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LandCam
a CED, RELUFA and IIED project

Review of initiatives for the recognition and securing of land rights in South Cameroon

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About the project

LandCam: Securing land and resource rights and improving governance in the Cameroon
Timeline: February 2017 - January 2022

The LandCam project aims to develop innovative approaches to facilitate inclusive dialogue at the national level, based on lessons learned from past experiences, to improve land governance.
LandCam promotes learning, throughout the ongoing reform of Cameroon's land legislation and will contribute to building the capacity of actors at the local, regional and national levels. LandCam works with key stakeholders across Cameroon to improve customary and formal rights to land and natural resources by piloting innovations in land governance at the local level and contributing to sustainable policy reforms.
New spaces will be created for more informed, effective and inclusive dialogue and analysis, with the participation of stakeholders. LandCam monitors changes on the ground, monitor legal reforms and share lessons learned nationally and internationally.

Who are we?

IIED, CED and RELUFA are the organisations implementing the LandCam project, working closely with a wide range of partners in Cameroon and internationally.

Institut International pour l'Environnement et le Développement (IIED)

IIED promotes sustainable development by linking local priorities to global challenges. IIED supports some of the world's most vulnerable populations to make their voices heard in decision-making.

Centre pour l'Environnement et le Développement (CED)

CED is an independent organisation working to promote environmental justice and protect the rights, interests, culture and aspirations of local and indigenous communities in Central Africa. As an active member of several networks, the CED has succeeded over the years to mobilise allies to influence positively legal frameworks, monitor natural resource exploitation activities, sustainably build the capacities of dozens of local communities, and produce important scientific and advocacy documentation.

Réseau de Lutte contre la Faim (RELUFA)

RELUFA (Network for the Fight Against Hunger) is a platform of civil society and grassroots community actors created in 2001, which aims to address systemic problems that lead to poverty, hunger and social, economic and environmental injustices in Cameroon. The RELUFA's work is based on three programs: Equity in Extractive Industries; Land and Resource Justice; and Food and Commercial Justice.

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LIST OF ACRONYMS

AfDB: African Development Bank
CBD: Convention on Biological Diversity
CF: Community Forest
CMHZ: Community-Managed Hunting Zone
CNCTR: Cameroon National Council of Traditional Rulers
COMAID: Community Assistance in Development
DTC: Decentralized Territorial Community
EIS: Environmental Impact Study
ESIA: Environmental and Social Impact Assessment
FAO: Food and Agriculture Organisation of the United States
FLEGT: Forest Law Enforcement, Governance and Trade Action Plan
FPIC: Free, Prior and Informed Consent
FSC: Forest Stewardship Council
GESP: Growth and Employment Strategy Paper
GIS: Geographic Information System
GIZ: Deutsche Gesellschaft für Internationale Zusammenarbeit
IFC: International Finance Corporation
ILO: International Labour Organisation
LLDDP: Local Land Development and Development Plan
NCTCC: National Council of Traditional Chiefs of Cameroon
NGO: Non-Governmental Organization
PES: Payment for Environmental Services
PFE: Permanent Forest Estate
PLADDT: Local Land Use Planning and Sustainable Development Plans
REDD+: Reduced Emissions from Deforestation and Forest Degradation
RLA: Regional and Local Authorities
RSPO: Roundtable on Sustainable Palm Oil
SDG: Sustainable Development Goals
SDGE: Strategy Document for Growth and Employment
UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

VGGT: Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of food security

VPA: Voluntary Partnership Agreement

WRM: World Rainforest Movement

WWF: World Wildlife Fund

ZICGC: Community Management Area of Interest

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EXECUTIVE SUMMARY

Community land tenure rights in Cameroon have continually evolved throughout the country's history. These rights are governed by traditional customs, and also impacted by national and international legislation. These three contexts deal with rights in very different ways, from strengthening them in the international sphere to withdrawal or even denial in the national and local spheres. This situation exacerbates pressure on traditional community land. Land is monopolized for all manner of major investment projects in the forestry, mining, agro-industrial and infrastructure sectors including the construction of dams, roads and railways.

To a certain extent, the creation of the National Lands in 1974 helped to establish the coexistence of statute law and the full range of customary rights. However, this coexistence has not re-established communities' traditional land tenure rights, which have been reduced simply to "customary land use rights", enshrined both in land-related legislation and in other sectoral laws. This means that communities have no choice but to use the official registration process if they wish to own their own land. This out-of-step situation causes uncertainty and tension between different claims of legitimacy. It also gives the government free rein to award commercial rights to land falling within National Lands, thus suppressing the land rights claimed by rural populations. This situation leaves the occupants of 90% of Cameroon's land with insecure tenure rights, rendering them "de facto squatters" on their own customary lands (to quote the controversial expression used by Alden Wily in 2011). Moreover, the legal system in force favours land use rights which are granted and sanctioned by the Government over customary claims, and legal protection is only afforded to those who can provide proof of the land's added value.

Meanwhile, marginalised groups, indigenous peoples and women find themselves in an even more vulnerable situation in relation to land management. Indeed, indigenous communities have faced changes to land systems since the colonial period, and colonial laws (which the Government adopted after independence) favour individual property, imposing ownership as the basis for the land system and therefore indirectly removing ancestral rights to land.

There have been protests against this land-related injustice, and both national and international commitments and actions have been put in place to develop and protect community land tenure rights. A number of initiatives and tools to recognise and secure customary land tenure rights have therefore been tested, to ensure that these rights are neither contested nor unexpectedly questioned.

The purpose of this study is to list and record past initiatives implemented in Cameroon's Great South in order to secure community land tenure rights. This work will be useful in order to assess the effectiveness of trialled tools and mechanisms, and to learn any lessons that might help the land legislation reform which has been ongoing since 2011. It will also assist all actors in understanding the existing mechanisms and tools and how effective they are, thereby helping to develop actions for the LandCam Project.

Both these initiatives and those of other countries demonstrate that simply recognising customary rights is not a cure-all solution to securing rights and guaranteeing accountability. They highlight the need to take into account social differences when assessing opportunities and restrictions for accountability, including differences in gender, age, status, income, wealth or socio-economic activity. There are potential solutions. However, how they work in practice is largely dictated by the incumbent judicial authorities and their willingness to accept land claims whose legitimacy is based on the customary tenure system. Based on our study, we would make the following recommendations:

- Review land and community legal provisions, to give communities the power to document their own native land, and to be recognised by the Government as legitimate caretakers of all of their land; lift surface area and time limits for community land; Lift surface area and time limits for community land; Strengthen the process to recognise collective ownership; and simplify the implementation process and management tools;
- Enable governance to be decentralised to village level, to recognise the village as a local governance institution representing the community, and define its relationship with the customary authorities;
- Grant villages the right to our own and manage entire areas of land collectively with no further requirement or formality (no need to prove added value, no registration application required, no participatory mapping, etc.). This would prevent a situation in which only a tiny proportion of villages are registered at an extortionate cost;
- Simplify the registration process for community collective land;
- Recognise “village concessions” in land legislation. These concessions include all customary lands claimed by communities, including those which overlap other land allocations (forestry development units, farming, etc.);
- Clarify the role of participatory mapping as a management tool, rather than a prerequisite to recognising land ownership;
- Clarify the status of traditional chiefdoms:
- Build the capacity of community institutions to manage the land as a shared resource, and set up government support and mediation systems;
- Instead of linking ownership rights to the requirement for added value, build the concept of ownership on the basis of customary rights, adopting a forward-looking vision of securing community land tenure;
- Ensure that women and minority and disadvantaged groups are represented in land management bodies, and ensure that they are actively involved in such bodies;
- Put in place territorial sustainable development and planning systems which are cascaded down to village level;
- Implement international processes which could be used to advance land reforms;
- Ensure that reforms are properly coordinated, and that proposed solutions are incorporated.

INTRODUCTION

Background

In Cameroon, "customary land tenure rights" refer to all (generally unwritten) rules and procedures which a rural community uses to govern land-based relationships between its members, and with neighbouring or linked communities. This includes the collective rights of a community's members to natural heritage, as well as the private rights of members of a community over their farming and residential plots. It varies between different regions and ethnic groups, and is influenced by economic, social and political changes over time. Thus, community land tenure rights in Cameroon have continually evolved throughout the country's history. Since the colonial era, rather than legally recognising and securing these rights, the system has moved towards their gradual withdrawal.

The German protectorate attempted to remove customary land tenure rights in order to standardise laws, replacing them by a set of solutions based on imperial law which were applied to the country as a whole. Colonial land tenure rights differed fundamentally to traditional rights, by imposing a system based on individual rights and ownership regulated by the State. The majority of people have resisted the implementation of these new rules, which has led to the coexistence of statute law and customary rights. The hybrid system shaped by successive colonial administrations has survived independence, with a marked bias in favour of statute law. Therefore today, there is a land tenure system in which statute law coexists with a range of customary rights, with the latter being at odds with the former in a number of areas. These include ownership and its implications (such as the right to occupy and use land and resources).

This situation exacerbates pressure on traditional land held by communities. Land is monopolized for major investment projects in the forestry, mining, agro-industrial and infrastructure sectors including the construction of dams, roads and railways, thereby increasing the risk of local food insecurity.

To remedy the situation, a number of tools have been implemented in Cameroon to recognise and secure land tenure rights, with the aim of ensuring that these rights are not arbitrarily contested or questioned. Therefore, appropriate and legitimate land management rules have had to be put in place. It should however be noted that these initiatives have not always been sufficiently well-documented, and moreover they have often produced rather mixed results.

The purpose of this study is therefore to list and record past initiatives implemented in the country's Great South Region in order to secure community land tenure rights. This work will be useful in order to assess the effectiveness of trialled tools and mechanisms, and to learn any lessons that might help the land legislation review which has been ongoing since 2011. It will also assist all actors in understanding the existing mechanisms and tools and how effective they are, thereby helping to develop actions for the LandCam Project.

In this study, we distinguish between urban land and rural areas, as they are two vastly different contexts. The study focuses on securing rural areas. There are other studies which deal with the issue of securing urban land (Njoh 2012; Page and Sunjo 2017).

METHODOLOGY

This report provides a critical analysis of initiatives to recognise and secure the land tenure rights of communities which have been implemented in Cameroon's Great South Region, in order to assess to what extent, they have been able to guarantee rights for these communities. In order to achieve this, we began by reviewing historical changes to rights and governance methods in the Great South, in order to present the context in which these initiatives have been led. Our subsequent assessment consisted of a combination of:

i. A literature review of project documents in order to understand the context which had triggered the implementation of each action: what had been done, with what purpose and intention, and who were the planned beneficiaries;
ii. Interviews (often confidential) with the developers of these initiatives (NGO managers/ national and international actors), the heads of governments responsible for overseeing the implementation of these actions, and their beneficiaries (community leaders), to explore what impact they think these actions have had over time, and to understand what has worked, what hasn't and why.

We use these reviews and analyses to learn lessons and propose relevant recommendations. These recommendations will improve implementation of the LandCam project and ensure that it makes an effective contribution to the land reform process in Cameroon.

