



WHY SHOULD THE DRAFT LAW ON FORESTRY AND WILDLIFE REGULATIONS BE ADOPTED?

POSITION OF THE TRADITIONAL AUTHORITIES OF CAMEROON

A Proposal ratified during the brainstorming workshop by Traditional Rulers and Indigenous leaders on the reform process to lay down forestry, wildlife and fisheries regulations,

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Essentially, the wealth and riches of Cameroon is stored on customary lands; and all customary lands are administered by customary institutions. This ordinary, trivial but powerful assertion justifies the involvement of Traditional Rulers, as guarantors of customary institutions, to take interest in the processes relating to the management of their land. Indeed, Cameroon is currently going through a historical moment characterized by two movements. On the one hand, there is a massive domestic and foreign investment inflow into our land and on the other hand, to facilitate these investments, a series of reforms of laws pertaining to natural resource sectors are currently underway in our country to align with its projected development and vision. These investments, as well as the laws under reform are very promising, but they also involve major risks and sacrifices for our people depending on the land solicited. It is therefore crucial that Traditional Rulers through their Traditional Institutions get mobilized to make their voices heard and contribute to the decisions that will enable the Cameroonian population to make the most out of this historic moment of reforms.

The commitment of Traditional Authorities in the debate on the processes of natural resource management dates back several years. Among the highlights of our past, we have worked as Traditional Rulers under the auspices of the Cameroon National Council of Traditional Rulers (CNCTR) and with the support of the Centre for Environment and Development (CED) in formulating and widely disseminating 'A Proposal by Traditional Rulers on Land Tenure Reforms in the Rural Areas of Cameroon', in 2013. This proposal was well received at the level of the Minister in charge of Lands and Members of Parliament of the National Assembly and the Senate gathered under the umbrella of REPAR) as a confirmation of their interest on such an approach. The Minister also discussed with parliamentarians in the National Assembly on the subject.

In the same vein, We now seize the opportunity on the Forestry law reform to once more make our voices heard. Our commitment in this process has lasted ten months, with a reflection built through four stages:

- Firstly, in the elaboration of preliminary ideas by a group of Traditional Rulers gathered within the framework of RECTRAD - the Central African network of Traditional Rulers for the Conservation of Bio-diversity and the Sustainable management of forest ecosystems within the Congo basin;
- Then, the careful analysis of the draft law dating back to December 2012 in order to identify favorable provisions for Community rights and issues where improvements could be made;
- Thirdly, the organization of half-a-dozen workshops and seminars of reflections during which a proposal was refined prior to discussions with a wider group of Traditional Leaders;
- And lastly, the holding of two major Assembly of Traditional Rulers from the ten regions of the country with the main objective to finalize, validate and appropriate the Proposal as ours and ready for forwarding.

The road to the production of this proposal has been long and difficult. The support of key allies and partners, however, mitigated the difficulties. First, the Centre for Environment and Development has provided all the necessary technical support to RECTRAD. Also, mention must be made of 'the Rights and Resources Initiative' Coalition and GIZ-ProPSFE (Forest and Environment Sector Programme) for providing us with valuable technical and financial support at all times towards the confection, completion and production of these ideas that we take responsibility for, as a document.



Introduction

After establishing an innovative legal system for the management of its forests in 1994 based on three key orientations namely; - industrial logging; community participation in the management of land space, resources and benefits generated from the forest; the conservation and protection of biodiversity), Cameroon embarked in 2008 and since then, on the road to the reform of its forestry law and policy using a unique participatory approach-process in the collection and drafting of its legislature in the sector for the country. Taking on the opportunity offered in this regard, many organizations have submitted proposals to the Government aiming at improving on the new Forestry Law. Based on the lessons learned from 15 years of implementation of the 1994 Forestry Law, several thematic contributions were also prepared and submitted to the Ministry of Forestry and Wildlife. These issues have been the subject of running debates that finally led to the drawing up of a draft law submitted to the Prime Minister in December 2012 from the Ministry.

Cameroon has thus been witnessing a historical moment marked by the simultaneous brainstorming and launching of projects for the reform of key legislative texts governing the management of spaces and main resources of the country i.e. the Forestry Law, Land Law, Mining Law and Environmental Law are cases in point under review while the Outline text on land-use planning has recently been enacted. This unprecedented reform agenda provides an opportunity to harmonize these texts, and is likely to provide the opportunity to our country to enhance the effectiveness of the management of its natural resources.

