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Liability For the Sale of Counterfeit Pharmaceutical Drugs in Cameroon

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ABSTRACT

This article primarily deals with the regulation of pharmaceutical drugs in Cameroon in an attempt to wipe out of the markets counterfeit drugs that continue to circulate and threaten the life of consumers. It is concerned with establishing the liability of persons who engage in the sale of counterfeit drugs in Cameroon. It specifically highlights the obligation of the seller to ensure that the drugs acquired and sold are of good quality and are within the regulated drugs approved for marketing in Cameroon. Arguably, the issue of counterfeit drugs is difficult to determine as a mere physical look cannot adequately show if all the active ingredients used are in their correct quality. Thus, this article has the objective of exploring the mechanism set up by the law in determining the seller's duty of conformity with existing legislation as per the production, importation, distribution and retailing of pharmaceutical drugs as well as well as the remedies that the consumer can resort to in the case of the seller's act of non-respect of legislative requirements. Adopting an in-depth content analysis and critical evaluation of primary and secondary data, the article concludes that the fight against counterfeit medicine in Cameroon must begin from a restructuring of the regulatory authority where roles are clearly specified. It is thus recommended that a special task-force be put in place to flush out illegal pharmaceutical drugs dealers as they are discovered to sale the highest amounts of counterfeits to consumers.

Keywords: *Liability, Counterfeit drugs, Pharmaceutical drugs (medicines).*

I. INTRODUCTION

The falsification of drugs that are believed to cure illnesses is nearly as old as commerce itself. In 1500 BC, Queen Hatshepsut of Egypt hired a team to go out hunting for genuine medicinal plants because the market was flooded with worthless fakes. The falsification of medicines has not seized from time immemorial. Although it is extremely difficult to quantify the problem

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precisely, recent efforts by the WHO and others to support countries in tracking and reporting substandard and falsified medical products suggest the problem is on the rise. This increase is also a result of globalisation and e-commerce that has increased the complexity of the supply chain for medicines, providing numerous entry points for unethically and illegally produced medical products.[4]

Counterfeit pharmaceutical drugs are those medicines that are purported to be produced by duly licensed companies which in fact is not the case and are lacking in their ingredients or have more than required quantity of the correct ingredients and could therefore have more than usual adverse effects on humans when consumed. In fact, most of such drugs do not go through adequate clinical trials if at all they do. Though it has also been noticed that some pharmaceutical companies found in country with stricter regulations are not lacking in the production and exportation of drugs that have not met the regulatory standards of their country to the African continent.[5] These counterfeit medicines are often very lacking in their quality, efficiency and results. They are also known as illicit, falsified or substandard drugs and all fall under the term "defective" drugs.

Illicit/fake medicines are among the counterfeit products with the greatest potential for harming the health of consumers. The production of drugs is heavily regulated in order to ensure product compliance with the highest quality and safety standards. All drugs must undergo clinical trials before being marketed in order to test their efficiency, verify their quality and exclude the potential existence of side effects on patients.[6] These institutional and technical measures are meant to work as a safety valve or precaution to guarantee the quality of medicines. Counterfeit pharmaceutical drugs do not respect any of these regulations and requirements. Despite the existence of controls, counterfeit products exist in the market, creating consequences ranging from ineffective therapeutic results to severe health problems or death.[7]

Access to quality medicines is indeed considered an integral component of the right to health, which is a basic human right that first emerged as a social right in the World Health Organisation's (WHO) Constitution in 1946 and in the Universal Declaration of Human Rights

[4] World Health Organisation, (2017), Global Surveillance and Monitoring System for Substandard and Falsified Medical Products: Executive Summary, Geneva, p. 1.
[5] Galega S.D., *Cameroon Product Liability in Perspective: Lessons from Abroad*, Lambert Academic Publishing, 2018, p. 133.
[6] Scientific knowledge proves that no drugs go without side effects, it is always important to know the side effects of drugs during clinical trials before putting them into the market. However, the side effects of some drugs are only known through pharmacovigilance.
[7] United Nations Interregional Crime and Justice Research Institute, (2012), Counterfeit Medicines and Organised Crime, emerging crimes emerging policies Series, p. 12.