We have added to this work by reviewing studies and initiatives carried out in other countries, where such studies and initiatives are relevant and are likely to enhance and add significant value to our analysis. In some of the cases we have reported, we have assessed how the political frameworks or international standards and principles have been used to put additional pressure on stakeholders to recognise and protect the rights of indigenous peoples and local communities. Our review is available in the Appendix.

1 REVIEW OF LAND MANAGEMENT IN CAMEROON

1.1. Land legislation since independence

Following independence, a new land policy was implemented by way of Decree-Law no. 63/2 of 9 January 1963. This crucial legislation created a collective national heritage managed by the Government. This collective heritage comprised land withdrawn from the control of customary local authorities, with the exception of land considered as owned by these authorities, land registered or transcribed under the Civil Code, and land which fell under the public or private estate in accordance with the legislation. This land policy implemented by the new Government set out adding value to the land as a condition of issuing the title deed. Decree no. 64/10 of 30 January 1964 set out the division of land between national collective assets and customary local authority land.

In 1972, implementation and unification difficulties in the country provided an opportunity to reform and standardise the various land systems in both the French- and English-speaking regions (Bachelet 1968; AfDB 2009; Tadjudje 2005). Therefore, Cameroon's current land system is essentially based on the mechanisms implemented during the last big land reform of 1974, although in some cases, other national sectoral standards and laws have impacted on this system.

Having recovered land from local communities after the colonial era, the legislator granted these communities land use rights to the land itself and some of its resources. Land use rights are set out by Order no. 74/1 of 6 July 1974, Article 17, which lists terms and conditions for allocating land from National Lands. The Order states that customary local authorities which, on the date on which the legislation came into force, peacefully occupied or used category-one appurtenances within National Lands (residential land, crops, plantations, pasture and access) could continue to do so.

Based on this regulatory provision, local populations build their huts and encampments on land within National Lands, or use it for subsistence or cash crop farming. The Government sometimes supports land-use rights for homes, and issues planning permission for houses on non-registered land in certain areas. This practice helps to legitimise the land-use rights of communities in these areas. In addition to the land, the legislator has extended land-use rights to certain resources found on the land, such as fruit trees and non-timber forest products. There are however certain provisions in place which limit the recognition and securing of community land tenure rights, including the registration process and the obligations related thereto, as well as expropriations in the public interest.

1.2. Limitations of the current land laws

The 1974 land reform embedded the gradual dispossession of local communities and indigenous land tenure rights which had begun during the first years of colonial rule, leaving rural populations with no ownership rights over land and resources. The creation of National Lands helped to enable written laws and the full range of customary rights to coexist (Nguiffo *et al.* 2009). However, this coexistence has not re-established communities' traditional land tenure rights, which have been reduced simply to "customary land use rights", enshrined both in land-related legislation and in other sectoral laws. This means that communities have no choice but to use the official registration process if they wish to own their own land. There is no national legislative text which covers all sectors, and which recognises and formally guarantees community land rights. This out-of-step situation causes uncertainty and tension between different claims of legitimacy. It also gives the government free rein to award commercial rights to land falling within National Lands, thus suppressing the land rights claimed by rural populations. Criteria for allocating land within National Lands vary from one sector to the next (e.g. forestry, mining, agriculture), which creates uncertainty regarding which standards will be used in each case.

This situation leaves the occupants of 90% of Cameroon's land with insecure tenure rights, rendering them "de facto squatters" on their own customary lands (to quote the controversial expression used by Alden Wily in 2011). Finally, the legal system in force indeed favours land use rights which are granted and sanctioned by the Government over customary claims, and legal protection is only afforded to those who can provide proof of the land's added value.

1.3. Customs in the Great South up to the present day

Pre-colonial Africa had not one but several customary authorities, and Cameroonian society was particularly multifaceted (Le Vine 1965). Each age group, clan, women's group, chief and religious group defined their own customs (Mamdani 2005).

Prior to independence, Cameroon was comprised firstly of centralised societies focused around the grassfields and current northern provinces, and secondly of acephalous groups in the south of the country, with variants across the spectrum (Dillon 1990). Powerful and centralised chiefdoms (traditional authorities) date back more than 400 years and are located both in the grassfields covering the West Region (former French colony), and the Northwest Region (former British colony) (Nyamnjoh 2002). The powers of the customary chiefs were counterbalanced by complex democratic institutions (Brain 1967; Mouiche 2008; Nga Ndongo 2011; Niba 1995; Williams 2003). While these powers were not dismantled by the British colonial policy of indirect rule, or by the French colonial integration policy, there were considerable changes to the role of chiefs.

In the segmented societies of the Great South forest areas (located both in the former British and French colonies), there was no central government tradition and therefore chiefdoms were less likely to be institutionalised (Geschiere 1996; Williams 2003). During the pre-colonial period, several communities in the forest areas were "stateless" (Owona 2015), also sometimes described as "acephalous", which literally means "headless", and their social structures were undefined and based on kinship and parentage. In these communities, each individual had a strong tie to the group, due to their belief in collective responsibility. The egalitarian and cooperative nature of these societies mitigated the egotistical tendencies of each individual (Michalowski 1985). In anetatic societies, custom was governed by consensus, through a council of village elders or prominent men (Jua 2011; Koloss 2008; Owona 2015), and by the deliberate absence of a chief.

The colonial authorities tried different ways of strengthening the powers of "customary chiefs", which the chiefs largely created themselves (Gardinier 1963; Jua 1995; Kyed and Buur 2007; Le Vine 1964), and attempted to reform them (Le Vine 1964). In villages in which there were no "true" customary chiefs that could act as intermediaries, all (French and British) colonial authorities opted to create "traditional institutions" to resolve their administrative issues, fulfilling the need to have an agent[1] for the administration based locally in order to collect taxes and monitor the people (Geschiere 1996). Therefore, the Government placed the appointed chief and his family above other families and groups within the community, which sometimes gave rise to new conflicts within the village (Le Vine 1964; Njoh 2014). Within recent years, it has become clear that many injustices in relation to the management of shared resources are due to the responsibilities granted to traditional chiefs as managers of these resources, which often exclude women and other marginalised groups. This can lead to unfair decisions on land issues and the sale of community land (Cotula and Jokubauskaite 2016).

In some cases, colonial rule effectively gave chiefs the option of consolidating their position and establishing new powers for themselves within local society, at least to a certain extent, but with a largely modified role and status (Jua 1995; 2011; Le Vine 1964). However, most of these chiefs would never become anything more than agents of colonial leaders and of the post-colonial state, or establish any broader moral authority. Furthermore, new pressures on land in highly populated areas such as the West Region meant that traditional rules governing the land system became irrelevant (Le Vine 1964; Warnier 1993).

Nowadays, the application of customary rights is often confused with the powers of a traditional chief. The administration often refers to chiefs as "land chiefs", and often calls on them to speak in the name of their communities, even if they do not legitimately represent this community. Many village chiefs are also civil servants or businessmen (Eyenga 2015), and therefore absent and not able to keep up to date with all day-to-day land issues.

However, the Government values the viewpoints of these chiefs in more difficult decisions, including those related to land. Law 77/245 organising chiefdoms and Decree no. 76/166 setting out the terms and conditions for managing National Lands require them to defend the interests of the Government (Jua 1995). In decisions on large-scale concession allocations (50 ha or more), the advisory committees set out by Article 12 of Decree no. 76/166 include the "village chief and two village elders". On these committees, the traditional authorities which should in principle defend the customary traditions and interests of their communities are in the minority, while the majority of members are Government representatives. However, as their name indicates, these committees only have advisory powers, and the final decision is taken by the administrative or political authority, depending on the size of the concession. Kenfack *et al.* (2016). This demonstrates a number of practical and legislative constraints[2] which limit

1 The traditional chiefdom is recognised and organised by Decree no. 77/245 of 15 July 1977 organising traditional chiefdoms in Cameroon, and refers to "traditional local authorities organised on a regional basis". Local tradition plays a key role in its organisation and internal operations. Chiefdoms are comprised of three hierarchical levels. Article 8 promotes the hereditary right of traditional chiefs, while Article 15 is clear that they should be appointed by the Government. Article 20 states that they should be appointed as "agents of the administration [to] assist the administrative authorities" with their duties, including: "Monitoring the people; communicating instructions to the people and enforcing them; helping to maintain public order; contributing to the economic, social and cultural development of their command units; collecting taxes for the State and other public authorities; and performing any other duty assigned to them".

2 The applicant usually pays the costs of the committee – it is therefore difficult for a representative of the administration to oppose the applicant's project. The system does not set a threshold under which a community can be considered to be short of land, and therefore incapable of welcoming new investors to their region. There are no guidelines on how communities should be consulted, or if the chiefs and two elders involved in the meetings of the advisory committee should consult the village that they represent. There are also no requirements to ensure that the committee is representative, for example taking into account the gender, age or ethnic group of those affected by the proposed land allocations

the committees' scope and effectiveness, and the power of traditional authorities in relation to that of the private sector and the Government. Consequently, when decisions on land allocations are made, community land needs and preferences are often ignored or overlooked in favour of external interests, which undermines or even removes collective land security.

For small-scale transactions, it is publicly known the allocation of land by so-called "customary" methods is still rife, particularly in rural areas. Elites are therefore able to purchase land from local land managers such as traditional chiefs without following the relevant legal processes or customary land rules, such as the indivisibility of shared resources (Cotula et Jokubauskaite 2016). The authors of the AfDB study (2009) conducted interviews with departmental and regional bodies of the Ministry of Land Tenure and Administrative Reforms (Ministère des Domaines et des Affaires Foncières)[3] in Southwest Cameroon, which revealed that: "effectively chiefs do not feel involved, and go as far as selling customary land", "the administration goes along with and officialises this practice, and it is the chief that puts people in place while the administration simply approves them". Perhaps most extraordinarily, this behaviour is accepted by a large proportion of the population, and the majority of those who have used it, and it enjoys a certain legitimacy as it is seen as a "customary" land governance method. In reality, and particularly for South Cameroon, this practice marks a move away from the customary process, which on the contrary prohibits the transfer of land under shared ownership. It constitutes an exacerbated form of bad land governance at a local level, which over time has come to be accepted and tolerated by the State administration.

Consequently, the legitimacy of traditional Cameroonian chiefs and their coexistence with new modern government systems is now problematic, particularly as regards the decentralisation of land and natural resource management (Geschiere 1993; 1996; Le Vine 1964; Linge 2010; Mouiche 2005; Nuesiri 2012; Peach-Brown and Lassoie 2010; Piou *et al.* 2012; Sharpe 1998; Warnier 1993). Cameroonian chiefs and traditional institutions are gradually losing credibility due to a gradual erosion of their authority (Jua 1995; Sharpe 1998), often in favour of local politicians such as mayors or members of Parliament, and government institutions.

Communities increasingly perceive traditional chiefdoms as an institution as contrary to democratic principles, even in the case of good governance, while in the case of bad governance they are strongly opposed (Eyenga 2015; Mouiche 2005; Sharpe 1998).

