by creating an establishment without legal personality, such as a branch office, which implies that the company will be liable for any damage it may cause [13]. The parent company may also prefer, and this is the most common case, to carry out its activity through an entity that enjoys legal personality, such as a subsidiary. This implies that the latter is considered independent of its parent company even if the latter controls it by virtue of the securities it holds or has acquired [5]. It is governed entirely by the law of the state in which it is located [21].

For the framework of French-speaking African countries, it is important to suggest a more consistent approach to liability, which goes beyond traditional liability regimes that have certain limitations. In Cameroon, Law n°2016/007 of July 12, 2016 on the Penal Code, sees the introduction, among its major innovations, of the liability of legal persons. To this end, its Article 74-1 provides that legal persons are criminally liable for offenses committed, on their behalf, by their organs or representatives, and the criminal liability of natural persons, perpetrators of the incriminated acts, can be combined with that of legal persons.

Dissolution[19] is the ultimate or highest penalty that can be imposed on a legal person. Moreover, the liability of legal persons is not an autonomous liability but a liability by representation. A legal person cannot be held liable because of its defective structure or organization but because of an offence attributable to its organs or representatives. The Criminal Chamber of the French Court of Cassation quickly rejected this view, considering that the criminal fault of the organ or representative is sufficient, when committed on behalf of the legal person, to engage the criminal liability of the latter, without the need to establish a separate fault on the part of the legal person[20].

Large companies and transnational corporations, because they are generally more financially powerful than many states in sub-Saharan Africa, sometimes take advantage not only of the economic clout they have, but also of the tax and legal facilities in place in these states to attract investors.

It is also important to disentangle the legal relationships that arise between various components of the parent company in order to link liability to the tortfeasor. Thus, a company may have its registered office in one state, have subsidiaries and shareholders in a second state and, finally, be liable or answerable for litigation in a third state as a result of its activities throughout the world.

Thus, a legal situation may be connected with several States because of a foreign element and it is necessary to choose, among the laws of these different countries, the one that will govern the legal relationship in question. The choice of an appropriate conflict of laws rule in private international law is very important because the conflict rule makes it possible, in the event of a legally relevant point of contact of a situation with more than one State, to determine which of the laws is applicable among the legal orders involved [17].

It should be noted in passing that subsidiaries of transnational corporations have legal personalities distinct from those of branches, which are merely portions of the transnational corporation in a region different from the head office, and their legal personality is linked to that of the transnational corporation.

Various institutions can rule on the determination of responsibility. Thus, the common law jurisdiction is the International Court of Justice, and only States have the right to appear before it[21].

In sub-Saharan Africa, there are community jurisdictions, notably the Common Court of Justice and Arbitration (CCJA), whose jurisdiction is limited to nine areas of OHADA (Organization for the Harmonization of Business Law in Africa) legislation, and the Court of Justice of the Economic and Monetary Community of Central Africa (CEMAC).

Moreover, in OHADA law, the CCJA is the interpreter and guarantor of OHADA law. The substantive courts are primarily responsible for the application of OHADA law. Nevertheless, the ultimate control of the interpretation and application of the law lies with the CCJA, which plays the role of a court of cassation to the exclusion of national supreme courts in the field of uniform law [25].

When the dispute is international, the judge must first ask himself whether the law of the forum, i.e. his own national law, should not be set aside in favour of a foreign law. Indeed, he may substitute for the domestic rule invoked not only another domestic rule but also a foreign rule, if another legal system

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17 Highlighted in case *C. A. Montpellier, December 14, 2010, 2nd ch. SA Sita Sud c/SA Ourry, BRDA Francis Lefebvre, 2/11*.

18 *Cass.com 26-4-1994, RJDA 8-9/94 n°930; Cass.Com 2-12-1997, RJDA 4/98 n°438* in [29].

19 Provided for in Article 25-2.

20 Cass. Crim. June 26, 2001, Bull. crim. n° 161.

21 Article 34 of the Statute of the International Court of Justice states that only States have standing before the Court.

proves to have jurisdiction. However, every question of law has its own applicable rule, explicit or implicit, and this in any legal system. The judge must therefore rule on the basis of this foreign rule as he would on the basis of a rule of his own national law [10].