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in 1948.[8] It is recognised worldwide that health is a fundamental human right indispensable for the exercise of other human rights and that this right to health includes certain components that are legally enforceable. Quality pharmaceutical drugs are highly needed to ensure the health of sick persons. To meet this fundamental human right of access to quality, safe, and effective medicines, many countries have proactively developed pharmaceutical regulations to control their pharmaceutical market. In many cases, the revision and improvement of national pharmaceutical regulations was also driven by tragedies.[9] Cameroonian legislators have over the years enacted different pieces of legislation in order to better regulate the production, importation, distribution and retailing of pharmaceutical drugs.

Although many millions of people still lack access to the basic medicines they need, the global trade in medicines has increased very rapidly in recent years. Unfortunately, this growth has opened the door not just to quality, safe and effective medicines, but also to medicines that do not meet quality standards and that are sometimes toxic. In the worst cases as earlier mentioned, medicines that contain the wrong ingredients may kill or seriously harm patients. Much more commonly, substandard or fake medical products will fail to prevent or cure a disease, meaning that illness is prolonged and the patient suffers needlessly.[10]

Access to proper healthcare is a fundamental right but for too many people, especially in Africa and Cameroon in particular, their health and their lives are put at risk by the traffic in substandard and fake drugs. As many as 900,000 deaths in Africa each year are believed to be caused by such medicines. The WHO estimate that 20-30% of medical products in circulation in most African countries are substandard or falsified.[11]

Persons with very little or no training in medical science and pharmacology in particular have seized many opportunities due to the lucrativeness of this industry to manufacture low quality drugs for marketing. Others have indulged in the trafficking of illicit drugs into the country. The consumption of low-quality drugs reduces the lifespan of people and increases the rate of mortality of otherwise healthy persons.

Formal private sector pharmaceutical retailing in most countries, including Cameroon is governed by regulations that prescribe ownership, staffing, acceptable medicines along with

[8] Lezotre P.L., (2014), International Cooperation, Convergence and Harmonization of Pharmaceutical Regulations, Elsevier Inc. At https://doi.org/10.1016/B978-0-12-800053-3.00001-X (accessed on the 28th day of April 2020).
[9] United Nations Interregional Crime and Justice Research Institute, (2012), *Loc.cit*, p. 12.
[10] *Ibid*, p. 2.
[11] The Brazzaville Foundation, (2019), The Lomé Initiative: Fake Drugs, Real Crime, at http://www.brazavillefoundation.org/fr/ (accessed on the 19th day of May 2020)

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sources and quality standards, pricing and prescription practices.[12] This prerogative in Cameroon is left at the hands of the Ministry of Public Health. This ministry has the duty to ensure that medicines are dispensed by qualified and registered pharmacists and the sale of illegal, out-of-date, or non-prescribed medicines is prevented.

II. PHARMACEUTICAL DRUGS REGULATION IN CAMEROON

Pharmaceutical drugs regulations, or medicines regulations are combination of legal, administrative and technical measures that governments take to ensure the safety, efficacy, and quality of medicines, as well as the relevance and accuracy of product information. The term "regulation" includes a variety of texts (for example, guidelines, recommendations, procedures, policies, etc) that have different legal bases and authority.[13] Sound regulatory systems are critical for protecting public health against use of medical products which do not meet international standards of quality, safety and efficacy.[14] The constant trafficking of illicit medical drugs into the country and the production of counterfeit drugs greatly affects the health of individuals. It hampers effectiveness in health delivery and threatens the lives of consumers.

Medicinal products are not usual "commodities." In fact, they are some of the most regulated marketable products as they provide fundamental health needs to the public, and their evaluation and control require a high level of expertise. Because of the awareness of the strict regulatory measures put in place due to the nature of the "products", and especially in the present situation of need, producers of counterfeit medicines in a bit to make profits have increased production of such drugs. It is even found that some of these sub-standard drugs are produced by already authorised pharmaceutical manufacturers without adequate testing and mixed amongst the already well produced drugs in order to increase profits.