To conclude, traditional authority has reached a crossroads in respect of governance in the Republic of Cameroon. The State views chiefs as agents of the administration, who are accountable to the State. However, despite acknowledging the depleted roles of their chiefs, for citizens the traditional authority remains the de facto institution for local governance, and provides a reassuring and approachable stability, particularly for remote villages. On the other hand, officials appointed by the administration or voted for in local communal elections (the latter often come and go), do not provide reassuring institutional stability in republican bodies (Cheka 2008), which are often a long distance away from villages. Given the situation, the Cameroonian legislator should consider the best way to do away with these parallel informal legitimacy practices, which have no legal basis (AfDB 2009).

3 Now theMinistry of Land Tenure and Administrative Reforms (Ministère des domaines, du cadastre et des affaires foncières- MINDCAF)

2 ANALYSIS OF INITIATIVES AND TOOLS TO SECURE AND RECOGNISE COMMUNITY LAND TENURE RIGHTS

Over time, the colonial policies and regulations adopted after Cameroon's independence have gradually eroded and confounded the process of recognising and securing customary land tenure rights.

Aware of the major challenges of the land issue on a local level, communities themselves have been the first to implement new systems and approaches to secure their land rights. Communities have been forced to adapt to new circumstances following a move from customary rights to land tenure statute law, and given the pressure on traditional community land. Both national and international partners have put forward new approaches to recognising and securing customary land rights to help communities with this process, with rather mixed results.

2.1. Non-legal, community-led initiatives and tools to recognise and secure land tenure rights

Non-legal recognition and land security tools are based on customary rules and practices rather than modern-day national and international land statute law.

2.1.1 Re-distributive management of customary rights

The re-distributive management of customary rights is based on the concept of a "successor" as the cornerstone of the traditional land system, which covers the need to comply with the web of re-distributive community rights, and the need to guarantee relative land security by acquiring private land use rights to external land (Berry 1988). In this case, two rules apply: (i) The rule of division of the estate, and (ii) The rule of overlapping land access rights.

2.1.2 The rule of division of the estate

Many regions of Cameroon, particularly the West and South Regions, have for a long time nominated a single heir ("the successor") as a protective land measure, to address a shift towards fragmentation which could result in the creation of unsustainable micro-farms (Janin 2000). In the patrilineal societies of the Great South, the successor is the central figure of any land lineage. When the previous land chief (village chief) dies, he is responsible for managing the circumstances of the land handed down, based on the occupancy statuses of each person and on matrimonial alliances. This nomination method seems to be legitimised by the values

and representations of an extremely hierarchical and unequal society.[4] Where there is saturation of the land, in the majority of cases indivision prevails. This is particularly the case in the Centre and West Regions, in order to prevent excessive dispersal and division of the land (Santoir 1992). Meanwhile, the ongoing phenomenon of fragmentation is decreasing in the extremely densely populated chiefdoms of the West Region, where the division of the estate rule applies (Janin 2000). This leads to the paradox that sons will inherit even less than their fathers who own significant land assets (Weber 1977), as given that the latter is "an elder", he will have far more offspring (Janin 2000).

If, as in certain locations in the South, allocations are made based on matrilineal links rather than patrilineal as in the East, the successor usually holds a less dominant position. In some polygamous concessions, for example when the successor is a minor heir, the father's widows will retain the previously awarded land use rights and the plantations which they work on. However, some minor heirs may inherit the land of their uncle if the latter has no direct descendant. This offset any perceived shortfall in the paternal allocation.

2.1.3 Overlapping land access rights

In traditional land systems, the successor holds multiple roles as the manager of the lineage-based assets, the regulator of access rights to the resources, the primary heir of the material assets and the moral successor (Janin 1999). Despite his broad range of responsibilities, he often has little room for manoeuvre as he is under the continuous watch of the community. Indeed, he will have to contend with different types of inherited land use rights. Therefore, prominent cultivation rights allocated by his mother or one of her co-spouses to any relatives by marriage (e.g. to a sister-in-law or mother-in-law) cannot be terminated, and are automatically renewed each year by matrilineal kinship. Only the female ancestor who awarded the rights has the authority to withdraw them. On the other hand, usufructuary rights granted to neighbours by the current chief (such as the right to use a raffia palm grove (sap and stalks) or tenancy contracts for a plot) can easily be re-examined or removed. Even if his land is reduced, the successor cannot bypass his duty to provide assistance to relatives in difficulty.[5]

In the land use rights allocation system, the kinship factor is crucial but not exclusive. This all depends on how the individual deals with community pressure. Furthermore, and in spite of its contractual nature, this circulation of land use access rights through a series of lineage-based obligations and neighbourhood links partially offsets any inequality in the initial allocations (Janin 2000).

These rights and practices overlap one another and therefore divide up the land, making it difficult to carry out any in-depth assessment of land assets. We therefore favour the concepts of "native land" (space over which an individual has potential rights but does not necessarily cultivate), and "working land" (a space which an individual cultivates but does not necessarily hold

4 If they had no land, those excluded from the inheritance had no option other than to emigrate to less saturated surrounding areas, or to invest in other business sectors (Dongmo 1981).

5 Thus, a sister going through a divorce or whose husband has abandoned her is free to return to her original family concession and retrieve any cultivation rights which had lapsed after her marriage, even if this means evicting an unrelated neighbour covered by a prior land use right. The situation is similar in the case of a brother who is fired (dismissed), and immediately returns to the village to grow crops. The successor has a duty to find him a place in the concession and award him a plot.

rights over) to the notions of "prominent rights" and "land use rights" (Janin 1999). The concept of recognising community *finages* (village territory) put forward by Karsenty and Vermeulen (2016) based on initiatives in Gabon could be a good potential solution to this issue.

2.1.4 Occupancy as a means of access to land and to collective ownership

As a general rule, collective ownership is key to managing customary land systems. Indeed, in rural areas, the system for the appropriation of spaces by individuals or groups of individuals is also based on the "right of the axe", an old mechanism which has been reinforced by the notion of adding value passed down by colonialization. Therefore, clearing forest plots and adding value to them was a traditional means of establishing exclusive land use rights (CED undated).

Members of a single family or lineage hold a shared space within which nuclear family members have multiple plots located next to one another. These spaces are generally used for farming. In this case, more isolated forest areas which do not have any farming value are used for hunting, gathering and fishing (usually based on access and use rights). These areas are not appropriated by individuals. In general, community land boundaries are properly demarcated, and everyone is aware of the boundaries, which may be marked by a river, tree etc. Disputes over these boundaries are extremely rare. In the case of a dispute, evidence is usually provided by elders.

2.2 Initiatives and tools promoted by actors outside the community

2.2.1 Participatory Mapping

Participatory mapping emerged in the wake of participatory rural evaluation methodologies widely used by the development community in the 1980s. It is a process which aims to document and reclaim community rights which are deemed to have been abused by way of advocacy, lobbying, etc. There are currently very few participatory mapping initiatives which form part of a process purely to secure land. Instead, it tends to be used for short-term projects (usually one year or less), which raises questions on their impact both on public policy and on land boundary marking practices. It falls into two categories, one of which covers reactive processes to real land pressure, and the other proactive processes.

Under "reactive" processes, we cite the project to "Reduce poverty and promote sustainable subsistence means for Bagyeli communities in South Cameroon" (Handja 2007; Nelson 2007). Following the exposure of a former land issue related to the Chad Cameroon pipeline, one of the project's aims was to protect and promote land tenure rights for accommodation on the farming land and adjacent forests on which these communities traditionally carried out hunting, gathering and cultivation. The project mapped the native lands of 20 Bagyeli communities between 2002 and 2007. The process lasted nearly five years, and following negotiations with Bantu village chiefs led to 20 recognition agreements for 20 Bagyeli villages. These agreements were signed not only by Bagyeli and Bantu parties, but were also recognised and signed by the Sub divisional Officer-SDO of Bipindi. In 2007 these agreements marked considerable progress towards the recognition of the land rights of indigenous Bagyeli peoples, and towards the creation of traditional chiefdoms in the villages in question. Nowadays, due to a lack of follow-up their

implementation raises a number of problems. The documents which confirm the agreement are still located in the local administration's offices, but are not official title deeds. Without regular reminders and pressure from a third party who has more influence that the Bagyelis acting alone, over time they risk being forgotten and/or isolated.

As for "proactive" approaches, we can cite the case of the project: "Integrating participatory mapping and GIS to create a model of the links between humans and nature in South Cameroon". The purpose of the project was to bridge the gap between spatial modelling data and the social decision-making process for spaces, by creating a social representation of the landscape which was geographically consistent, and to provide a geographical basis for the link between land use, its socio-cultural representation and its management. The process clarified the division of land rights between the six main clans, over eight hamlets within the Akok village in the South Region drainage basin (35 km from Ebolowa).

Karsenty and Vermeulen (2016) note that the purpose of participatory mapping is not only to document occupied areas, but also to identify traditional rights applicable to the State or private sector for future zoning or classification processes, in accordance with the principle of free and informed consent. Although these initiatives currently have no legal basis, they are not devoid of political influence. It is inevitable that these mapping products will be used beyond the role for which they were initially intended.

Over the past two years, the Tenure Facility (2017) has urged governmental, non-governmental and private partners to develop, test and adopt a standardised participatory mapping methodology (Rainbow Environment Consult 2017), and to submit it to the Government so that it can be officially adopted and applied to a number of specific cases, including: environmental and social impact studies; negotiations for forest, mining and farming concessions; creating development plans for protected areas; and preparing territorial development plans.

2.3. Initiatives and tools to recognise and secure community land tenure rights based on formal law

This sub-chapter assesses initiatives which apply national law as a means of securing and recognising customary land tenure rights.

2.3.1. Community land registration initiatives

As national land tenure law has made registration the only means of accessing land ownership, a number of initiatives aiming to recognise and secure community land tenure rights have taken this route. There are three particular case studies which we ought to mention here.

- The Bagyeli community in the village of Nyamabandé

This is a land securing initiative based on a registration process initiated by the communities themselves. The village of Nyamabandé is located in the Campo district, Ocean divison, in the South Region of Cameroon. The village has a Third class-level chiefdom and is populated by a majority of Bantu people and a minority of indigenous sedentarised Bagyeli, who live on farming,

hunting, gathering and fishing. The Bagyeli community in the village has access to a one-kilometre square plot of land allocated by the Bantu village community. This allocation was approved by the district (arrondissement) administrative authorities including the Sub divisional Officer-SDO, the Mayor, the Campo Brigade Commander, the Park Warden and the traditional authorities of the village. The allocated land was marked out, but the registration process could not be completed due to a lack of funding (Kengoum Djiegni 2016).

The main consequence of the non-registration of this land is that the community cannot receive the one million CFA Francs that it ought to receive each year from the firm Wijma for construction. Indeed, the company requires a title deed to be issued in advance for the land area granted to the Bagyeli community, as it cannot build on National Lands in violation of town planning rules, and without legal evidence of their ownership of that land.