3.1.2. The Problem of Territorial and Material Competence

The most appropriate option is to bring an action in the court of the transnational corporation's place of residence to hold it accountable for its actions. According to Schmidt, any power must necessarily entail responsibility, and when this power is exercised over a totally integrated company, the dominant company must answer for the results of its management [34].

Among other examples on the question of the jurisdiction of courts in matters of criminal liability of multinationals, the legal instrument of the United States can be mentionned: the *Alien Tort Claims Act* (ATCA). This is a provision of the Federal Law of 1789, which recognizes the jurisdiction of the federal courts of the United States to examine actions for compensation brought by any foreigner for a fault committed in violation of international law or a treaty of the United States. It is worth noting that this instrument has been the basis for a large number of human rights claims, including, since the 1990s, against companies with sufficient links to the United States.

In sub-Saharan Africa, this provision was used in Nigeria, in the case of *Wiwa v. Royal Dutch Shell*[22], following the abuses committed by the transnational company Shell in Nigeria. In 1996, the company was accused of complicity in human rights violations suffered by the Ogoni population. The abuses cited in the complaint, filed in federal court in New York, concern the extrajudicial execution of Ken Saro-Wiwa and other leaders of MOSOP (*Movement for the Survival of the Ogoni People*) in 1995**.**

In Cameroon, associations had taken the Bolloré group to court in France, demanding the application of a plan to improve the living conditions of workers and local residents of palm oil plantations whose management was entrusted to SOCAPALM. These NGOs and unions, of Cameroonian, Swiss, Belgian and French nationality, are taking the case to court to demand the application of a "commitment" concluded in 2013 and which had, among other objectives, to guarantee health and safety at work for all workers and to settle conflicts amicably.

In the DRC, a country rich in mineral resources but not a reality for the population, an armed conflict has been raging for many years. It has resulted in the massacre of populations and finds part of its origin in the illicit exploitation of natural resources [31]. The U.S. Financial Industry Reform Act passed in July 2010, also known as "Dodd Frank", contains an important provision relating to the trade in "conflict minerals" from the DRC. Its implementing rules require multinational companies listed on US stock exchanges to provide periodic reports on measures taken to ensure that revenues do not fuel the conflict there.

22 The case is fully discussed by [1].

Also, one can mention the choice of court clause, also called the Choice of Court Agreement, which expresses the power recognized to the will of the parties - generally in a main contract, such as a contract of sale or a contract for services, to attribute to a given court, or globally to the courts of a given country, a jurisdiction which it does not have in principle, in order to influence the jurisdictional rules [27].

More recently in November 2017, the British Columbia Court of Appeal ruled on the case of *Araya v. Nevsun Resources* where the plaintiffs argued that they worked at the Bisha mine located in Eritrea against their will while being subjected to cruel, inhuman and degrading treatment. The court dismissed Nevsun Resources' appeal and allowed the case to proceed on the merits. This was a very different kind of decision, as the company was sued not only for human rights violations, but also for violations of *Jus cogens*.

3.2. From Institutional Constraints to Self-regulation

In order to complement and strengthen the legal mechanisms in place, other means are possible in Africa. However, this perspective requires a prior legal basis and a commitment on the part of the States to ensure compliance with the legal framework, and also on the part of companies that commit to setting up mechanisms that go beyond legal requirements. For example, the provisions of the Constitution of the Republic of Niger resulting from the referendum of October 31, 2010 give an important value to the environment and the extractive industries (Articles 35-37 and 147-153). Its text provides that the extractive sector must be oriented towards meeting the requirements of development, while specifying "priority areas" including education and health. It also emphasizes transparency in the entire chain of exploitation of natural resources, mainly the publication of revenues paid to the state.

3.2.1. The Contribution of Self-regulation

The contribution of self-regulation should be encouraged, better developed and detailed in order to allow for greater clarity in the activities of companies. Many years after the Rio Summit, the concept of sustainable development initiated by the Brundtland Report has become central to the development policies initiated by private and public actors[23]. For example, the Global Compact initiated by the late United Nations Secretary Koffi Annan, and the European Union's Green Book on CSR with the support of international civil society, have constituted a reference for multinationals to integrate CSR and "*reporting"* approaches, a rating that takes into account the social, environmental and economic aspects of their activities.