Regulatory oversight is constrained by government's lack of enforcement staff, budgets, or efficient regulatory and judicial framework that exists.[15] Regulatory inspections are few, enforcement is weak and infringements common.[16] Enforcement is made particularly difficult because the pharmaceutical retail market is fragmented; the number of formal pharmacies is small compared to the many different types of retailers, such as dispensing doctors and other health personnel, medicine stores, hawkers and general grocery stores that also sell a variety of

[12] *Ibid.*
[13] Lezotre P.L, *Op.cit.*
[14] Ndomondo S.M., *et al*, (2017), Medicines Regulation in Africa: Current State and Opportunities, Pharmaceutical Medicine 31(2): DOI: 10.1007/s40290-017-0210-x, p. 382.
[15] Ratanawijitrasin S., and Wondemagegnehu E., Effective Drug Regulation: A multicountry study, Geneva: World Health Organisation, 4th edition, 2002, p. 12.
[16] Butt Z.A., *et al*, (2005), Quality of pharmacies in Pakistan: a cross-sectional survey, International Journal of Quality Health Care, Vol. 17(4), p. 308.

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drugs and healthcare remedies. The result is widespread unregulated and sometimes illegal sale of restricted medicines, often without prescription and often by unqualified staff.[17] As such, there is little, if any, quality control and retail prices are inflated and highly variable according to the need. This is the current situation with the outbreak of the COVID-19 virus where fakes have been discovered circulating in many African countries including Cameroon.[18]

Regulation of the pharmaceutical industry or drugs is therefore an essential tool in combatting the the sale of low quality, smuggled and dangerous drugs in the retail market in Cameroon. The Ministry of Public Health has to ensure that the procedures put in place for production, importation, distribution and sale licensing is adequate and functional for effective regulation so as better control and combat this age old ill hampering the society.

Various texts exist concerning the authorisation of pharmaceutical drug establishments in Cameroon, which include:

- Order No. 22 of 11 September 1981 regulating pharmaceutical companies;
- Order No. 114 of 19 October 1988 amending certain provisions of Order No. 22 of 11 September 1981 regulating pharmaceutical companies;
- Order No. 0060 / MSP / BAB / of 27 March 2002 fixing the modalities of creation, distribution and attribution of pharmacy dispensary sites;
- Decree No. 98/405/PM of 22nd October 1998 setting the terms of approval and marketing of pharmaceutical products in Cameroon;
- Order No. 2515/A/MINSANTE/SG/DPML/DAJC relating to the conditions for granting approvals to wholesale pharmaceutical companies in Cameroon;
- Decision No. 0529 D/MINSANTE/SG/DPM of 8 June 2009 making the Good Pharmaceutical Manufacturing Practices Public in Cameroon; and
- Law No. 90-035 of 10th August 1990 relating to the Exercise and Organisation of the Profession of Pharmacist in Cameroon.

The procedure for granting authorisation to practice for private clients depends on the field of activity. Thus, with regard to pharmacies, the sites are created by order of the Ministry

[17] Adikwu M.U., (1996), Sales practices of patent medicine sellers in Nigeria, Health Policy Plan, Vol. 11(2), p. 205.

[18] See WHO Medical Product Alert N°4/2020 on falsified chloroquine products circulating in the WHO region of Africa in the midst of the COVID-19 pandemic and also WHO Medical Product Alert No. 3/2019, where an investigation established that a new falsified version of the drug ICLUSIG 45mg (30 Tabletten) was circulating the world market, issued through a press release of the Minister of Public Health.

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of Public Health[19] and placed at the disposal of the National Order of Pharmacists which carries out the attributions,[20] in accordance with Order No. 0060 / MSP / BAB / of 27 March 2002. Application documents are filed with the National Order of Pharmacists. The frequency of case study meetings is not defined. The criteria for evaluating the files are in particular the date of submission of the file and a consideration of regional balance.

With regard to wholesale, manufacturing and drug repackaging, it is the Department of Pharmacy, Medicine and Laboratories (DPML) of the Ministry of Public Health that examines the request files in accordance with the organisation's chart.[21] The opinion of the National Order of Pharmacists is however required. In all cases, the DPML prepares the authorisation certificates and submits them to the National Medicines Commission's appreciation and signature. The regulations guarantee the possibility of appeal in case of rejection of the application file.

