



Land investments, accountability and the law: Lessons from Cameroon

Pierre-Etienne Kenfack, Samuel Nguiffo and
Téodyl Nkuintchua



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Acronyms

| | |
|------|--|
| CED | Centre for Environment and Development |
| EIA | Environmental impact assessment |
| ESIA | Environmental and social impact assessment |
| IDRC | International Development Research Centre |

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Executive summary

The financial crisis of 2008 marked a turning point for land investments in many African countries as they intensified their efforts to emulate the emerging economies of Southeast Asia, China and Brazil. In order to do so, much of their attention has focused on large-scale investments in the exploitation of land and natural resources, especially in the Congo Basin. Like many other African countries, Cameroon has significantly oriented its economic strategy to be part the new wave. As the demand for large amounts of land increases in parts of the country, concerns have been raised about the extent to which legal frameworks provide effective avenues for ensuring accountability in the governance of land and investment.

This study interrogates the legal and socio-political context in which large-scale land acquisitions are taking place in Cameroon. The report looks at four key issues: the national context, the way that decisions are made about land-based investments, the implementation of these investments, and available recourse mechanisms. Data collection occurred in three stages and combined legal and anthropological methods: a review of national and international legal texts, a meeting and interviews with experts from various disciplines, and field research involving about 30 communities in three regions of Cameroon: Adamawa, South Cameroon and Southwest Cameroon.

Land tenure in Cameroon is still largely regulated by legislation that was formulated over 40 years ago and was itself inspired by colonial responses to land governance: registration as a mechanism for recognising property rights, and state control over “unappropriated” lands that can be allocated to investors. These features lead to the marginalisation of rural communities. As a result, land allocations are decided without any genuine public participation, with affected communities given token positions on advisory land committees and a meagre share of the revenues generated by projects as a form of (inadequate) compensation for losing the use of their land and resources.

Meanwhile, the lack of information about operations on large-scale land concessions makes it hard to monitor the extent to which the companies that run these projects fulfil their social, environmental and legal commitments. Communities seeking recourse for the decision of granting land concessions have to go through the administrative courts, but this can be a lengthy and expensive process. And although each region now has an administrative court (thanks to the recent decentralisation of the judicial system), access to justice is still physically and financially beyond the reach of most local people.

The report makes the following recommendations:

1. Large-scale land allocations and the assignment of rights to land and resources should cease until mechanisms have been put in place to (i) identify and protect communities' rights and (ii) ensure that there is some consistency in the allocation of commercial concessions in order to avoid overlapping rights. Continued land allocations will cause numerous conflicts in the future unless the regimes regulating land and resources are improved and enforced.
2. The current land reform needs to address a series of issues that are poorly regulated or completely unregulated:
 - a. Recognition of customary ownership as land ownership. The simplest way of doing this would be to adopt the position of traditional chiefs in Cameroon, who are asking for each village to be recognised as the owner of its lands. All village lands would be collectively owned and inalienable, with individual rights within village territories recognised under customary systems.
 - b. The mandate and funding arrangements for the advisory land committees need to be clarified to ensure that they are completely independent of investors.
 - c. The advisory committees' operating procedures also need to be clarified, through an explicit obligation to consult all members of the communities concerned, and for the committees' final proposals to be validated by all affected villages.
 - d. The advisory committees should be given greater powers enabling them to agree or disagree with land allocations.
 - e. The methods for setting land rental fees need to be clarified, and should take account of the viability of possible alternative activities on the allocated land.
3. Compensation rates and procedures for victims of agribusiness investments should also be reviewed so that communities whose assets have been destroyed do not become impoverished. This could be done by:
 - a. Providing compensation for all useful assets that contribute to the affected party's quality of life, whether they are naturally occurring or planted resources.
 - b. Whenever possible, lost or damaged goods should be replaced in kind.
 - c. All members of affected communities should be taken into consideration (women, youth, and other groups) so that the compensation process does not increase inequalities within the family or community.

4. There should be clear guidelines on the way that communities are consulted during environmental and social impact assessments, and legal provisions for rapid recourse for communities around project sites if they contest the quality of the environmental and social impact assessment (ESIA). This could include a legal requirement for participatory mapping in order to identify and protect community rights to and uses of land and resources on the sites that projects wish to acquire.