Self-regulation generally means that the company sets itself a course of action that it defines as a rule. In other words, it is a matter of the company going beyond the legal requirements to become more involved in a process that takes into account elements that it finds useful and necessary for the community

23 This report served as a precursor to the Rio Summit. It defines sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs [6].

and for social well-being. This is the case, for example, with the concept of corporate social responsibility.

For Isabelle Daugareilh, corporate social responsibility translates into self-regulatory mechanisms for intra-company (company and employees), inter-company (commercially associated companies) and extra-company (companies and NGOs) relations. It produces both its own resources and procedures, which constitutes a first risk of being outside the orbit of the legal system, without however ignoring it [7].

The European Commission defines corporate social responsibility as the responsibility of companies for the effects they have on society. CSR is therefore a set of strategies implemented on a daily basis in the activities of companies, which strategies take into account communities, governance, environmental issues, human rights and working conditions. It is materialized by the adoption within the company of the ISO 26000 standard, which is the international standard related to it[24].

The areas covered by corporate social responsibility directly affect the lives of local communities, both environmentally and socially. In education, companies are involved in the rehabilitation and construction of school infrastructures. In the area of health, companies can contribute to the rehabilitation of hospitals and health centers, and provide access to medical care for various diseases such as malaria and HIV/AIDS. On the environmental front, some companies are working to set up waste management mechanisms to contribute not only to public health, but also to the preservation of ecosystems.

For a company whose role is to create socio-economic wealth, jobs and contribute to development through concrete actions in favor of communities, CSR is a set of voluntary positive initiatives, initiatives that go beyond legal obligations and initiatives that embrace a range of environmental, social and economic requirements. This approach translates into the idea of the *Triple Bottom Line*, which leads to the evaluation of the company's performance from three angles [18]:

1) The environmental aspect: this involves analyzing the impacts of the company and its products in terms of raw material consumption, waste production and polluting emissions.
2) The social aspect: here, it is taken into account the social consequences of the company for all its stakeholders (employees and their working conditions, suppliers, customers, local communities).
3) The economic aspect: this refers to the financial performance of the company, but also its ability to contribute to the economic development of its area of establishment while respecting, among other things, the principles of healthy competition. Thus, these elements can lead us to define CSR: it is an approach that defines the behavior of companies that integrate social, environmental and philanthropic concerns in all their operations in addition to their economic concerns. This translates into respect for the socio-economic rights of workers, respect for the environment and respect for human rights.

The observation that can be made is that the development of large-scale projects presents numerous opportunities as well as very particular risks, especially for women. Thus, taking into account the respect of human rights, particularly the gender approach, in the activities of multinationals is of great interest because the impacts of the development of mining activities have an impact on women, given their assimilation to vulnerable groups[25].

In the Democratic Republic of Congo, for example, although poverty affects almost the entire population, available data shows that women are the most affected. It has been shown that 61.2% of women live below the poverty line compared to 59.3% of men. Similarly, 62.1% of female-headed households live below the poverty line compared to 54.3% of male-headed households [12].

3.2.2. The Use of Semi-legal Processes

Semi-legal procedures can be understood as initiatives taken within the company in a codified and sometimes binding form for the entire staff, inspired by national laws. Codes of conduct can be seen here. These are derived from the *Jus cogens* standards in the field of labor law and human rights. They can allow multinationals to better frame their legal commitments. Although these initiatives cannot prevail over national or international legal norms, they can reinforce and complete legal norms through interpretation.

For some authors, although they lack legal force, the rules of a code give the action of the beneficiaries a legitimacy that generates effectiveness [26]. Thus, a code is effective if it acts as a counterweight to the actions of a transnational corporation outside of any state intervention. And once a violation is committed, recourse to international criminal law is readily available.

