

Biodiversity Regulations, Legal Protection and Enforcement of Community Rights in Cameroon

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Cameroon's Biological and Cultural Diversity in Brief

- The 1992 Rio Convention on Biological diversity provides the basic definition (Art 2)
- Focus on plant diversity
- 8000 plant species with 156 endemic to Cameroon and 42 specifically endemic to Mount Cameroon area
- Population of 16 Millions with 2.3% annual growth
- More than 200 Ethnic groups
- About 286 national languages
- Cultural diversity weakened with the loss of local languages
- Depletion of forest resources due to overexploitation and lack of incentives for community to ensure control at local level
- Right based approach to biodiversity conservation
- Role of traditional communities in conservation and sustainability if their rights are properly protected.

Community rights requiring legal protection

- Community rights are very broad
- Include rights held over traditional arts and design, dance, stories, drama, traditional knowledge of local minerals etc
- Based on their customary systems of management of these assets
- In relation to plant genetic resources accessed for scientific and potentially commercial motivated activities we identify:
 - Their customary ownership rights over plant genetic resources and traditional land
 - Their rights to fully participate in the decision-making processes regarding the management of their resources
 - Their rights to monitor and control access to the resources and to determine terms for access authorisation, be consulted prior to any access and utilisation of their resources
 - Their right to fairly benefit from the utilisation of the resources and TK
 - Their rights to stop any activity not respecting their traditional rules and to sue anybody who infringes the terms under which access was allowed

Community Rights in the Existing biodiversity Regulatory Framework in Cameroon (I)

- Current forestry and environmental laws include:
 - Land Ordinance No. 73/18 of May 1973 and its text of application No 74/357 of August 17, 1974
 - Law No 81/13 of November 1981 on the Forestry, Wildlife and Fisheries and its text of application No 83/169 of April 12, 1983
 - Law No 94/01 of January 20, 1994 on Forestry, Wildlife and Fisheries (hereinafter 'the 1994 Forestry Law')
 - The Cameroon Forest policy Document produced by the ministry of Environment and Forestry (MINEF) in 1995
 - Law No 96/12 of 5th August 1996 Relating to Environmental Protection Management (hereinafter 'the 1996 Environmental Framework Law')

Also there are:

- Decree No 95-531 of 23 August 1995 to Determine the Conditions of Implementation of Forestry Regulations (hereinafter 'the 1995 Forestry Decree').
- Decree No 95-678 PM of 18 December 1995 to institute an indicative land use framework for the southern forested are of Cameroon
- Decree No 96-237 PM of 10th April 1996 o define the conditions for the functioning of special funds provided in Law No 94 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations

Community Rights in the Existing biodiversity Regulatory Framework in Cameroon (II)

- Section 12 of the 1994 Forestry Law stresses the State's ownership of all genetic resources and emphasises that no person shall use them for scientific, commercial or cultural purposes without prior authorisation
- section 6 of the 1994 Forestry Law stipulates that ownership of forest products shall be determined by the regulations governing land tenure
- Section 9 of the 1994 Forestry Law makes a distinction between ordinary products and special products.
- Section 9 (3) provides that the extraction of special forest products shall be laid down by decree
- Article 26 (1) through (3) of the 1995 Forestry Decree stipulate that local populations' rights over forest resources are limited to usufruct rights, defined as the rights that consist in carrying out within these forests their traditional activities such as collecting secondary forest products such as raffia, palms, bamboo, cane or foodstuff and fire wood
- Article 65 (1) of the 1996 Environmental Framework Law makes provision for rural communities' involvement in research activities that should be profitable to them. In addition, the same provision emphasises the need for the development of a decree laying down conditions under which foreign researchers, national researchers and local communities can collaborate

Community Rights in the Existing biodiversity Regulatory Framework in Cameroon (III)

- The Land Ordinance No. 73/18 of May 1973 and its text of application No 74/357 of August 17, 1974 is the Land Law that is still in force in Cameroon
- Article 1 of the 1974 Land Ordinance clarifies the State's ownership of all the land, such ownership being strengthened under Section 6 of the 1994 Forestry Law which links ownership of forest resources to ownership of land
- The 1974 land ordinance of Cameroon actually abolished any customary or indigenous land tenure systems and nationalised all land throughout the Cameroon's national territory
- in 1976 by an order of the then minister of finance who was also in charge of land matters, all the land consultative boards throughout the country were informed that the 1974 Land Ordinance had put an end to the customary ownership of land in the country
- Land ownership possible through registration scheme
- But one must prove that he or she established or exploited such piece of land before 05 August 1974
- No difference in the procedures followed by wealthy, educated and poor and un-educated
- Current system does not empower communities to participate in decision making pertaining to the authorisation of access to their land and resources

Community forest scheme in Cameroon (I)

- Section 37 and 38 of Law 94/01 of January 20 1994 introduced the community forest scheme, meaning gradual inclusion of rural populations in forest activities
- Article 3(11) of the 1995 Forestry Decree defines the community forest as forest forming part of the non-permanent forest, which is covered by a management agreement between a village community and the forestry administration. Management of such forests is the responsibility of the village community concerned with the help or technical assistance of the forestry administration
- Article 28 (3) of the 1995 Forestry Decree defines the communities to which a portion of forest can be entrusted for management, as the group or community which must be legally registered as an association, a co-operative, Common Initiative Groups (CIGs) or an Economic Interest Group (EIG)

Community forest scheme in Cameroon (II)

- A number of problems
- Communities not educated to draft statutes and not wealthy to afford the relevant expenses;
- Management agreement and simple management plan developed by others;
- Communities aren't legally empowered to develop them even if they could or wanted to;
- Communities not able to enforce their rights if someone trespasses their forest
- Article 31(3) of the 1995 Forestry Decree provides that "in case of infringement of community forests regulations, it should be up to the ministry in charge of forests to bring legal actions against the authors of such infringement. The Ministry may be notified to that effect by the official in charge of the community concerned
- Communities aren't legal owners of the land upon which the community forest entrusted to them is based
- State is therefore able to use such land for other purposes

Conclusions

- Rural communities can play significant role in conservation if their rights are properly protected by law
- Customary land rights should be enshrined in workable regulatory measures
- Loosening conditions pertaining to acquisition of land titles
- Empowering communities to file court proceedings against those who trespass their piece of forest
- Involve communities in decision making pertaining to authorisation for access to their land and collection of the resources therein