- Case of the village of Kouambo

This is a registration initiative led by the administration. Kouambo is a village located in the Bipindi district, Ocean divison, in the South Region of Cameroon. The population is split into two groups: Bantu and Bagyeli. The Kouambo Bagyeli have been sedentarised and grouped into two camps: Makoridjouon and Lodabele.[6] The Bagyeli people in the village of Kouambo live on farming, fishing, hunting and gathering, and did not originally have any land rights. They were only allowed to settle on a long-term basis following their agreement with the local Bantu community. The Kouambo Lodabele encampment was allocated to the Bagyeli community by the Bibiang family. This allocation was approved by the local authorities to prevent any conflicts with the Bantu people. Markers were placed in the presence of the administrative and traditional authorities. However, the space (calculated at approximately eight hectares) does not yet have a title deed and no registration process is under way, due to a lack of financial resources (Kengoum Djiegni 2016).

- Case of the village of Mouangue le Bosquet

This is a registration initiative led by a religious group outside the community. Mouangue Le Bosquet is a Baka village located in the Lomié district, Haut Nyong division, in the East Region. Mouangue le Bosquet was created in 1972. In this year the "Sisters of the Holy Spirit" community from Messock took the initiative of bringing together all the indigenous Baka peoples from the Lomié district into the village, where they built their convent. The Sisters enabled the Baka people to obtain a title deed for this space. Nowadays, the main activity of the Baka communities in the village is subsistence farming, after cocoa plantations were abandoned in the mid-1980s. They started growing cocoa again in 2013, but have not yet had a harvest. Unfortunately, the space secured previously is now under pressure, as there are now more members of the community (Kengoum Djiegni 2016).

6 They state that they originate from Mungue in the Bassa area, which they left before moving to Ntameyo, a camp close to Kouambo. They were displaced from this encampment as it was on the path of the Chad to Cameroon Pipeline, and were welcomed by the Bibiang family with whom, according to reports, they had an age-old relationship with the current chief of the family, Mr Luc Patrick Mania.

2.3.2. Community Forest initiatives as a tool for securing land

The regulations on Community Forests (Forêts Communautaires or FCs) set out by the Forestry Law of 1994 stipulate that Community Forests must be allocated in priority to "those within the nearest proximity". These communities must organise themselves into legally registered groups with no reference to recognition of the customary land tenure of these forests (Djeumo 2001), and manage the Community Forests based on a *"straightforward management plan"*.

These so-called "straightforward management plans" have proven to be a huge challenge, as farmer hunter gatherers have to become forest managers (Karsenty et Vermeulen 2016). This creates constant tension between the wish of legislators to ensure that spaces are sustainably managed, modelled on large concessions (with their inventory standards, national standards and time and space-based rotation rules) and the need to delegate forest management to local communities who have none of the required skills. This dilemma leaves the Community Forest securing process open to exploitation by the community's elites, with the risk of bad governance which profits just a few, rather than the community as a whole.

In reality, these so-called "communities" are often registered groups of individuals such as associations, cooperatives, communal initiative groups and economic interest groups. Karsenty and Vermeulen (2016) note that in other cases, the true situation is that forests in Central Africa often belong to family groups, who do not always wish to share management with other members of the community, which can potentially infringe upon historically recognised rights.

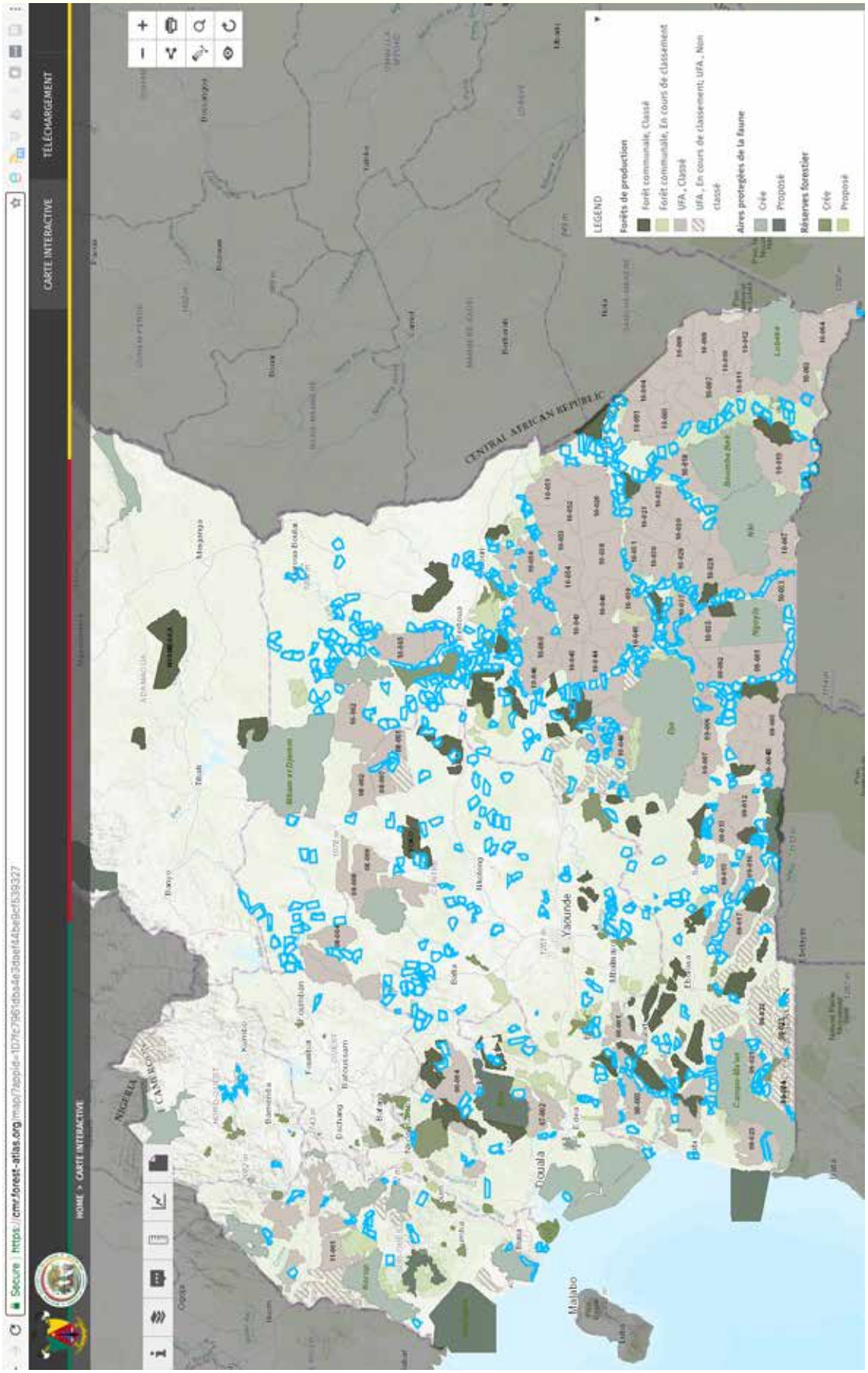
Despite these social challenges, given the lack of legal land securing processes, a number of "communities" have followed the FC application process, typically with the encouragement of international development partners or elites with their own agenda.

By 2018, approximately 600 FCs covering more than 1.5 million hectares had been put under the control of Cameroonian communities. They are primarily located in the Great South Region, where much of the dense woodland is found. The FCs fill in much of the space between the permanent forests, the protected areas, the forest concessions and the communal forests (see Figure 1).

The aims of creating of such forests vary based on the motivations of the main project developers, with the majority being created with the hope that operations will provide an income source for the owners of the Community Forests (Owono *et al.* 2012). Movuh (2012) also confirms that decentralisation to local sustainable forest governance could allow communities to use their forests for subsistence purposes, but that administrative models and processes have also held them back due to the centralised control of the Government and its development partners.

In the best-case scenario, the creation of FCs could temporarily secure the land, even though the Law's wording refers to securing of the "forest" rather than the "land". Indeed, the land is indirectly secured, as the land and the forest are linked to one another. Thus, to a certain extent a 5,000-ha area of land allocated to a community or group via this process is protected from external land grabbing for other uses. However, there is nothing to prevent such spaces from being used for agroforestry.[7]

7 The forestry policy stipulates that *"the non-permanent forest estate is based on land that can be allocated for other activities (farming, forestry and pasture)*. This is the area set aside for community forestry and developed on the basis of agroforestry". Therefore, a straightforward FC management plan may enable one or more sections of a community forest to be allocated to forestry, agroforestry, farming or other uses. All uses must however be specified in the agreed straightforward management plan.



Source: *Forest Atlas of Cameroon* **https://cmr.forest-atlas.org/map**

Figure 1: *Community forests (circled in blue) located between concessions and protected areas.*

The customary rights of communities generally extend beyond the boundaries of the Community Forests and, of course, do not stop at the (artificial) borders of the permanent forest estate. There is an even more noticeable discrepancy between the legislation and the scope of traditional rights for indigenous communities, whose gathering routes are usually located within the permanent forest estate (which covers both forest concessions and protected areas).

A recent review (Piabuo *et al.* 2018) of 36 case studies showed that in terms of responsibility, fairness, involvement, guidance and performance, Community Forest governance is producing relatively poor results, with 78% of case studies failing to meet standards for all principles. The data suggests that none of the case studies are compliant with responsibility standards, while over 70% of case studies do not meet the involvement, guidance and performance standards. However, the review also indicated positive results in certain areas. It indicated that economic activities which provide direct benefits, high levels of technical support and elites who provide a positive influence are key success factors in Community Forest governance. Oyono *et al.* (2012) also documented the socio-economic contributions made by FCs, together with governance challenges.

The positive reactions of certain communities do however show that it is possible for good governance to become a reality in Cameroon.

Interviews with actors based in the Mount Oku area show that some good Community Forest-related initiatives have been established. Mount Oku is covered by approximately 13 Community Forests, which were created with the support of the BirdLife International project in the 1990s. The interviews also revealed that the forestry community has been able to provide a considerable level of protection of forests against strong pressures on the use of natural resources and agricultural development. The community acted collectively to protect Community Forests and secure shared resources. Despite this success, some difficulties remain. As a result of bad governance in Community Forest management, local resident communities (and particularly beekeepers) have made complaints to the Government through their customary authorities, asking it to act in order to ensure that management committees become more representative and responsible. The Government, represented by the Ministry of Forestry and Wildlife and Wildlife (Ministère de la Forêt et de Faune) has shown a willingness to support Community Forests in the future, and with some support these forests will be able to serve as a positive example to others.

2.3.3. Territorial Development as a tool for protecting customary rights

Some communities have used participatory mapping to prepare territorial development plan proposals in order to defend or reclaim their land tenure rights against external threats. The team has completed two case studies:

- Territorial development project by the village of Ntem on the Mbaw Plain, Northwest Region, supported by the NGO COMAID.
- Territorial development project by six villages on the Boa Plain, Southwest Region, supported by the Mount Cameroon Project (Projet Mont Cameroun).

Both initiatives were launched in response to pressures on their land due to the interest of the CDC (Cameroun Development Corporation) in palm oil plantation development projects. Moreover, the village of Ntem also became an expansion site for medium-scale farms on land purchased by external elites with the approval of the traditional chief.