At the international level, Article 5 of the Rome Statute states that the jurisdiction of the International Criminal Court is limited to crimes that affect the international community as a whole. These are genocide, the crime of aggression, crimes against humanity and war crimes. Moreover, article 25 of the same Statute states that the Court is only competent to judge natural persons, and that criminal responsibility is individual, therefore, it would not be *de jure* and *de facto* admitted any collective criminal responsibility affecting legal persons.

But that is the problem. If a company is responsible for human rights violations through its employees, would it not be concerned about answering for the actions of the individuals in its service? It seems that international criminal law, which is aimed at international crimes, is not suitable for this case, but

24 According to the European Commission, the Green Paper of July 18, 2001 on corporate social responsibility and the Communication of July 2, 2002 on corporate social responsibility are the participation of companies in taking into account human rights in their activities.

25 The point here is that women in general are indirect victims of the development of mining activities in the regions where the multinationals operate, particularly in sub-Saharan Africa. They engage in activities such as prostitution, are subject to physical and psychological violence and are not entitled to any property rights, for example. Also, the discrimination against them is sometimes striking and it can be observed that, the literacy rate among girls is much lower than that of boys.

much more so for international criminal law, which for its part governs criminal collaboration at the international level [8]. The Lexicon of Legal Terms specifies that international criminal law is the set of rules of public international law, essentially conventional, concerning the incrimination and repression of crimes. As for international criminal law, it refers to all the rules of criminal law relating to offences with a foreign element as well as to international crimes [11].

While this difficult equation of criminal responsibility of legal persons is still being debated, the personnel of multinationals can be held responsible if they have acted within the framework of the activities of the multinational. The concept of criminal liability of legal persons, which is in the making, would be more than a deterrent, but would be an additional instrument in the protection of human rights.

At the national level, on the other hand, there are some particularities. The states provide for control rules that lead to sanctions, sometimes criminal ones. However, these sanctions are not directly linked to cases of human rights violations, but rather to non-compliance and infractions of the mining law in general. The judicial police and the mining police are responsible for establishing these penalties.

In Benin, for example, Law n°2006-17 of October 17, 2006 on the mining code and mining taxation, in its article 139, states that judicial police officers and sworn agents of the department in charge of mines have the authority to carry out investigations, seizures and searches if necessary. The investigation of offences entails the right of physical inspection. A woman's body can only be visited by a doctor or by a woman.

Countries such as the Democratic Republic of Congo (Article 307, Law 007/2002 of July 11, 2002 on the mining code) and Guinea (Article 123, Law L/2014/n°34/AN of December 23, 2014 on the petroleum code) provide for criminal sanctions in the event of non-compliance with rules relating to the environment and worker safety, public safety and the detection of acts of corruption among others.

In another sense, some states may impose as a sanction the outright withdrawal of the mining title and the termination of the exploitation contract [15]. This can occur in case of non-payment of taxes and royalties, refusal to submit to a decision of the arbitral tribunal among others. However, these sanctions are subject to prior formalities.

For example, the Mauritanian law n°2010-033 of July 20, 2010 on the hydrocarbons code in its article 48, modified by the Law 2011-044 of November 25, 2011 underlines that when the contractor does not meet the commitments made, the contract may, after unsuccessful formal notice, be terminated [19]. It is the same for the Chadian law n°011-PR-1995 on the mining code in its article 47 or the Senegalese law n°95-05 of January 8, 1998 on the petroleum code in its article 59 among others.

4. Conclusion

The regions and countries of origin of large companies and multinationals are territories where the law functions effectively and efficiently. The States in which these companies are established are regions that are sometimes fragile in their legislation or do not present an adequate or effective legal framework to regulate the activities of multinational companies. These two points correspond to the divide between the countries of the North and those of the South.

From the above analysis of the legal framework, it follows that the obligation incumbent on States to protect the human rights of their citizens from the risks of violation by multinationals established on their territory, places a duty of protection on these States against the abuses that may be committed by the latter. The most important and decisive role is that of the host states in their obligation to protect and establish instruments that strengthen their legislation and public policies against the abuses that multinational companies may commit. Unfortunately, observation reveals a lack of effectiveness and/or efficiency in the implementation of such a process by the States, due to several reasons, notably the absence of a guarantee of effective jurisdictional recourse for the victims, even less so when it comes to women. It is therefore important to file claims at the level of the company's home state, where considerations of human rights protection and effective access to justice are more concrete and effective, in light of the guidelines set forth in the OECD Guidelines and in the Guiding Principles on Business and Human Rights[26].