1. Introduction

There have been three main phases of large-scale land acquisitions in Cameroon. The first was during the colonial period, when European companies obtained concessions for huge tracts of land from the German and then the Franco-British colonial authorities (Rudin, 1938; Dongmo, 1978; Ewangué, 2011). The second came in the early years of Independence, when the state invested heavily in large-scale agriculture (Gerber, 2008; Tchawa, 2012). The latest surge began towards the end of the first decade of the 21st century.

As the demand for large amounts of land in parts of the country increases, this wave of land acquisitions looks set to be on a similar scale to that of the colonial period (Levang and Hoyle, 2012; Nguiffo and Sonkoué, 2015). But with no national policy on land allocations or master plan setting out guidelines for land-based investments, it is impossible to get a clear idea of future trends in land allocation.

To ensure respect for the rights and obligations of different actors, and effective use of land and natural resources, there is a need for better coordination in dealing with the growing demand for resources (particularly from large extractive industry and forestry projects), state commitments to protect biodiversity (mainly by creating protected areas) and mounting pressure on land due to demographic growth.

Beyond coordination issues, however, close attention needs to be paid to the legal and socio-political context in which large-scale land deals take place, as that context seems to work against the communities whose livelihoods depend on those lands and whose land rights are at stake. This study interrogates the legal and socio-political context in which large-scale land acquisitions are taking place in Cameroon by looking at four key issues: the national context, the way that decisions are made about land-based investments, the implementation of these investments, and available recourse mechanisms.

Data collection occurred in three stages and combined legal and anthropological methods: a review of national and international legal texts, a meeting and interviews with experts from various disciplines, and field research involving about 30 communities in three regions of Cameroon: Adamawa, South and Southwest. The field research aimed to shed light on local perspectives about land tenure, assess awareness of the legal context, and consider possible ways to address the problems identified in both the content of the legislation and its application at the local level.

The results reflect the wealth of the data that we managed to collect and the difficulties we faced in doing so, as certain senior administrative officials proved unwilling to share their opinions or to provide information and documents (such as the latest version of the draft land law).

2. The national context for land governance in Cameroon

The legal regime governing land tenure in Cameroon distinguishes between three categories of land:

- Private land, which is titled and registered in the landholder's name. This includes land in the State's private domain,¹ and land held by decentralised public authorities and private individuals.²
- Public land, which is held by the state for the benefit of the people of Cameroon. This land, which is inalienable, includes airspace, roads, maritime areas and waterways on public lands.³
- Unregistered land. Most of the land in Cameroon is unregistered, and is classified as national land ("*domaine national*").⁴ Most rural areas where local communities live and pursue their livelihoods, and which are managed through community regimes (commons), fall into this category.

Registration is the main means of securing land tenure. It enables landholders to obtain land titles, and is the only way of acquiring ownership rights. Other types of title confer specific rights to use and manage land and resources for commercial purposes: such as licences to exploit natural resources (mines, lumber, non-timber forest products), land lease concessions or contracts, and hunting licences. These titles are issued for clearly defined amounts of land and periods of time.

There are two key points that should be noted with regard to land access under national law. The first is that land ownership is only acquired through registration, which is inaccessible to most Cameroonians. Although it is over a century since land titles were first introduced under the German protectorate (1896), only about 10 per cent of land in the country is registered.

There are around 125,000 land titles in Cameroon, mainly for land in urban areas (USAID, undated). Working on the basis that there is an estimated total population of 20 million inhabitants and around 8 people per household, which would make 2.5 million households, this amounts to one in 20 households having a land title (see also African Development Bank, 2009).

As a result, around 90 per cent of land is in the national domain, and as such cannot be privately appropriated.⁵ Ownership of these lands is equally claimed by communities on the basis of customary law. However, national law authorises

1. Article 10 onwards of Ordinance No. 74-2 of 1974.

2. Article 2 onwards of Ordinance No. 74-1 of 1974.

3. Article 3 of Ordinance No. 74-2 of 1974.

4. Articles 14 onwards of Ordinance No. 74-1 of 1974.

5. National lands include all unregistered land that is not in the public domain.

the registration of these lands, and the establishment of use rights for diverse purposes, thereby removing these lands from the national domain and rescinding the customary rights claimed by rural people.