The production of pharmaceutical drugs needs the use of laboratories. Medical analyses which are acts of biology contributing to the diagnosis, treatment and prophylaxis of humans must be practiced in appropriate establishments using technical specialised personnel. The opening and operation of such structures is subject to obtaining an approval from the Ministry of Public Health.[22]

III. LIABILITY PERSONS FOR THE SALE OF COUNTERFEIT DRUGS

The sale of counterfeit pharmaceutical drugs as earlier discussed begins from the production stage and runs down to the sale of such medicines to the final consumers. in this regard, we discover that many individuals including manufacturers, health personnel such as physicians, nurses and even pharmacists, medicine store owners street vendors and every other middleman involved in the production chain can either be held liable or vicariously liable in the sales of substandard and fake drugs. The liability of these defaulters depends on whether they are in the first place, licensed dealers in pharmaceutical drugs or informal dealers. As discovered within our cities, the number of informal dealers by far supersede the number of formal dealers. The liability therefore are either civil, administrative or criminal in nature depending on the person involved.

[19] Order No. 0060 / MSP / BAB / of 27 March 2002 fixing the modalities of creation, distribution and attribution of pharmacy dispensary sites

[20] See Law No. 90-035 of 10th August 1990 relating to the Exercise and Organisation of the Profession of Pharmacist in Cameroon

[21] Decree N° 2013/093 of 03 April 2013 Organising the Ministry of Public Health lays down the rules of functioning of this department

[22] See Article 18, *supra*.

Civil Liability

The determination of civil liability for drugs is not easy. It is for this reason that the Civil Code for example in Article 1382[23] is to the reasoning that anyone who causes harm to others is oblige to repair such harm. As such this acts as some form of restoration for victims of prejudice. This is therefore an underlying objective of civil liability. In this regard, where damage has been done from the use or consumption of counterfeit pharmaceutical drugs, the main players in connection to the drugs such as, on the one hand, the pharmacist, doctor, nurse, and on the other hand, the retailer, distributor, wholesaler, importer and manufacturer have to be identified.[24] Though is often a difficult problem as is the case with counterfeit drugs where the manufacturers of these fakes insert misleading information on the packaging of the drugs depicting the drugs are a product of a particular manufacturer when in fact it is not the case. It will become very difficult to show proof and hold such a manufacturer liable for defective drugs that were not produced by the stated manufacturer.

An alternative here could be that if the pharmaceutical drug was purchased from a well known hawker or an informal seller whose place of business is known, investigations can be carried out by authorities to find the source of the counterfeit as these informal dealers in pharmaceutical drugs already have their suppliers. Another difficulty may arise in the situation were the counterfeits were imported, it would be an almost impossibility for the Cameroonian authorities to persecute.

The civil liability of defaulters for pharmaceutical drugs regulatory mechanisms put in place to eliminate the continuous sale of counterfeit drugs could be in contract or torts. In the case of an action for the breach of contract or the tort of negligence against an appellant, the success of such a suit will lead to damages.

Damages is a sum of money paid by the defendant to the claimant once liability is established, in compensation for the harm suffered by the claimant. In the case of damages awarded for a breach of contract, the purpose of the award is to compensate the claimant for the losses suffered as a result of the breach. In this way, damages in contract law are aimed to put the victim in the position he would have enjoyed if the contract had been properly completed and performed by the defendant. This contrasts with damages in tort where the purpose of damages is, as far as is possible to do so, to put the claimant in the position he would have been in had the tort never occurred. As such, tort damages, by contrast with contract damages, represent a

[23] The French Civil Code of 1807.
[24] Ondoa M., *La Protection du Consummateur au Cameroun: Principes, Enjeux et Perspectives*, Les Eidtions Le Kilimandjaro (EDLK) Yaounde, 2018, p. 179.

very artificial remedy. Inevitably, there is a large measure of speculation involved in awarding damages in tort since it involves predicting what would have happened if the tort had not occurred, whereas, in contract, damages will represent an actual financial loss, and are rarely speculative. The damages that can be awarded are either compensatory, nominal or punitive.[25]