In both cases, the communities received support from external actors at the outset, and in the case of Boa Plain, they continued to fight unaided against pressure from the CDC for 15 years after the project ended. Both communities called on assistance from the Territorial Administration, and in both cases the Administration acknowledged the community's complaints, and proposed actions to alleviate pressure on community land.

In the case of Boa, after the plan had been studied by the Advisory Committee, the Sub divisional Officer-SDO of Bamusso came to see the land in question, and both confirmed and approved the community's claims. In 2017, CDC's Board of Directors agreed to return approximately 180 ha to the Mbonge and Dikome communities, and 40 ha to the Bonjare community. This initiative was undertaken without external support, and was entirely funded by the community.

In Ntem, the village's land council was restructured to correct statutory, compositional and operational flaws, and to make it more representative to significantly improve the transparency and responsibility of land governance by the "Fon" or traditional chief. Stakeholders also launched procedures to reverse all illegal large-scale land allocations by the Fon to outsiders, in order to support Ntem farmers. They also prioritised land allocations for small-scale farmers.

Interviews with COMAID in April 2018, two years after the end of the Ntem village project, indicated that the village land council had been strengthened and maintained for approximately one year. However, the Fon subsequently resumed his bad habits and again started to allocate land to a limited number of family members, thereby excluding wider committee members. The Fon also continued to make illegal land sales to external commercial interests, even within the village land reserve which on the map is marked as land reserved for indigenous inhabitants of the village. The Ntem community submitted new complaints via the Divisional Officer to governmental authorities regarding non-transparent and illegal land sales by their traditional authorities. The community again asked for external support from an NGO to resolve its difficulties.

The Ntem project had a number of strengths, including the commitment of multiple stakeholders, the production of a map and a land register project. It also however exhibited a number of weaknesses, including the fact that the improved land governance bodies established by the project could not be properly maintained beyond the project end date.

Although spatial data on the boundaries of the Ntem village land reserve had been captured, the boundaries had not been physically carved out, and it was not covered by any specific legal status enabling it to be identified and protected as "community land". During consultation meetings, communities judged that they had been able to convince the Government that they had established a legitimate village land reserve, even though it had not received legal approval. COMAID now acknowledges that it was a mistake not to physically mark out the land on the ground, in the presence of Government representatives, and not to officially register the village's land reserve so that it could not be allocated to external interests for other purposes.

2.3.4. Implementing the principle of Free, Prior and Informed Consent (FPIC)

The FPIC principle[8] is recommended by a number of international legal instruments, including the Voluntary Guidelines on Tenure (VGGT), which recognise it as a crucial element on which to build relationships between members of communities and external parties. It is not however recognised by Cameroonian land laws, and in practice it is generally not followed during land investment processes.

There are still few successful FPIC-based initiatives in land use sectors. An analysis of the role of FPIC in the Congo basin for FSC-certified wood operations (Lewis *et al.* 2008) showed that efforts to implement FPIC rarely ended in a satisfactory manner for communities. The authors recommended a 12-step process in order to have a better chance of achieving FPIC objectives.

Colchester (2016) reviewed FPIC implementation standards in the context of voluntary certification standards, and concluded that certification systems sought to go over and above the law, yet are not above the law and must operate within national legal frameworks which reduce the rights of indigenous peoples. Therefore, these standards cannot fully defend or redress rights violations.

Ultimately, the rights of indigenous peoples can only be guaranteed by national legal reform. In the meantime, certification systems offer some (albeit limited) protection of rights and options to redress violations. In order to maximise the effectiveness of these systems, the systems themselves must more stringently defend their own standards. An in-depth NGO study of 17 palm oil projects in eight countries (including Cameroon) showed that even those companies who were members of the Roundtable for Sustainable Palm Oil (RSPO) did not comply with RSPO principles and criteria (Colchester and Chao 2013).

8 According to the principle of Free, Prior and Informed Consent (FPIC), a community is entitled to grant or refuse consent to projects that may affect the land that they hold, occupy or use pursuant to customary rights. The principle was set out by the Declaration on the Rights of Indigenous Peoples in 2007. It is a collective right which means that it belongs to the community as a whole. It means that anyone wishing to use land which belongs to, or is occupied or used by indigenous communities must enter into negotiations with these communities. It is then up to these communities to decide whether they approve or reject the plans, once they have a full and accurate knowledge of the consequences of the project on themselves and on their customary land.

3 CONCLUSION AND RECOMMENDATIONS

It is clear from the foregoing that Cameroonian communities have seen a gradual disappearance of their customary ownership rights, which have been replaced by individual property rights, thus highlighting the gap between statute law and traditional practice. Traditional institutions have been replaced by State institutions, which have centralised land management. For the time being, the decentralisation of powers remains limited. This has led defenders of community land tenure rights to develop systems which can clarify the roles of both traditional and modern institutions, as well as customary and state-governed rules to help to secure these rights.

3.1. Conclusions

There have been protests against numerous land-related injustices, and both national and international commitments and actions have been put in place to develop and protect community land tenure rights (including for indigenous peoples and women in rural areas). These protection measures are now supported by a growing number of legal instruments, initiatives and sectoral commitments. From our case studies, we have observed a range of experimental approaches to securing community land tested by the Government and development partners. Most of these approaches define specific areas of influence for a community (e.g. a Community Forest, village *finage*, land reserve for village farming etc., and put them under the management of an institution specifically set up for the project, to address the fact that governance bodies at "village" level are not representative.

Trialling approaches based on sector-specific legislation has not been able to overcome the fundamental issues in the land system as set out by the main land legislation. Although forest legislation provides communes with an opportunity to secure rights to forest land through Communal Forests, the communes, mayors and their advisers are not customary right holders. In contrast, the communities and traditional authorities which should legitimately be able to claim customary land tenure rights are still unable to secure their own land (Oyono *et al.* 2012).

In the majority of cases, community forestry has not worked as a way to secure forests in the interest of communities, and as part of a move towards decentralisation. Indeed, communities with access to Community Forests have no ownership rights to the land which supports these forests. If forests are secured, this is purely incidental. Consequently, the community forestry model is often considered to be a poor response to customary claims, and only grants temporary rights of use to small and damaged wooded areas, which are easily revoked (Carodenuto *et al.* 2014; CED *et al.* 2017). Registered groups are not always the historical beneficiaries, and there is a lack of good governance in management bodies. Minang *et al.* (2007) identified access to financial services, a lack of knowledge and skills on management committees and internal conflict as major issues for Cameroon's Community Forests. Brown et Lassoie (2010) and Alemagi (2011)

attributed the ineffectiveness of Cameroon's community forestry to corruption, a lack of accountability and mediocre follow-up and assessment processes. The above clearly shows that good governance of Community Forests is crucial to effective community forestry (Piabuo *et al.* 2018).

The main issues surrounding the management of forests and community land include: 1) A lack of recognition of the extent of customary rights; 2) The fact that not all customary rights holders are authorised or properly represented; 3) The lack of capacity of local management bodies; and 4) Governance failures by local management bodies and the State institutions tasked with overseeing these bodies.

However, before we can reject Community Forests as a potential management model, we need to identify the underlying causes for their failures, together with any successful aspects of the approach. A number of constraints could be resolved simply by revising those regulations which govern Community Forests. For example, the maximum size could be increased, an unspecified term could be imposed, and the allocation and management processes could be made easier simply by amending the 1995 Order (CED *et al.* 2017). Piabuo *et al.* (2018) identified the main drivers of positive FC results, including primarily capacity building, technical and financial support, and the choice and availability of income-generating activities. Social cohesion and involvement were also deemed important for the success of FCs in developing countries (Baynes *et al.* 2015). Other Cameroon-specific success factors have also been identified, including the generation of profits, partnerships, support and choices of practices and institutions (Duguma *et al.* 2018). This indicates that governance at local level is as important as governance and the legal framework at national level.

The juxtaposition of these various instruments creates a battle of wills between the various groups, including the Government, the private sector, mayors, traditional chiefs, communities and the elites. They include various land securing mechanisms set out by forestry legislation, mechanisms for local governance set out by the 2004 decentralisation Law, and those for participatory territorial development set out by the 2011 territorial development Law. The reality is that the power to mediate between these various stakeholders and the final decision-making powers are always in the hands of the Government.

While in the two-pilot territorial development case studies at local level set out above, the participatory maps, land use plans and recommendations helped to temporarily ease pressure on community land, they did not provide title deeds or long-term security.

The securing of land through registration has also proven to be infeasible. Indeed, this approach grants beneficiaries' rights to a specific and pre-defined space. However, it has not accounted for the fact that the population would grow over time, and that the surface areas and spaces granted would eventually be insufficient. Moreover, we noted that this approach only worked in cases in which the registration process was monitored and funded by a third party/ies. In other cases, the process was not completed, due to a lack of funding. This is due to the fact that registration is a long, complex and extremely costly process for communities.

There are only two approaches used as part of traditional or customary initiatives that appear to be effective in securing communities' land tenure rights: village-based approaches and those which apply traditional land tenure rights. These approaches are successful as they take into account the context, habits and customs and the composition of the communities which are the customary landowners. Another reason for their success is the fact that, unlike statute law

which involves a plethora of actors and land management laws, these customary approaches are based on one primary actor, i.e. the chief or successor acting as a land manager on behalf of the community to which he is accountable. This can make land management far more straightforward, but does not guarantee good governance as this still depends on the community institutions working alongside the chief. Therefore, it is crucial to recognise the village as a land governance unit equipped with well-defined modern governance institutions, such as, for example, those set out by the Tanzania case study in Appendix 1.

Particularly tricky issues may also arise if customary systems lose what is perceived to be their social legitimacy, when they are eroded by a socio-economic change or when the customary authorities abuse their powers. In a context in which land has a far greater commercial value than it did previously, these systems are being eroded by new pressures on land, and by the absence of a process in which the community can verify and counteract the use of centralised powers by traditional chiefs. The current behaviour of many chiefs, who sell customary lands to third parties with Government collusion and support, is a further drain on the remnants of a customary land system which was originally designed to protect land in the interests of all community members.

It should also be noted here that the customary systems themselves may raise difficult issues in terms of gender equality. Indeed, customary systems often put women at a disadvantage, both in terms of material land tenure rights and in their ability to make their voices heard when decisions are taken.

All of the above considerations demonstrate that simply recognising customary rights is not a cure-all solution to securing rights and guaranteeing accountability. They highlight the need to take into account social differences when assessing opportunities and restrictions for accountability, including differences in gender, age, status, income, wealth or socio-economic activity. There are potential solutions. However, how they work in practice is largely dictated by the incumbent judicial authorities and their willingness to accept land claims whose legitimacy is based on the customary tenure system.

Most communities and NGOs that we interviewed wanted to see greater democracy in customary land governance systems, by putting in place institutions and mechanisms which are representative and accountable at all community levels, as opposed to simply returning to “traditional customary” management. As Ribot (2001) notes in his review of several worldwide case studies, to achieve a more integrated and representative public decision-making process, governments, donors and NGOs must insist that all public organisations report to their representative authorities. This leads us to ask, how can we achieve a good balance between the institutions covered by decentralisation at village level and traditional Cameroonian chiefdoms, so that we can avoid the mistakes made in the past?