The second key point is that there are no clear criteria for allocating land in the national domain. This situation leaves the occupants of 90 per cent of the land in Cameroon with insecure rights, making them “de facto squatters” on their customary lands (to use an expression by Alden Wily, 2011b).

For most people, rights to use land and resources are recognised under land and forestry legislation. The clearest definition of use rights comes from Article 8(1) of the Forest Code of 1994, which “recognises that local populations have the right to exploit all forest products, animal and fish, apart from protected species, for personal use” (our translation).

Although this text mainly focuses on forest resources, its underlying principle is based on the land legislation. Ordinance No. 74-1 of 1974 distinguishes between appropriated and unappropriated land within the national domain, which is itself divided into two categories. The first category of national domain includes “lands occupied with houses, farms and plantations and grazing lands manifesting human presence and development” (Article 15.1 of Ordinance No. 74-1 of 1974).

The second category of national domain consists of “lands free of any effective occupation” (Article 15.2 of Ordinance No. 74-1 of 1974). Transactions involving unregistered land are forbidden. Under Article 8 of the 1974 ordinance, urban and rural land sales or rentals are punishable by imprisonment. This framing of land use rights point to three main issues. Firstly, land legislation recognises and protects the notion of land use, and acknowledges that communities which use the land and its resources should enjoy the right to obtain their livelihoods from it.

Secondly, categories of land in the national domain are ultimately determined by the nature of their use: the first category of land in the national domain is characterised by permanent use. These use rights may be converted into ownership recognised by the state, through the land registration process. Periodic use is not prohibited, but it cannot provide the basis for private claims to national land. Communities have hunting and gathering rights on the second category of national land (Article 17 of Ordinance No. 74-1 of 1974). These correspond with the use rights envisaged by the forestry legislation, unless they are incompatible with rights assigned to a third party by the state.

Thirdly, Cameroonian law states that rights to use land and resources may only be exercised for personal purposes, and not for commercial ends. In practice, commercial transactions involving unregistered land (rental and sales) have emerged, some of which have been “legalised” by the administrative authorities.

Given this context, land use rights are highly insecure. Article 8(2) of the Forest Code states that the relevant ministry may, “when necessary, and in consultation with the populations concerned, temporarily or permanently suspend use rights”

when this is in the public interest. Comparably, Article 12 of Ordinance No. 74-1 of 1974 refers to the expropriation of land in the public interest: “the state may use expropriation procedures in order to achieve general interest objectives. This procedure is used directly when the aim is to undertake operations in the public economic or social interest, or indirectly at the request of communes, public bodies or public service concessionaries, when these entities have been unable to reach an amicable agreement with the landowners” (our translations).

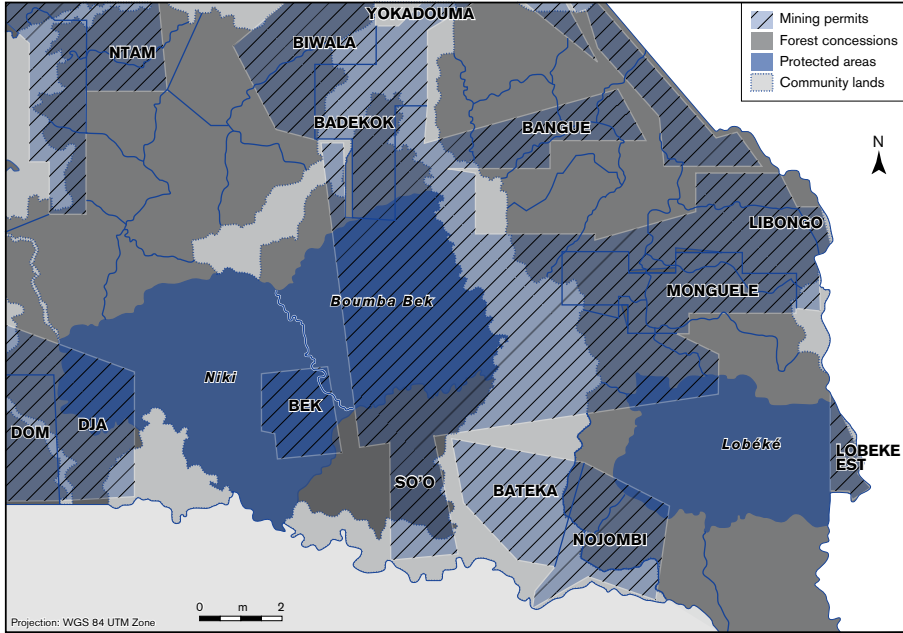
The problem here is what constitutes the “public interest”. Legal and practical definitions are so general that they can include both public infrastructure projects (roads, dams) and agro-industrial projects led by large private investors. And although Article 15 of the 1974 ordinance does set some limits in this respect – its list of potential beneficiaries of expropriation only mentions private companies as public service concessionaries – it is clear that these limits have not been observed in a number of projects on land expropriated by the state in the public interest.