The liability of persons for the sale of counterfeit drugs based on contract will be obtained in situations dealing with healthcare personnel (in this case the pharmacists and nurse acting in place of the pharmacist such as in cases of pro-pharmacies) in the line of their duties, and also informal dealers such as the breach their contract with the buyer or consumer. The contract is established between the consumer and health personnel when the patient visits a pharmacy to purchase drugs be they prescribed, off-label or over-the-counter drugs. The sale of a counterfeit drug to the consumer will mean the violation of the waranty to sale quality drugs. Since this is a special contract and one's health cannot be returned to exactly the way it was, the remedy available here is damages. This remedy is provided in common law where a party can sue for damages for every breach of the contract whether partial or total.

The contract of sale established between pharmacists, retailers and consumers as well as manufacturers and wholesalers and distributors is bound by warranty. The law imputes implied terms into every contract of sale by providing that every good must meet the required quality and must be fit for the purpose for which they are meant for.[26] As such, victims of a breach of these implied terms so provided by law can seek for damages where it is proved that the respondent supplied or sold counterfeit drugs to the appellant.

Although great opinions hold that the role of contract law is less significant in holding persons liable in product liability cases because it is not very suitable to address compensation issues for consumers who may be victims of defective drugs, it can however be considered and possible in some instances.[27] As such under contract, all the plaintiff needs to proof is that the drug does not conform to the express and implied terms in the sale contract, such as the implied condition that the drug must be fit for its purpose.[28] This has therefore led to the development over the years of the maxim *caveat emptor* being taken over by *caveat venditor*.[29] This was the

[25] Turner C., *Unlocking Contract Law*, Routledge London & New York, 4th edition, 2014, p. 387.
[26] Djieufack R., (2020), "Sales and Conformity of Goods: A Legal Discourse", IntechOpen, p. 8, at http://creativecommons.org/licenses/by/3.0 (accessed on the 23rd day of February 2021). For more information see also Djieufack R., (2015), "Conformity of goods to the contract of sale under the OHADA Uniform Act on General Commercial Law", *Uniform Law Review*, Volume 20, Issue 2-3, Pages 271–295, at https://doi.org/10.1093/ulr/unv017
[27] Galega S.D., (1999), "Compensation for Victims of Defective Products in Anglophone Cameroon", Juridis Périodique No. 38, p. 80.
[28] *Ibid*, p. 81.
[29] *Caveat emptor* means 'buyer beware' while *caveat venditor* means 'seller beware'. The former maxim depicts that buyers of goods and services were to be aware of the goods and services they buy and so were supposed to

position of the Bamenda High Court in ***Ambe John v. Brasseries du Cameroun***[30] where the plaintiff brought an action against the defendant for breach of contract by supplying him with drinks unfit for hman consumption. The learned judge, Fobella agreed by positing that, producers of foodstuffs including drinks are to supply them to the public with warranty that they are fit for human consumption and where such warranty is not express, it is imputed by law.[31] A breach of contract attracts remedies in favour of the victim. These remedies can come in the form of damages, specific performance, injunction and rescision.

An action in tort will be based on negligence and can be made by the consumer of counterfeit drugs in order to recover the loss of funds lost though may not restore his health entirely. Where it is discovered that a pharmacist did not take adequate care to ensure that all drugs distributed to it come from the right source and are of good quality, though quality can hardly be physically determined but it is possible in the opinion of many experienced pharmacists.[32] This will therefore be a breach of the duty of care thereby attracting liability.[33] As such healthcare personnel must ensure that all drugs supplied and sold in the approved premises conform to quality, efficacy and safety standards.

Furthermore, a patient may seek compensation in negligence where he/she may have suffered harm in the line of medical prescriptions. Medical personnel could negligently prescribe the curative drugs without taking into consideration certain vital information as to other health challenges of the patient, the patient's diet, intake or use at the moment of other non-compatible medication etc. In such cases the patient can sue for negligence. However, the patient must be able to show that a duty existed and that the duty has been breached and it has caused harm.[34]

Damages will of course be the remedy where negligence is established. There exist three types

carryout adequate inspection to ensure they meet the specified quality they wanted as any defect after purchase was the loss of the buyer and not the seller. This position was shifted by the later maxim with the coming into play of the Sale of Goods Act 1893, (applicable in Anglophone Cameroon by virtue of Section 11 of the Southern Cameroon High Court Law 1955) where it made provision for implied terms into every contract of sale in its Sections 11-14, in order to protect the consumer from being cheated as sellers often had the higher bargaining power over goods sold.