Civil society could also participate, with a focus on the fight against violence against women in extractive industries. Also, as a preliminary step, the sub-Saharan African states where these multinationals are present could not only set up solid and adequate legal systems, but could also regroup around international organizations in order to better organize, regulate and verify the activity of these companies with respect to their impacts on human rights. Another suggestion could also be made here, namely the publication by the multinationals themselves of reports and documents on their activities in relation to human rights.

In short, the main recommendation resulting from this analysis is to take into account the place of women and their inclusion as a factor of development impetus within the riparian communities. It would be necessary to put women at the forefront of the scene by increasing their participation in public functions, which would certainly allow for a better evaluation of the negative impacts and situations that they experience in the areas of business activity. This could be initiated by taking charge of and educating the girl child for her future autonomy, allowing her to break free from the straitjacket imposed by African society on the role and place of women. And as Owona Mfegue argues [31], basic legal education for women must be promoted, with a view to popularizing the Maputo Protocol to ensure their equitable participation and avoid reproducing the patriarchal pattern.

Secondly, and not least, to implement effective recourse modalities for the guarantee of human rights on the part of

[26] Approved in Resolution 17/4 of June 16, 2011 by the United Nations Human Rights Council.

sub-Saharan African States, while attaching the effective respect of human rights to the activities of companies, before, during and after their operation. Also, to ensure the effective respect of the Maputo Protocol on the rights of women by the States, because women are the most vulnerable, not because they are weak, as is often said - which is in fact erroneous - but because they are the main victims at all levels of human rights violations or abuses by companies.

States must translate their political will into action by increasing the transparency of contracts and their publication. Here, it is necessary to ensure that the sub-Saharan African countries where the companies are based also apply similar controls as those applied in their countries of origin. This will enhance the image of these states as well as the traceability of their resources. It is necessary to adhere to international initiatives for a start on the one hand, and on the other hand to set up purely African initiatives and by Africans, which will better take into account the realities and measures of control of the activities of companies, while communicating better with NGOs and civil societies on the state of affairs of human rights.

References

[1] Aaron Xavier Fellmeth, *Wiwa v. Royal Dutch Petroleum Co,: A New Standard for the Enforcement of International Law in U.S. Courts,* Yale Human Rights & Development Law Journal, Vol. 5, 2002, pp. 241-254.

[2] African Charter on Human and Peoples' Rights, June 28, 1981.

[3] Anoukaha, François. 2003. The Right to the Environment in the African Human Rights Protection System. *Revue juridique et politique des états francophones,* 57 (3), 267-288.

[4] Boukongou Jean Didier. 2005. The protection of the Congo Basin, a multilateral issue. African Geopolitics, 17, 141-155.

[5] Bright, Claire. 2013. Access to civil justice in cases of human rights violations by multinational corporations. Law dissertation, European University Institute, Department of Legal Sciences, 272 pp.

[6] Convention on the Rights of the Child, November 20, 1989.

[7] Daugareilh, Isabelle (ed.) 2005. Globalization, Work and Fundamental Rights. Brussels: Bruylant, 432 p.

[8] Donnedieu de Vabres, Henri. 1922. Introduction to the study of international criminal law. Essai d'histoire et de critique sur la compétence criminelle dans les rapports avec l'étranger. Paris: Sirey, 486 p.

[9] Doumbe-Bille, Stéphane. 1998. International law and sustainable development. Les hommes et l'environnement, Etudes en hommage à Alexandre KISS (pp. 245-268). Paris, Frison Roche.

[10] European Tax Papers. 2002. The determination of the law applicable to international contracts. European Taxation and International Business Law, No. 129. (http://www.fontaneau.com/?p=356).

[11] Guinchard, Serge (ed). Lexique des termes juridiques, 2017-2018. Paris: Dalloz, 1140 p.