This state of widespread tenure insecurity needs to be assessed in light of at least three factors: (i) the increasing pressures on customary lands as a result of large-scale land acquisitions in various regions; (ii) the difficulty of exercising collective customary rights, and (iii) the lack of popular participation in legislative reform processes. These three factors are particularly pertinent in the current context of ongoing legislative reform and growing land-based investments.

The increasing pressures on customary lands and lack of government coordination on large-scale land deals compound the insecurity of customary rights. There is some degree of coordination between the relevant ministries, but the overlaps and contradictions between the different titles and rights granted raises questions about its effectiveness (see Figure 1).

Figure 1 shows the overlaps between mining and forestry rights and between mining rights and protected areas in south eastern Cameroon. This region contains some of the greatest biodiversity in the country and is home to various communities, including the indigenous Baka people. The blue areas on the map represent the forest concessions (“forest management units”), most of which have been allocated.

Figure 1. Examples of overlaps between mining rights, protected areas and forest concessions in south eastern Cameroon



Source: Interactive Forest Atlas 2013 and data collected from sectoral ministries

The green areas are the protected areas of Boumba Bek, Nki and Lobéké, which are subject to international efforts to manage biodiversity (Boumba Bek and Nki are covered by the Tridom programme, and Lobéké is part of the Sangha TriNational conservation complex). The purple areas represent mining permits. Although this map does not show the areas where local communities exercise their rights, participatory mapping exercises show that they cover protected areas and concessions. The losers in this tangle of rights are usually local communities, as they do not have recognised rights to the spaces that they occupy and use.

In 2011, a preliminary study of overlaps between government-issued use rights in Cameroon identified overlaps between 33 mining concessions and 16 protected areas, between mining and forest concessions, and between large infrastructure projects and community forests. These overlaps not only cause conflicts between the different projects concerned, but also have severe cumulative impacts on community lands and resources.

There are increasing overlaps between new land allocations for agribusiness investments and areas that have been zoned as forest lands. For example, planned extensions to existing rubber plantations and new rubber and oil palm plantations overlap with at least five forest concessions in south west and southern Cameroon.

While not all of these concessions are active at the moment, they still result in certain actors gaining rights and others being deprived of them.

With regard to the difficulty of exercising collective customary rights, the central place of land registration in the land governance system and the long and costly procedures necessary for registration can sometimes look like a denial of customary rights. Land in Cameroon is traditionally viewed as an integral part of a community's culture: people are part of the earth and have a close relationship with it. This is not based on ownership, which assumes some level of separation between the owner and the owned.

Even though customary rights do not fit conventional ownership concepts, land registration allows people to transform customary rights into ownership. This includes individual ownership, and rights registered by legal entities. Rural "communities" in Cameroon do not have legal personality. So in order to register customary land in their name, they would typically have to acquire legal personality. Their only options under Cameroonian law would involve creating institutions (e.g. associations, cooperatives) that function in clear contradiction with traditional rules.

Popular participation in legislative reforms is also a challenge. Cameroon is at an important turning point, with ongoing legislative reforms in all the major sectors associated with land tenure. Work is under way on the mining, forestry and land laws, as well as a national land use master plan and a development strategy for the rural sector.