[30] Suit No. HCB/51/90 (unreported)

[31] For more information and the detailed facts of this case, see Ewang S.A., (1997), "Brewed Drinks unfit for Human Consumption can warrant an action for Product Liability", Juridis Périodique, No. 29, pp. 61-66.

[32] Pharmacists such as Dr Nkwenti Davidson indicated in an interview with him that experienced pharmacists from their training and knowledge of the packaging with many drugs as well as connection with licensed distributors can from the packaging determine the genuity of some drugs.

[33] Lord Slynn's posits in ***Phelps v. Hillingdon LBC***,[33] that, "*It is long and well established, now elementary, that persons exercising a particular skill or profession may owe a duty of care in the performance to people who it can be foreseen will be injured if due skill and care are not exercised, and if injury or damage can be shown to have been caused by the lack of care."* The duty of care was established in *Winterbottom v. Wright (1842) 10 M&W 109; (1842) 152 ER 402.*

[34] Nzalie J.E., Lecture notes on Law of Torts, Department of Common Law, Faculty of Law and Political Science, University of Dschang, 2012/2013.

of damages which are nominal damages, compensatory damages and punitive damages. Nominal damages are awarded where there is no injury suffered, just to make professionals more prudent in carrying out their duties. Compensatory damages are those awarded to compensate the victim for the loss suffered such as hospital expenses, future earnings etc; in fact it is meant to replenish. Punitive damages on its part are those that are far and above compensatory damages so as to sanction the delinquent for the negligent act caused.[35]

Criminal Liability

The sale of counterfeit and unauthorised sale of pharmaceutical drugs in Cameroon meets with several criminal charges. These criminal sanctions are provided in the different pieces of legislation regulating pharmaceutical drugs dealing. These different pieces of legislation unfortunately only identify the offences and prescribe their sanctions, without really defining or giving adequate understanding as to the meaning of the breaches therein stated in the legal punitive provisions.

The Penal Code[36] of Cameroon as well as other pieces of legislation[37] provide sanctions against defaulters of the law with regards to unauthorised sale of pharmaceutical drugs as well as the unauthorised practice of the profession pharmacy in Cameroon, as all informal medicine dealers are engaged in the practice of pharmacy for which they not only lack the qualification and even when they have such qualification, are not yet licensed to exercise this profession. The Penal code on its part outlines different sanctions for certain offences related to false pretence in medical prescription such as, issuing a ban from exercising the pharmacy profession,[38] forging or making use of forged official certificates,[39] the usurpation of qualification,[40] participating in dangerous activities,[41] propagation of false news,[42] adulteration of foodstuffs,[43] illegal sale of medication,[44] false medical certificate,[45] and facilitation of

[35] Monkaree K.A., (1999-2000), "Remedies for Medical Practitioners Liability," Ahmadou Bello University Law Journal, Vol. 17-18, p. 16.
[36] See Law No. 2016/007 of 12th July 2016 relating to the Penal Code of Cameroon.
[37] See Law No. 90-036 of 10th August 1990 relating to the Organisation and Practice of Medicine in Cameroon, Law No. 90-035 of 10th August 1990 relating to the Organisation and Practice of the Pharmacy Profession in Cameroon as well Decree No. 92/261/PM of 17 July 1992 fixing the modalities of Application of certain Provisions of the Law No. 90-035 of 10th August 1990 relating to the Organisation and Practice of Medicine in Cameroon.
[38] Section 36, *ibid*.
[39] See Section 207 of the Penal Code
[40] See Section 219, *ibid.*
[41] See Section 228, *ibid*.
[42] See Section 240, *ibid*.
[43] See Section 258, *ibid*.
[44] See section 258-1, *ibid.*
[45] See Section 259, *ibid*.