Cameroon is involved in many initiatives relating to its land and resources management. Our country is indeed involved in the REDD process whereby we committed ourselves to reducing carbon dioxide emissions resulting from deforestation within the framework of the global effort to fight against climate change. In addition, the Voluntary Partnership Agreement (VPA) signed with the European Union requires that our administration should actively and rigorously fight against illegal logging operations to ensure access of Cameroon timber to the EU market. Similarly, the demand for land for agricultural large-scale plantations and mining concessions calls upon policy-makers, who must ensure that the requirements of our development should not be met at the detriment of our land, its resources and people. Decision-makers should consider the rights and interests of the rural communities of our country-side and to involve them at the various levels of decision-making at the base.

In order to add their voices to the debate at this stage in the history of the development of our country, the Traditional Rulers of the ten regions of Cameroon regrouped under the auspices of the Cameroon National Council of Traditional Rulers (CNCTR) in its Network of Traditional Rulers for the Sustainable Management of Ecosystems in Central Africa (ReCTrad) and conscious of the stakes for our people in a new-vision Cameroon 2035, made the following proposals to accelerate the adoption of the law laying down the Forestry and Wildlife regulations in Cameroon.

The proposals here are related to the recognition and protection of community rights to the exclusion of all other questions addressed in the draft law. The issue of community rights will continue to be a constant concern for traditional authorities.

1. Two achievements to preserve

The analysis of the draft law has identified at least two achievements that should be preserved from the 1994 law as they are likely to contribute to the recognition and protection of community rights.

1

Strengthening the participation of local and indigenous communities in the management of natural resources

The 1994 Law already provided the possibility for communities to obtain:

- Community forests on which the State transfers full ownership of the resources to them, while the land remains the national estate. More than 400 communities benefited from community forests which represents a total of more than 1.6 million hectares. Community forests can be created only in non-permanent forest estate;
- Exclusive hunting rights on carved out Community land, but without ownership rights on the soil and resources ;
- Part of the income generated from tax or forest management Units (annual forestry fees, wildlife fees) managed by the local council.

The draft law goes further and provides, in its current version:

- The possibility to create community protected areas (Section 49) on the permanent forest estate under the community customary land which shall be managed in compliance with local customs. It should be underscored that the draft law states that the classification of 'a community protected area' gives rights to the establishment of a land Certificate and title bearing the name of the owner- community. This land title is exempt from all taxes and fees other than technical and incompressible costs, and it can not be subject to financially expensive land transactions. This provides us with possibilities for the law to recognize community ownership of land and resources within the permanent forest domain of State land (Section 34(1)) ;
- By this new law, Communities are indeed recognized the rights to :
 - Own land and the resources contained therein, with a land title established in their name ;
 - Manage these lands according to customary laws.



2 Recognizing the Traditional Chiefdoms and their Structures as a framework for collective management of property and resources.

Although the 1994 Law did not recognize traditional authorities at the forefront in managing community forests and required an ad hoc management body which sometimes marginalized traditional institutions, thereby often causing conflicts that still affect our rural areas, the draft law clearly defines what it considers as being “customary rights”; defined as:

« All customary standards regulating life in a community. It includes, subject to other rules of law, the right to property, processing and marketing of natural resources, the right of access and residence in their land, as well as the right to carry out any activity in connection with the custom under the authority of traditional rulers, including cults and rites practiced in natural forests and ecosystems ». (Section 10 (1))

The draft law is even more precise stating: “these customary institutions are those recognized as Chiefdoms by the Territorial Administration in accordance with the regulations in force” Section 10 (2).

2. Four improvements to achieve :

In addition to the achievements to preserve from the old law, the analysis by Crowned-heads went ahead to identify four other points to improve on. This includes:

1 Recognizing gazetted Land ownership by villages of Settlement areas and resources on them.

This proposal falls in line with the progress made by the Government in the 1994 Forestry Law and it is based on a proposal already made in the current version of the draft law, which recognizes the possibility for villages to: (1) own a community forest (Sections 52-55); (2) own a community protected area, with a land title deed transaction which is not subject to any payment (Section 49). The proposal is to:

- Give to communities in all regions of Cameroon the possibility to own community forests or community protected areas, so that the Forestry Law ultimately becomes a “national” law and not just the southern Cameroon law. The current draft law makes the community forest accessible to the northern regions of Cameroon, which should also enjoy the opportunity to take ownership of their land and resources;
- Grant without prior formality, collective land title deed to each village on the basis of the delimitation of customary lands. The used expression would be ‘community forest’ or ‘community protected area’. In both cases, the land title and Certificate should be granted bearing the name of the village.
- Recognize the implementation of customary law within the area covered by that collective land title deed;
- Institutionalize participatory mapping as a tool for identifying rights and practices

of indigenous and local communities. Until the participatory mapping process is conducted in all villages, companies must conduct soil mapping operations in areas where they want to carry out activities in order to identify and protect local communities living space;

- Prohibit the sale or donation of land recognized as belonging to villages;
- Place the management of these lands and resources under the supervision of competent authorities who shall ensure the consistency of community management in view of promoting local and national development.