The most participatory reform process is the reform of forest law – but this is far from perfect, as several civil society networks have noted (Okani, CED and FPP, 2013), and its relative openness can largely be ascribed to a Voluntary Partnership Agreement with the European Union that obliges the government of Cameroon to engage in participatory reform processes.

There is no government coordination on sharing information about the reforms, no overarching framework to systematise outreach, and no mechanism clarifying how citizens can participate in reforms that will directly affect them. As a result, the level and extent of such consultation that does exist largely depends on the goodwill of the ministry concerned, and rarely reaches a stage where failure to take account of stakeholder views and suggestions can affect the process.

It is worth noting that the Ministry of Land Affairs has encouraged stakeholders to contribute to reflection on the reform process, and that 15 proposals have been formulated by women's associations, youth groups, indigenous actors, traditional chiefs, parliamentarians and various national and local non-governmental organisations (NGOs). But despite all the administrative goodwill, there is no mechanism for discussion that involves all the actors with an interest in formulating and selecting the options.

3. Decisions about individual investment projects

As the guardian of national lands, the state is responsible for allocating land in the national domain, which may be occupied or unoccupied, used or not used by local people. This is in line with Ordinance No. 74-2 of 1974 and Decree No. 76-166 of 1976, which determine how land in the national domain should be managed. According to Article 17 of Ordinance No. 74-2, “National lands shall be allocated by grant, lease or assignment according to conditions to be prescribed by decree” (our translation). Decree 76-166 specifies which authorities are responsible for land allocations: the President of the Republic issues decrees for concessions of over 50 hectares, and the Minister for Land Affairs issues orders (*arrêté*) for concessions under 50 hectares.

The land regime in Cameroon does provide a mechanism for community involvement in the allocation of land concessions: decentralised advisory land committees that operate at the borough or district level, which are supposed to ensure that local communities’ land rights are protected. They are chaired by the sub-prefect or district chief, and include the chief and two leading members of each of the communities concerned.⁶

All projects involving large-scale land deals go through a preliminary stage where concessions are allocated on the advice of one of these committees, which decides on the location and size of the project. The presence of the chief and two prominent members of the affected community is intended to ensure that land applications do not deprive local people of the space they need for their activities.

However, as their name indicates, these committees only have advisory powers – the final decision is taken by the administrative or political authorities, depending on the size of the concession involved. While the principle of creating these advisory committees does represent progress in identifying and protecting local rights, their scope and effectiveness are limited by several practical and legislative constraints.

For example, the texts do not specify how the costs of committee meetings will be covered, and the fact that land applicants usually pay for them makes it hard for committee members (especially those representing the administration) to oppose their plans. In addition, the land regime does not set a threshold below which a community may be considered to be short of land and unable to accommodate new investors in its territory.

There is no indication of how communities are to be consulted, or whether the chief and two dignitaries who participate in the advisory committee sessions are obliged to consult the village they represent. As there is nothing in the texts to say that they should do so, there is a risk that they will not necessarily express the views of the

6. See Article 6 of Decree No. 76-166 of 27 of April 1976.

villagers in whose name they are supposed to speak. Nor are there requirements to ensure representativeness, for example by considering the gender and age of those affected by proposed land allocations, or the types of activities undertaken by villagers.

There are also concerns about the capacity of people to make their voices heard. A survey of people who participated in an advisory committee that dealt with the land allocation for an oil palm project in Southwest region showed that they knew very little about how the committee worked or their role as the representatives of affected communities (Nguiffo, 2013).

Further, a site visit found considerable discrepancies between their understanding of the meeting's conclusions and the minutes produced by the advisory committee. The minutes indicate that participants unanimously agreed on a proposal to allocate land to an agribusiness company, while local participants said that they had wanted to give their final approval of the map of the proposed concessions, which was the only way of determining exactly how much customary land would be affected.

The allocation only deals with land in the national domain. Once a project has obtained a land concession, it is responsible for providing compensation for the possible loss of productive use (e.g. crops, homes). The distribution of compensation can bring its own problems. For example, some people think that the compensation relates to the value of the land rather than the improvements on it, and family heads or customary "landowners" often claim all the compensation for crops grown on "their" land, even if the crops are not theirs.