3.2. Recommendations

The following recommendations are based on the analysis set out above, and aim to boost the security and recognition of communities' customary land tenure rights.

3.2.1. Review land and community legal provisions

A review of community legal provisions is required. This review must grant the following powers to communities: to document their native land; to be recognised by the State as legitimate managers of all of their land (and not only of sections of their forests); to remove surface area and time limits for community land; to boost recognition of true collective ownership; and to simplify the application process and management tools.

The most effective means of achieving this would be to revise land and decentralisation laws to establish each village's right to be recognised as the owner and manager of all land under shared ownership, including farmland, forests, water and the resources located on the land. This would enable all other sector-specific laws, including forestry, farming, fishing, livestock, mining etc.) to refer to the same basic principle, before attempting to create their own opportunities to ensure that communities can secure shared land. Any third-party interest in such land for various uses would have to be negotiated with local representative institutions.

The new legislation must recognise that customary rights to land and resources often overlap. The review should not aim to define exclusive rights which do not allow for overlapping between different users. Instead, it should identify a way in which the various customary right holders can exercise their legitimate rights, and negotiate land access and the collective management of land and resources both in terms of time scales and surface area.

The Gabon initiatives set out in Appendix 1 may offer potential solutions which might address some of these issues. These include participatory mapping-based approaches and officially recognising customary village spaces known as *finages* (village territories), including the places in which these territories overlap concessions and protected areas.

3.2.2. Extend decentralisation to the "village" level

Traditional chiefs (CNCTC 2013) recommend that given that villages serve as a communal base, the administration should recognise them as the final level of the administrative structure. These villages could potentially be mapped and registered, with defined territories and specific boundaries. However, the first thing to do would be to recognise the "village" as an institution. We strongly advocate this proposal. Therefore, the new decentralisation structure would be as follows: Village – Council – Region – State.

In addition, the new legislative framework could set out a **Law "establishing the rules that apply to villages"** and extending decentralisation to village level, which would recognise: the village as the basic unit of decentralisation; a local governance institution representing the community and its relationship with the customary authorities; and democratic resource (including land) management methods for village land, with both democratically elected and traditional institutions within a hybrid power structure (Ribot 2011). This legal framework could also

recognise villages' natural social groups, (as a basic decentralisation unit). This would prevent administrative systems from becoming overloaded, and defined boundaries between each village would not be required. We recommend that legislation is flexible enough to accommodate specific local factors.

It should be noted that the majority of towns and cities in Cameroon are already classified as urban councils. Therefore, any new decentralisation laws must primarily deal with rural areas. Our study does not sufficiently cover the issue of customary land tenure rights in towns and cities, and therefore we shall not propose any solutions on the governance of these spaces.

Recognising the village as a basic decentralisation unit could also prevent multiple institutions from being set up to manage land, natural resources, conflict and sustainable development in villages.

3.2.3. Recognise that villages have a right to own and manage all of their land collectively

Once the village has been recognised as the basic decentralisation unit, land legislation must be reformed to recognise the principle of customary rights to land and natural resources,[9] the option of allocating ownership of village land to the "village" as an institution, and the option to focus the role of this institution on land management, as has already been done in Mozambique (see Appendix 1). This solution has already been put forward by Nguiffo *et al.* (2009), FES *et al.* (2012) and Pritchard *et al.* (2013), and is supported by traditional chiefs (CNCTC 2013). This involves recognising that villages have a right to collectively own all of their customary lands, *with no further requirement or formality* (no need to prove added value, no registration application required, no participatory mapping, etc.). This would prevent a situation in which only a tiny proportion of village land is registered at an extortionate cost.

Ownership would be granted to all villages on a national level by decision of the Government. Recognised land would therefore be under the non-transferable collective ownership of each village, in order to protect communities both now and in the future. It is worth noting that although nomadic indigenous peoples do not necessarily, strictly speaking, live in the villages, they do occupy the land and therefore have rights to that land, which must also be recognised. Given the wide ethnic diversity of communities and of customary rights throughout the country, we must set up village institutions that represent all components of the community.

In terms of the land granted to each village, the recognition of individual rights and relationships between the villages' inhabitants would be governed by custom. With this in mind, it would make sense for the communities themselves to set a maximum surface area of land for registration by individuals, together with other locally defined roles for land allocation and management. The only permitted transactions on such land would be leases overseen by the Administration.

9 This is already the situation in practice. Indeed, the vast majority of village land is managed based on customary law, even though such management is not entirely official or recognised by existing land laws. The advantages of this option include: Retaining a community legal register that is already familiar; upholding the collective rights of villages; and protecting the most vulnerable in society, while preventing the most affluent from using their knowledge of the procedures and financial means to register customary village land for their sole benefit.

3.2.4. Simplify the registration process for community collective land

Once village boundaries have been marked out (see recommendation 4.2.6 on participatory mapping), one of the options put forward is that villages could opt to officially register their collective land ownership. As is the case in Mozambique (see Appendix 1), it should not be the registration deed which confers legal ownership rights.

We must ensure that collective title deeds can be issued effectively, and therefore simplify the title deed application process in order to: (i) Reduce currently high tax rates; (ii) Ensure that the title deed allocation and registration processes are optional for those communities that wish to obtain a document to prove their customary land claim. However the registration itself does not create the right. It simply provides documentary proof of a pre-existing customary right; (iii) Facilitate proof of the institution's customary ownership beyond the traditional title deed, with a simplified equivalent to this deed, which offers the same security as regards evidence of ownership; (iv) Recognise that community rights to land and resources have the same characteristics and scope as official land tenure rights granted by title deeds, whether or not they are registered in a land register national land register; (v) Recognise customary practices such as community testimonies as valid evidence of customary land claims.

A number of major questions remain unanswered: For example, what land surface area will the government be willing to set aside for exclusive community rights, given that much of this land has already been classified under private ownership and allocated to third parties in the form of concessions? Will the government risk compromising past contractual commitments? What would be the consequences of recognising customary ownership on land already covered by such commitments?

3.2.5 Recognise "Village Concessions" in land legislation

The suggestion of registering village land as privately owned by the village could give rise to a new problem: Title deeds are by definition exclusive, and cannot overlap other title deeds. Therefore, in cases in which land has already been allocated to third parties (protected areas or concessions to private companies), the government would have to remove the surface areas already granted (as customary rights would not be recognised, even where such rights clearly exist). Indeed, in many forested areas, the majority of customary lands have already been allocated to forest concessions and national parks.

If it is not feasible to recognise exclusive customary land ownership, could the Government recognise rights to village land or *finages* based on the Gabon model (see Appendix 1), whereby village rights could be recognised by registering "village concessions"? These concessions would include all customary territory claimed by communities, including those which overlap other land allocations (forestry development units, farming etc.). They would also include Community Forests. The word "concession" has potentially negative connotations, as it suggests that the Government concedes land to the community, rather than the community conceding land to the Government. Therefore, an alternative label could be more acceptable.

In the case of any developments at village level, all stakeholders would have to be involved in defining zoning methods and use of space for all community concessions. One question which would need to be answered is which rights would be transferred to communities alongside the

recognition of these lands or *finages*, for example the right to negotiate with third parties to whom the government has already transferred operating rights.

3.2.6 Clarify the role of participatory mapping as a management tool, rather than a prerequisite to recognising land ownership

Sometimes, village boundaries are not accurately defined and may be contested (CNCTC 2013). It would not be advisable to require every village to undertake a participatory mapping process, or to work with neighbouring villages to set out boundaries, in order to be recognised as owners of their own land. Indeed, this could hold up the recognition process due to a lack of human, financial and material resources to map the country as a whole. First of all, we need to recognise that villages own the land. This applies everywhere without formality and with immediate effect.

The Government must therefore set aside sufficient time for this typically long, complex and costly process of mapping boundaries and uses within village land to be implemented country wide.

Participatory maps can be used as a basis before any land management plans can be prepared, or leases can be granted to third parties. This would act as an incentive to map land and uses before any land -related decisions can be taken, without delaying recognition of customary ownership. In areas in which boundaries are contested, villages would need to call on the Ministry of Land Tenure and Administrative Reforms (Ministère des domaines, du cadastre et des affaires foncières - MINDCAF) to provide mediation for conflict resolution.

There are many areas of Cameroon in which participatory mapping of finages and boundaries of village customary land has already been completed, and where the official recognition of village land could quickly open the door to the negotiation of land use plans, integrated management of spaces and new types of partnerships.

It would be advisable to implement the standardised participatory mapping methodology developed with the support of the Tenure Facility (see section 3.2.1) for all boundary marking of villages or groups of villages, prior to any territorial planning.

3.2.7 Clarify the status of traditional chiefdoms

As the village is not recognised as a legal entity under Cameroonian law, a number of researchers have used the legislation defining the role of traditional chief and its link to the territorial village unit as a shortcut to redefining the notion of community land ownership around the village as a "territorial base".

Nguiffo *et al.* (2009) recommend that the Government return to historical sources of land rights, by re-developing a customary ownership system for land, based on traditional institutions. In this context, they suggested that the traditional chiefdom, as governed by Decree No. 77/245 of 1977, should play a central role. They believe that this Decree sets out two crucial areas for reflection: State recognition, and the territorial base housing communities, for which the customary statutory power is recognised on their territory. With this in mind, Nguiffo *et al.* recommended that indigenous communities could, for example, be recognised as chiefdoms, based on their

traditional laws and customs. Community territory set out as such could be effectively granted to them, as part of a collective ownership system made official by a title deed in the name of the community.

An analysis of the Decree governing Traditional Chiefdoms shows that Chiefs are recognised by law as agents of the administration, and are broadly under its control. Moreover, the land regulations set out membership and roles for advisory land allocation committees in which the chief and elders hold only advisory (rather than decision-making) powers. Therefore, the current legal framework does not ensure that chiefs can protect collective tenure of community land.

Most communities deem that the loyalty of chiefs towards the Government and political parties often contradicts their own interests. Consequently, during this study a number of interviewees questioned the legitimacy of the chiefdom institution as a "guardian of tradition", expressing scepticism in relation to the role of chiefs in decentralised governance.

Traditional chiefs in Cameroon (CNCTC 2013) propose that traditional authorities should have stronger powers over village land in terms of control and local governance. Kenfack *et al.* (2016) reiterated these proposals, but with a slight difference: they recommended that the place and role of traditional chiefs should be clearly defined for the management and administration of land and other resources. The authors suggested that, as "representatives of their communities", they should be involved in land transactions and investment monitoring, but that they should not however make decisions alone.

The case studies that we have reviewed in this study demonstrate a number of cases of misuse of power and of appropriation by elites (or "elite capture") for land and resource management, which is often aided and encouraged by the traditional chief. We therefore need to act with a great deal of caution when considering whether to consolidate control of the land under the authority of the chiefdom as the most appropriate intermediary representative for the community.

We therefore need to take all necessary precautions to ensure that neither ownership nor control of the land is confused with the powers of chiefs, who currently occupy a role which is far removed from the idealised "traditional" role. This is crucial in order to prevent increasing numbers of land-related conflicts between communities and so called "customary" authorities which exist in a number of African countries, and in particular in South Africa where traditional chiefs are fighting to gain powers over land systems. Such hereditary powers are not always representative, and making such powers independent is not always in keeping with the democratic principles of elected representatives as enshrined in the Constitution (see Chanock 1991; Cousins 2009; Ntsebeza 1999; 2005).