2 Specifying the nature and extent of the rights of minorities and disadvantaged groups in the context of traditional management of land and resources, as they shall be stated in the collective land title Certificate granted to communities over land and resources.

Clear proposals should be made on how to recognize the rights of populations with lifestyle different from the dominant ones, as well as some whose activities span across several other villages. So far, these include Mbororos and “Pygmies”. Traditional Rulers are committed to find solutions to these complex issues, with the support of the Government. These solutions will be based on achieving the participatory mapping of mobility in order to understand and secure the rights, practices and transhumant itineraries. Local agreements could be signed under the supervision of Administrative authorities so as to implement solutions identified in different communities. Efforts to identify and secure rights and practices will be extended to other minorities.

3 Ensuring consistency between Forest sector regulations and other related regulations

The regulations framing land and resource management often contain conflicting provisions. Cameroon is lucky to be engaged at this time in a generalized law reforms touching almost all natural resource-related sectors, granting it the possibility to ensure the consistency around a vision centered on the efficiency of resources management and the protection of community rights. In this context, Traditional Rulers will wish to be associated in the discussions, drafting and implementation stages of the Forestry Law.

4 Enhancing the efficiency of land use and resources

Obliging ourselves to ensure the recognition and protection of community rights will lead to more efficiency in land distributing. In fact, the State and its respective project promoters will not solicit areas of land superior to what they actually need, as it is very often the case now. The importance of the current demand for land and resources indeed exposes communities to land shortages that could have disastrous consequences for their food security and the entire population of Cameroon.

It is therefore imperative that Cameroon adopts suitable tools to facilitate land use in a way that takes into account commercial, conservation and community rights. The living space of communities is an essential part of the land and should have priority in all activities of the State.

Two aspects shall be taken into consideration in this context:

- The concern for the efficiency of the use of resources. It requires tools which help the State to identify the best environmental, social and economic options for the uses given

- The concern for forest protection, by minimizing forest conversion to agro-industrial plantations, mining and oil permits, major infrastructure projects.

Traditional Rulers do not stand against development, but they want the process of conversion of forest land to be conducted with great caution, because it is irreversible

They are driven by the desire to protect critical land utilization within their communities, in the ongoing development process of the State. The preserved lands and resources shall be managed by the communities for their interest, with the support and under the supervision of competent administrative services of the State. Our need is to equally be on the table where land disposal issues are discussed and agreed upon.

3. The link with the proposal by the Traditional Rulers on the Land tenure

Formulated in 2013, the proposal by Traditional Rulers on land tenure reforms was elaborated centered on the need to secure the village's vital space, by providing the collective and inalienable ownership right over their land. Three similarities can be found between the two proposals:

- The need to secure those lands and resources, through the recognition of the ownership of their village;
- The need to return to the customary right system in the management of traditional territories;
- The management is kept under the control of the administration;

4. Addressing few expected objections.

Evoking the will of Traditional Rulers to see villages possess ownership rights over their land and resources is generally faced with three objections, namely;

a. Providing land and forests to villages will deprive the State from its managing power.

We cannot pretend that transferring ownership of the lands and resources from the State to the villages will contribute in impoverishing the State. This transfer will bring benefit to villages that will dispose a vital space to ensure their subsistence. Equally, isn't it proper and easy to see that when the village is rich, it is the State that is rich?

b. Giving ownership of land to villages will slow down development actions of the State.

The reason put forward in this hypothesis is that negotiations with the communities will be needed in order to obtain their consent prior to conducting projects affecting their lands. Implementation of projects could therefore be slowed down or even more, compromised. This is not true. It is uncommon for communities to oppose to the implementation of projects from which they can perceive benefits for their village and for the State. In extreme cases of refusal, the State will always have the possibility of expropriation.

c. Traditional Rulers are not able to properly manage the forest?

Traditional Rulers believe that this initiative rather contributes to strengthening the State since it falls in line with the ongoing process of decentralization and the need for community empowerment. Central and local governments will continue to play their role in the management of these areas, which will be done in compliance with the forestry policy of the State, with the monitoring and support of the Government. The State will continue to exercise the right to implement their projects and activities including on land owned by communities. .

By formulating this position in terms of contributions within the framework of the forest reform, We, Traditional Rulers of Cameroon, are guided by a sole concern: the effective, efficient and sustainable management of the forest and its resources, so that development does not destroy the forest. It cannot be read in isolation.