This puts disadvantaged and marginalised groups in a particularly vulnerable position, as many women and indigenous people lose the land they farm and any compensation for their produce, which goes to the family head – generally, a man from one of the dominant ethnic groups.

In addition, compensation takes no account of resources that have not been planted by local people, even if they are economically profitable. Many women and indigenous groups gather naturally occurring non-timber forest products (such as wild mango, *Irvingia Gabonensis*, or the leaves of *gnetum africanum*) for domestic consumption or to raise money for basic services. There is no compensation for the non-marketable natural products and resources that communities use for food, medical purposes and rites, nor any recognition of people's symbolic relationship with the land and natural resources.

And setting aside the issue of how much compensation should be paid, there is no certainty that it actually will be paid in full. In one case, the inhabitants of several villages whose land was expropriated for an agribusiness investment in southern Cameroon were still waiting to be fully compensated for their involuntary resettlement several months after the project came to an end. It turned out that the money had been siphoned off by administrative officials, and while they were sentenced for their crime, the money was never recovered.

Although some effort has been made to ensure that decisions about large-scale land acquisitions take account of community rights, the current legislation does not give local people the opportunity to be properly consulted or to give their free, informed and prior consent to investments on their customary lands. And once these decisions have been made, the regime for compensation does not work in their favour. These shortcomings can partly be explained by the fact that the legislation was formulated before agribusiness investments reached their current level and scale, and there is a clear need to reform the texts dealing with these issues.

4. Implementation of individual investment projects

Limited access to information and opportunities to participate in land allocation processes restricts local people and citizens' ability to promote accountability when investment projects are implemented. Efforts to ensure that the legislation is respected should pay particular attention to two important aspects of project implementation: risk management and benefit sharing.

The advisory land committees are supposed to be a key mechanism for risk assessment, and to help reduce the risk of land shortages. Yet we didn't find a single case of an advisory committee making a negative judgement about a project due to the risk of land shortages when we conducted our field research, even when the project seemed to clearly pose just such a risk (as with the creation of new plantations and extension of old ones in Ocean department).

Another risk management mechanism involves evaluating the title holder's capacity to invest in a provisional concession before agreeing to extend the concession. Article 5 of Decree No. 76-166 of 1976, which specifies how land in the national domain is to be managed, states that applicants for provisional concessions must provide, among other things, "a programme of activities for each stage of the project".

This is a technical document setting out exactly what the applicant intends to do with the land sought, and how long it will take to put the planned investments in place. Despite this requirement, when a company sought land to produce palm oil, companies started to be allowed to seek and obtain land without providing any financial guarantees, and also to enjoy the right to sell timber from the land they have cleared in order to boost their capital.

Environmental impact assessments (EIAs) and environmental and social impact assessments (ESIAs) are two of the most reliable tools for analysing and managing risks. The latter is a participatory tool that can be used to identify the potential impacts of a project and propose a course of corrective measures in an environmental and social management plan. In Cameroon, ESIA's are regulated by Decree No. 2013/0171 of 2013.

The Ministry for Environment is responsible for ensuring that impact assessments are valid and for monitoring the implementation of environmental management plans. It often publishes a list of actors that have failed to abide by their plans, and the applicable sanctions. But ESIA's have various limitations and are by no means a sufficient tool in themselves to protect people's rights.

Firstly, the terms of reference for these studies are set by the relevant ministry without any input from the public. Secondly, ESIA's do not specify the form and content of "public consultations", which may be organised as information meetings

or interviews with local communities. Thirdly – and this is the greatest cause for concern – although the current legislation enables the administration to reject impact assessment reports if the impacts are deemed to be too great or the quality of the ESIA is unsatisfactory, the Ministry for Environment has never halted a project due to procedural irregularities or the analysis of the environmental impact assessment or environmental management plan.

Local communities seem to bear most of the risks associated with investment projects but rarely receive a fair share of the benefits that they generate. The main framework for identifying a project's expected benefits is the set of terms and conditions agreed and signed by the company and the state. These are usually kept confidential, as there is no law on access to information or specific provisions for the publication of contractual clauses relating to investment projects.