The above points highlight the fact that the village must be clearly defined as the basic decentralised institution (see recommendation 3.2.2) with the role of traditional chief at its core.

3.2.8 Build the capacity of community institutions to manage land as a shared resource, and assist the development of formal support and mediation systems

The above proposals for legal reform must be accompanied by the capacity building of community institutions recently recognised by law.

Customary land management must be permitted and encouraged, and the land marked out to prevent any misuse of authority. Full recognition of customary powers and maintaining customary management requires the withdrawal of the administration to be agreed, and mediation to be provided by the new village institutions. These institutions must of course recover their costs through various taxes. All governance structures are potentially at risk of being abused, including customary powers and "village institutions", and arbitrary decisions and identity-based claims could represent serious threats to social harmony and national integration.

To assist the decentralisation of certain powers to villages, we need to better support village institutions by boosting technical support and control mechanisms at State level, conflict resolution bodies and civil society bodies. This requires both public investment and a renewed commitment to good governance.

3.2.9 Instead of linking ownership rights to the requirement of visible and productive development, build the concept of ownership on the basis of customary rights, adopting a forward-looking vision of securing community land tenure

Currently, adding value is an essential condition to register land in National Lands. Adding value refers to the visible cultivation of natural spaces, even though traditional production systems do not necessarily require such activities. Indeed, the production methods of rural communities are based on a combination of the use of individual spaces and untouched "virgin" spaces (for activities which include hunting, gathering forest products and pasture).

Therefore, we must ensure that the protection of community land claims is not limited to land which exhibits visible signs of cultivation. This would expose seemingly "uncultivated" community land to encroachment, when in fact this land forms a fundamental part of the community's land resources, which it depends on for food, medicine and crops.

In accordance with the recommendations of traditional chiefs (CNCTC 2013) and of the CED (Cameroon Centre for Environment and Development - 2014), we recommend that the "added value" condition is removed from the evidence required in order to issue a title deed for community land.

3.2.10 Ensure that women, minority and disadvantaged groups are represented in land management bodies, and ensure that they are actively involved in deliberations

Although a call for the recognition of community land tenure rights is a positive move for women, minority and disadvantaged groups, such as indigenous peoples, it is also crucial to strengthen the rights of these groups within their communities. In order to do so, representatives of these historically marginalised groups must be present in all (official and customary) land control bodies, and these bodies should implement measures to allow such groups to exercise their rights. Awareness campaigns should target male leaders and dominant groups in these communities, while police and local administrative staff should be trained on their roles in applying laws and protecting the land security of women and of other minority and disadvantaged groups.

3.2.11 Establish local sustainable development and planning arrangements all the way down to the village level

The 2011 Framework Law on Territorial Planning (Loi d'Orientation sur l'Aménagement du Territoire) does not clearly define the role of villages in the process of preparing local territorial development plans for Communes, or for regional or national blueprints. The current process implemented by MINEPAT is a top-down process which begins at national level and extends down to regional level.

If councils rights are to be respected, it is therefore essential that local communities are involved in the zoning and micro-zoning process at all relevant levels, and particularly before any final decisions are made on future land allocations. This is a minimum prerequisite in order to ensure that the affected communities have granted their Free, Prior and Informed Consent.

The communes and mayors responsible for preparing local territorial development plans must consult and empower local communities and their institutions to put forward land use proposals which are adapted to local realities, in the context of regulatory policies and frameworks. This demands an additional step which was clearly not set out by the 2011 Law, to facilitate territorial development plans at village level. These village plans can be prepared and integrated into the local territorial development plan process at communal level.

The project, which is funded by the European Forest Institute (EFI) has attempted to address this issue in a methodological guide for drawing up local territorial development plans, under the supervision of MINEPAT.

Territorial planning should not be viewed as a prerequisite for recognising the customary ownership rights of communities. In fact, we strongly recommend that the opposite is true: The interests of third parties, the state, the private sector and all stakeholders outside the village in accessing community land should trigger the territorial planning process, which should identify and secure the interests of communities before any decisions are made. Therefore, it is not necessary to launch local territorial development plans in all councils and villages, but they should at least be launched in all those that are affected by projects impacting their land.

3.2.12 Implement international processes

International processes may be used to advance land reforms, by providing opportunities for reform, inspiration for the content of such reform, and resources in order to implement them. These include in particular the European Union Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) and the Voluntary Partnership Agreement (VPA) negotiated with Cameroon, the United Nations Reducing emissions from deforestation and forest degradation (REDD+) programme, voluntary certification programmes such as the Roundtable on Sustainable Palm Oil (RSPO), and the national interpretation of the recently-approved Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (FAO).

However, these international processes must be based on practical adopted proposals and processes officially launched at national level. Otherwise, each international process is likely to be repetitive and unsuitable for the context.

3.9.13 Coordinate reforms and implement solutions based on an integrated approach

To achieve the anticipated impact on land security, all of the above recommendations require close coordination in order to ensure that reform legislation is legally aligned and harmonised, and that the proper processes are followed in order to implement the legislation in logical and chronological manner.

This coordination should be provided at the highest level of government, so that each sector-specific administration can ensure stringent compliance with the coordination process. The support of Cameroonian civil society partners and the international community is also required.

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- Declaration of the Rights of Man and of the Citizen
- International Covenant on Economic, Social and Cultural Rights
- ILO Convention (no. 169)

International directives and standards

- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, supported by the Committee on Food Security (FAO), 11 May 2012.
- The Sustainable Development Goals (SDGs) 2015
- The International Finance Corporation (IFC) Performance Standards on Environmental Sustainability
- Voluntary Partnership Agreements (VPA – FLEGT)

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APPENDIX 1:
GOOD PRACTICE FOR SECURING COMMUNITY LAND RIGHTS TAKEN FROM OTHER COUNTRIES AND INTERNATIONAL EXAMPLES

In this chapter, we describe case studies of good practice which may provide inspiration and information for current (or future) processes, with the aim of officially and efficiently recognising community land tenure rights. These are taken from an analysis of security initiatives already implemented or currently being implemented in other countries which also have issues with land security in rural areas.

Good land security practices include all practices, tools, mechanisms, standards and processes which have been developed and implemented to ensure that communities have full ownership and use of the land that they need in order to meet their requirements. These names include food, cultural and religious requirements. They may be taken from national examples, or from international processes or initiatives.

Republic of the Congo: Adoption of special legal measures to address the marginalisation and discrimination of indigenous peoples

The Congolese stand-alone Law of 2011 to promote and protect the rights of indigenous populations has implemented measures in order to address the issues of indigenous peoples (see Pritchard *et al.* 2013). The Law prohibits discrimination against indigenous peoples and supports their right to equality. It defines indigenous populations based on their cultural identity, their different lifestyles, and their extreme vulnerability. It also bans the use of the pejorative term "pygmy" as a criminal offence. The Law contains provisions on civil, political and cultural rights and on rights to healthcare, education and employment, together with environmental rights. Crucially, the Law ensures that the state has a duty to consult indigenous populations in a culturally appropriate way, through their own representative institutions or through representatives that they have themselves nominated. This consultation rule applies to all decisions made on legislative and administrative measures, and to development plans that could have a direct or indirect effect on indigenous populations. Consultations must involve both women and men from indigenous communities, take account of indigenous decision-making processes, use language which is understood by indigenous populations, and provide all necessary information in terms can be understood. Consultations must be carried out in good faith, without pressure or threat, and must aim to obtain the free, prior and informed consent of indigenous populations.

Another crucial provision of the Law upholds ownership, possession, access and use rights to land and natural resources that indigenous populations have traditionally occupied and used. In order to implement these rights, the State must help to mark out land boundaries based on customary land tenure rights, and apply these rights even if indigenous populations do not hold documentary proof of title deeds.

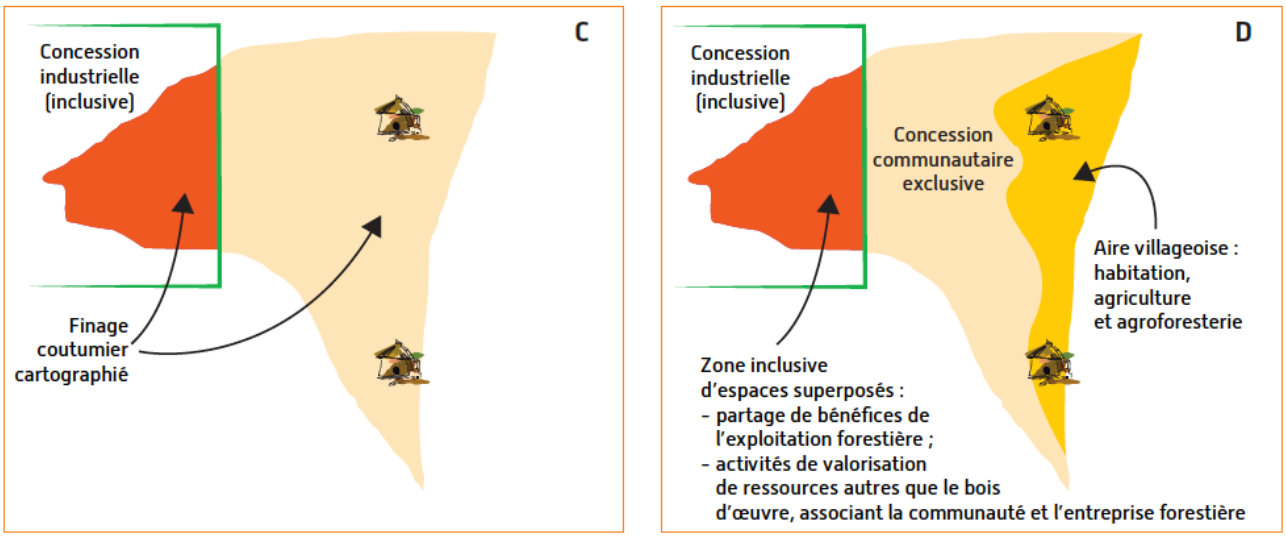
Unfortunately, the Law clearly lacks the practical processes that it needs to support its implementation. Successful implementation is therefore dependent on the quality of implementation rules set out, and on the consistency of other state laws and practices with the rights and principles protected by the Law on indigenous populations. Moreover, the definition of indigenous populations does not comply with international law.

Gabon: Recognition of finages (village territories): inspiration for a new concept for concessions which recognise overlapping rights

Karsenty and Vermeulen (2016a ; 2016b) note that the primary aim of the "social" criteria of international certification standards such as the Forest Stewardship Council (FSC) is to improve living conditions and the rights of beneficiaries, to secure land tenure rights, address the problems of indigenous peoples, and reduce the developmental impact of forestry operations on the lifestyles of local communities. Measures might include protecting non-timber forest products and dedicated social spaces to protect cultural sites. However, there is no focus on improving governance by sharing responsibility or joint managing natural resources.