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infectious diseases.[46]

Corporations can also be criminally liable as authorised medical drug companies may also be involved in the production of counterfeit drugs. To this they may face criminal sanctions that will attract certain principal,[47] alternative,[48] accessory[49] or preventive sanctions.[50] The criminal responsibility of corporations also extends to the publication of the judgement carrying the criminal sanction,[51] closure of the establishment where the offence was committed or facilitated,[52] or may place the establishment under judicial supervision,[53] or a confiscation of the "corpus delicti".[54]

Furthermore, the Law No. 90-035 of 10th August 1990 relating to the Exercise and Organisation of the Profession of Pharmacist in its Section 16 sanctions anyone who knowingly engages in operations reserved for pharmacists without meeting the conditions fixed by the present law regulating entry will be fined with five hundred thousand (500,000) to two million (2,000,000) FCFA and imprisonment of six (06) days to six (06) months or one of these two sentences only. The court will also have to order the closure of the establishment and the confiscation of all objects, medicine and substances that will have served as a support for this irregular activity.

Administrative sanctions

Persons involved in the delivery of public health are sworn into duty following certain provisions of the laws that regulate entry into the profession. As such the law regulating the exercise of the profession of pharmacy lay down certain administrative sanctions to be meted on professionals who go against the ethics of the professions. Disciplinary committees are set up by the Council Orders to ensure a strict observance of the ethics and deontology of the profession. In this regards, unprofessional acts are sanctioned in the light of this piece of legislation.

Disciplinary measures such as temporal suspension from exercising the pharmacy profession may be issued, or total dismissal from the pharmacy core, closure of establishment etc. Disciplinary procedures and measures under the pharmacy law are stipulated in sections 11-

[46] See Section 260, *ibid*.
[47] See Section 18, *ibid*.
[48] See Section 18-1, *ibid*.
[49] See Section 19, *ibid*.
[50] See Section 20, *ibid*.
[51] See Section 33, *ibid*.
[52] See Section 34, *ibid.*
[53] See Section 34-1, *ibid.*
[54] See Section 35, *ibid.*

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18.[55]

IV. CONCLUSION AND RECOMMENDATIONS

The lucrative nature of the pharmaceutical industry as well as the outbreak of pandemics has led to a proliferation of fake drugs and an increase in quacks within the pharmacy profession. The production, importation, distribution and sale of pharmaceutical drugs is not to be done by any person. As such adequate clinical trials for medicines have to be made when discovered or the assurance in the production of already existing medical drugs. Adequate regulatory measures thus ensure the reduction of misrepresentations in medicines production and assure the safeguarding of the lives of individuals.

Counterfeit drugs may cause irreparable harm to the consumer. In order to protect consumers from incurring harm, adequate regulatory mechanisms have been created to mitigate the risks that arise from the sale of counterfeit drugs. Adequate regulations are put in place to protect not only the individual, but also the society so that citizens live in a safe environment especially during this period of the pandemic. It is therefore essential that injured persons have effective rights at hand to seek compensation and receive help from state authorities in combatting fake medicines dealing within the society so as to avoid continuous consumption by patients.

The Ministry of Public Health that is charged with the duty of ensuring availability of quality medicines in the market is currently not well structured to address all areas concerned with pharmaceutical policy and practice, quality assurance, stores and supply, and rational medicine use. The current structure of the Ministry of Public Health needs to be reviewed for re-engineering, reorganisation, and strengthening so that roles and responsibilities are better defined, tasks are executed efficiently, and checks and balances are instituted.

Better monitoring mechanisms need to be put in place for the detection of counterfeit drugs. So too is the need for a special task force within the customs division made up of medical experts and custom officers *inter alia* to ensure adequate control of imported medicines.

More strict punitive measures should be put in place to deter persons from engaging into the informal sale of drugs as most informal dealers are those who ale fakes. Punitive damages should be awarded against manufacturers of defective drugs, be they brand-name drug manufacturers or generic drug manufacturers in cases of the production of low-quality medicines.

[55] See Decree No. 92/261/PM of 17 July 1992 fixing the modalities of Application of certain Provisions of the Law No. 90-035 of 10th August 1990 relating to the Organisation and Practice of Medicine in Cameroon.

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