[12] Growth and Poverty Reduction Strategy Paper, 2006, p. 21.

[13] International Federation of Human Rights Leagues (FIDH). 2012. Business and Human Rights Violations - A practical guide to existing remedies for victims and NGOs. 604 p.

[14] Kam Yogo, Emmanuel. January-February-March 2004. African States and the protection of African elephants through international environmental law. Juridis-periodical 57, 112 p.

[15] Lauriol, Thierry and Raynaud, Emilie. 2016. Petroleum and mining law in Africa. Issy-les-Moulineaux: LGDJ, 588 pp.

[16] Leben, Charles. 2005. Multinational enterprises and international economic law. Revue de Science Criminelle et de Droit Pénal Comparé, Dalloz, 777.

[17] Lou Bouinan Youbo, Sonia. 2015. The lex societatis in international business law. Doctoral dissertation, University of Bordeaux, 554 pp.

[18] Mantilla Martinez, Marcella Ivonne. 2014. The responsibility of transnational corporations in international human rights law and international humanitarian law: the case of the energy sector. p. 68. Doctoral dissertation, Université Paris-Sud, Ecole Doctorale, 264 pp.

[19] Mauritanian law n°2010-033 of July 20, 2010 on the hydrocarbons code.

[20] Mbaye, Keba. 1992. Les droits de l'homme en Afrique. Paris, A. Pédone. 312 p.

[21] Menjucq, Michel. 2011. International and European Company Law. Paris: Montchrestien, 3rd ed., 582 p.

[22] Mukam Sighano, Carlos. 2018. The responsibility of transnational corporations in environmental matters. Doctoral dissertation, Catholic University of Central Africa, Doctoral School of Human Rights and Humanitarian Law, 348 pp.

[23] Mveng Evina, Etienne. 2001. Some elements of integration in logging in the border area of Cameroon, Congo and the Central African Republic. Dynamiques d'intégration régionale en Afrique centrale: Intégration, Afrique centrale, 2, Yaoundé, PUCAC, 755-761.

[24] New York Times Magazine of September 13, 1970.

[25] Ngono Nkoa, Véronique Carole. 2016. Reflections on the OHADA judicial space. Revue de l'ERSUMA, n° 06, New Edition, 161 p.

[26] Nguyen, Huu Tru. 1992. Codes of conduct: a review. Revue Générale de Droit International Public, 96 (1), 45-60.

[27] Niboyet, Marie Laure and Géraud de Geouffre de la Pradelle. 2015. Droit international privé. Issy-les-Moulineaux: LGDJ, 720 pp.

[28] Ntonga-Bomba, Serge Vincent. April-May-June 2002. The current state of implementation of environmental legal instruments in Cameroon. Juridis périodique 50, 132 p.

[29] Ouassini Sahli, Meriem. 2014. La responsabilité de la société mère du fait de ses filiales. Doctoral dissertation, University of Paris-Dauphine, Dauphine Doctoral School, 429 pp.

[30] Oumba, Parfait. 2014. International responsibility of the state and environmental risks. Doctoral dissertation, Catholic University of Central Africa, Human Rights and Humanitarian Law Graduate School, 460 pp.

[31] Owona Mfegue, Félicité Koura. 2012. Natural resources in armed conflict in the Democratic Republic of Congo. Paris: L'Harmattan, 246 pp.

[32] Rio Declaration on Sustainable Development, 1992.

[33] Rousseau, Elise. 2017. The Kimberley Process and the fight against the "blood diamond" trade. CRISP Weekly Courier, no. 2353-2354, 63 pp.

[34] Schmidt, Dominique. 1981. Civil liability in corporate group relations. Revue des sociétés. 736 p.

[35] Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

[36] United Nations Conference on Trade and Development (World Investment Report, p. 52). 2009. Transnational Corporations, Agricultural Production and development. 314 p.

[37] United Nations Convention on the Law of the Sea, 1982.

[38] United Nations Global Compact, July 26, 2000.

[39] United Nations, *Guiding Principles on Business and Human Rights: Implementing a Protect, Respect and Remedy Framework*