In order to address such limitations, Karsenty and Vermeulen recommend participatory mapping and the official recognition of *finages* which are customary spaces in villages, including the locations at which these *finages* overlap concessions and protected areas. These spaces would therefore be subject to the joint management of multiple resources with other users. They believe that the participatory mapping of local land tenure rights could pave the way for timber revenue sharing, and for the development of new economic activities that link industrial operators and communities. A partnership based on clear rights between industrial operators, communities and other economic operators would lead to new type of territorial development institution, which they call Concession 2.0. These redesigned concessions could stand alongside and be linked to community concessions (see Figure 2). The latter must be left as forested areas to be used exclusively for communities' independent development rights.

Figure 2: *Overlapping rights and space management*



Customary *finages* are mapped to show overlapping rights. A part of the *finage* overlaps the industrial concession: a new territorial approach which is emerging and goes beyond simply taking into account the opinions of villages.

The inclusive (overlapping spaces within the industrial concession) and exclusive (community concession) are combined..

Source: *Karsenty and Vermeulen (2016b)*

This model was partially tested in Gabon at the beginning of the 2000s. The European company CEB-Precious Woods worked with a team of Gabonese researchers to map the village *finages* which cross its 615,000-hectare concession. The finage is the expanse of land which a community appropriates and (to a certain extent) farms (Figure 3). The goal is to redistribute a share of revenue from timber operations proportionally to the *finage* surface areas which overlap the concessions, to be used for general interest projects. This initiative inspired the Gabonese Government, which in Order 105 (2014) and in the Implementation Guide (2015) recognised the existence of *finages*, whereby the concession holder has to enter into an agreement with the communities using the concession space, and pay a contribution from the timber operations to a local development fund (Gabonese Ministry for the Protection of the Environment and Natural Resources (ministère de la Protection de l'Environnement et des Ressources Naturelles) 2014; 2015).

The Order set out the process for mapping finages for local communities exercising their customary and traditional rights of use, and produced a socio-economic study together with a participatory map.

This approach could be tested to see how space already identified and allocated to Community Forests could be renegotiated to include all village land (*finages*), and therefore the management of such spaces would also be renegotiated.

A new participatory and inclusive governance model could be put in place to continue the work of the approaches already tested, particularly in protected areas of Africa (Roe *et al.* 2009).

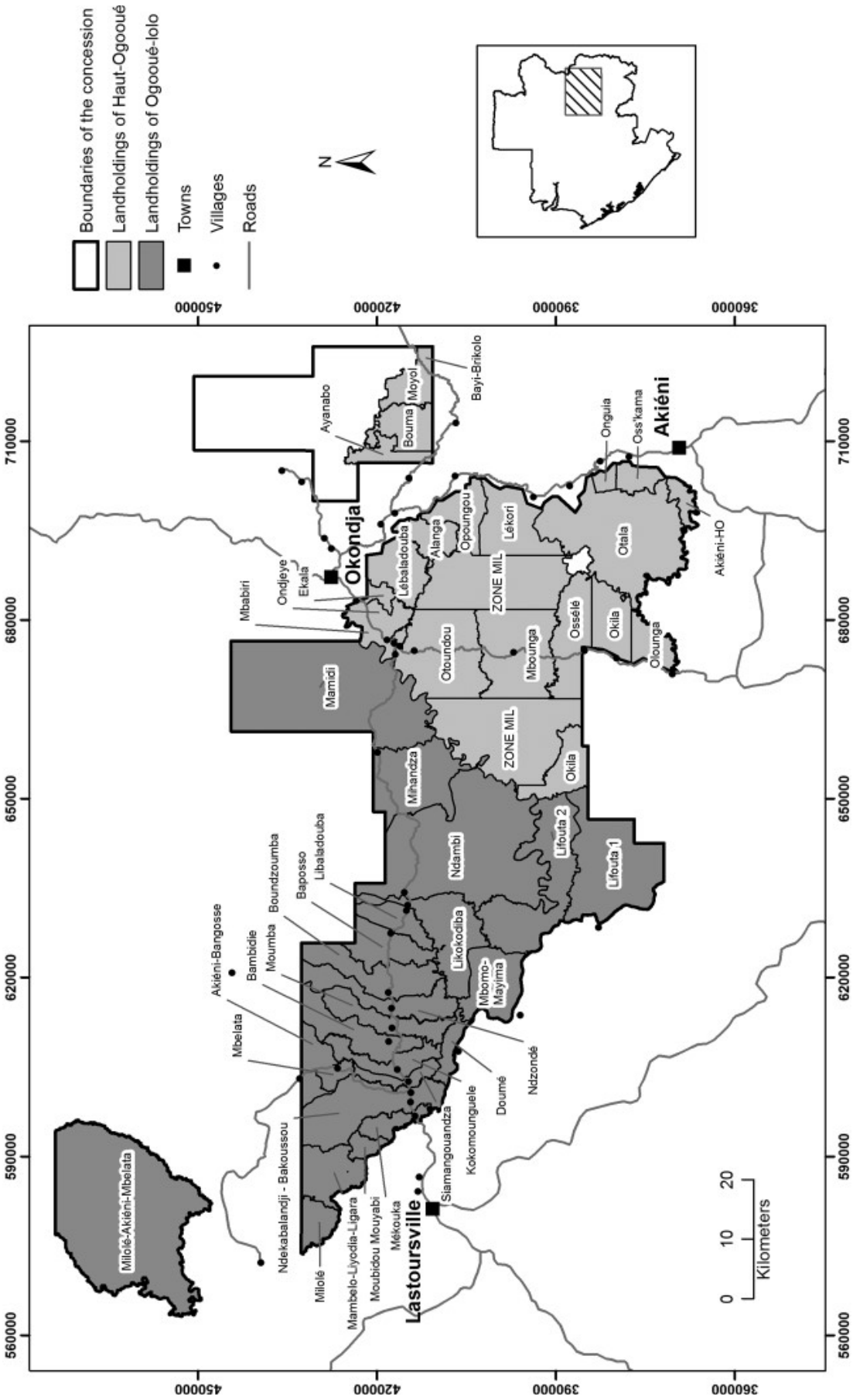


Figure 3: *Map of village landholdings in the CEB-Precious Woods concession in Gabon*

Source: *Map prepared by CEB & TEREA (from Karsenty and Vermeulen 2016a)*

Mozambique: Recognition and securing of community land tenure rights

In Mozambique, three decades of civil war ended in 1992, and millions of people returned to their ravaged fields. The government did not have the necessary resources to resolve disputes caused by this major demographic change. Land reform was an absolute priority. The government decided that it was best to base land boundary marking and management on customary systems.

Mozambique's Land Law, the Lei de Terras (1997), automatically recognised customary land tenure rights under statute law. The Law provides that: *"Local communities who occupy the land in accordance with customary practices which are not contrary to the Constitution shall automatically gain the right to use and benefit from such land"* (Regulation, Article 9 (1)). The Order also applies to anyone who lived or worked on the land for 10 years or more, in good faith, prior to the adoption of the Land Law (Regulation, Article 12b).

Please note that although communities in Mozambique are able to record and formally register their landholdings, the registration document itself does not confer the legal effects of these rights. The Mozambique Land Law expressly states that *"non-registration shall not prejudice the rights to use and enjoy the land, which is acquired through occupancy [in accordance with customary norms and practices]"*. Once the Law was adopted, local communities and other long-standing occupants automatically held a formal (de jure) right of use and enjoyment of the land, which has the same validity as a written title deed granted to an investor.

In order to provide sufficient flexibility to each customary group in order to continue following local land allocation and management traditions, and also to be fully compliant with the national legal system, Mozambique's Land Law simply states that: (i) land tenure rights are acquired through customary norms and practices (Article 12a), and (ii) *"local communities use, inter alia, customary norms and practices"* for the purpose of resource management, conflict resolution and the allocation of land rights between members of a community (Article 24). The exact nature of these norms and practices is not defined. The Law has therefore created parameters that can easily encompass new customary systems under a single national Law.

Mozambique's Land Law (1997) permits customary evidence for land claims, including verbal testimonies by community members: *"evidence of a right of use and enjoyment of the land can be proven by... (b) evidence provided through testimonies by men and women who are members of local communities"* (Article 15). However, it is often beneficial to communities to formally register their land tenure rights.

The Mozambique model consistently integrates customary rights into the modern state-governed official legal framework, with no need for long and complex codification, which would be virtually impossible given the range of different customary rights practices. Instead, the Law simply recognises the legitimacy of how things work in every community, provided that these processes comply with the key principles of the national Constitution and with the rules set out by the Land Law (based on Pritchard *et al.* 2013).

Tanzania: Village Land Act (loi sur le foncier villageois)

The Law on village land (loi sur le foncier villageois) number 5 of 1999 refers to governance and to the administration of village land, which makes up 70% of the total surface area of mainland Tanzania. Other land categories include general land (2%, governed and regulated by Land Law no. 4) and reserved land (28%, governed by various laws).

Approximately 75% of Tanzania's residents live on village land, and 80% of them practise small-scale farming. One of the principles set out by the Law on village land is equal land access, use and control rights. The Law is considered to be one of the most progressive in terms of recognising customary tenure and protecting the rights of women and vulnerable groups in Sub-Saharan Africa, while also penalising traditional customs that go against the fundamental rights that it upholds. The Law also sets out a number of village land governance institutions, including the village council, the village assembly and the land selection committee. There is also a village land council, which is responsible for resolving disputes over village land.

Although the Law grants the village council (*conseil du village*) the power to manage all village land on behalf of the villagers, it is the village assembly (*assemblée du village*) that makes all decisions concerning village land. The Law on village land also incorporates a compensation scheme for landowners, land transfer procedures, and village council powers to issue villagers with a customary right of occupancy certificate. The Law is therefore progressive in respect of customary rights and gender equality, although in (nearly) 20 years of existence it has not yet managed to achieve its objectives. This Law differs greatly from the land order of 1923, but many villagers and communities still have no security over their customary lands.

The Law is complex and detailed, and is written in technical language. There is a general lack of knowledge on the Law and regulations amongst local civil servants and villagers (including the procedures and forms required for various village land transactions). Therefore, it has not been efficiently implemented, and has not made a marked difference to the way in which most of Tanzania's customary land is administered or governed. Consequently, some community advocates have requested additional reforms (based on Massay 2016; WRI and Landesa 2010).

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Review of initiatives for the recognition and securing of land rights in South Cameroon

Community land rights in Cameroon have continuously evolved throughout the country's history. These rights are governed by traditional customs and are also impacted by national and international texts, which coexist since the creation of National Lands in 1974. This cohabitation, however, has not restored the traditional land rights of communities, which have been reduced to mere "customary rights" without the possibility of land ownership, outside the registration process. This leaves occupants with precarious rights and exacerbates the pressures on the traditional lands of communities, now subject to grabs for large agri-industrial investments.

In response to this land injustice, several initiatives and tools for recognizing and securing customary land rights have been tested to ensure that these rights are no longer questionned or revoked. The aim of this study is to identify these past experiences in Cameroon's "Great South" in order to assess their effectiveness and to draw lessons from them that could inform the ongoing reform of land legislation.

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