A study conducted by the Centre for Environment and Development (CED) in 2013 showed that most companies deliberately conceal information about their status and about some of their operations. This study showed that it was difficult, if not impossible, to obtain even the most general information about companies, such as their country of origin, the amount of land concerned, the crops to be grown and their ultimate destination.

The study concluded that the “observable gap in the publication of information about businesses contributes to the dissemination of rumours, especially with regard to the companies' obligations. Local people know nothing about the terms and conditions. As a result, most of them do not know whether the company has any social obligations [...]. It is also impossible for communities to ensure that they are properly taken into account or to oblige the company to respect its proper obligations” (CED, 2013, p. 11).

Another important lesson learned from that study is that this lack of information affects both local communities and the local administrative officials who are responsible for monitoring the companies' activities and ensuring that they comply with the terms and conditions. This lack of data makes it hard for government agencies to monitor and control what the companies are doing.

One of the main benefits that agribusiness investments are expected to generate is land rental fees. According to current legislation, “the income derived from the allocation of parcels of land in the national domain through concessions or leases” should be distributed as follows: “The State will receive 40 per cent, the commune where the land is situated will receive 40 per cent, and the village community will receive 20 per cent for general interest initiatives”⁷.

The fact that the state is expected to share land rental fees with neighbouring communities can be seen as tacit recognition of the loss of use rights borne by local people. In theory, it should provide some of the money that these communities and the communes that administer them need to finance their development. However,

7. See article 17 of the Decree N°76-166 of April 27 1976.

the amounts received can vary considerably from one project to the next. With an annual average of around 3,000 francs CFA per hectare, it is hard to explain how some land rental fees can be as high as 150,000 francs CFA and others as low as 500 francs CFA per hectare per year.

There have been increasing demands for land around project sites to be returned, especially for some of the oldest land concessions. Land allocations rarely take account of demographic growth, and as concessions are usually for long periods they inevitably lead to land shortages. These requests also seem to indicate that the land rental fees that communities receive is insufficient to compensate for the loss of the land concerned.

Bearing in mind the fact that a single hectare of cocoa can be expected to bring in least \$2,500 or 1,250,000 francs CFA a year, it is worth considering the case of a land concession – originally intended to cover 73,000 hectares of land – where the land rental fee was set at just \$1 per hectare per year, resulting in a total rental fee of \$73,000 per year. The 20 per cent allocated for community use amounted to just under \$15,000 or 7,500,000 francs CFA a year, which then had to be divided between the 22 communities around the concession, giving each one just 340,000 francs CFA a year.

One of the reasons why it is so hard to get the companies that implement investment projects to account for their actions is because decisions about these projects are made by other parties at various levels, depending on their access to information. Even if a project has conducted a preliminary EIA, it can be hard for other actors to obtain access to it. This makes it particularly difficult for local communities to ensure that the projects that are implemented on their land are closely monitored, especially when the administration does not always have sufficient logistical resources to undertake this monitoring.

5. Means of recourse

What means of recourse are there for communities that have lost out as a result of the state's decision to assign land to an investor, or because of action taken by a company that is implementing a project on or in the vicinity of their land?

When communities contest an administrative decision to assign land, their main avenue of recourse is to seek justice in the Court of Administrative Disputes. This is a complicated process as it usually involves a preliminary appeal to the administration (as the author of the disputed act) or to the hierarchical authority, and it can take up to three months for the contested decision to be referred to the court. By the time the minister concerned has responded to the application, land clearances may have started and irreversible action taken to clear forests and destroy sites that communities rely on for their subsistence. As a result, the recourse process may be emptied of its practical relevance.

In addition, local people's access to justice is hampered by many obstacles, some of which are summarised below:

- There have been cases where local administrative authorities have tried to block community attempts to obtain recourse, in order to support government policy on encouraging investment. For example, the administrative authorities and certain traditional chiefs in Nguti, Toko and Mundemba insisted that local people had to support a project because the President of the Republic wanted it to go ahead. Some administrative and political officials went as far as telling local people who opposed the project that this was tantamount to opposing the President, something few of them would want to do.
- The main challenge for communities seeking recourse against companies is deciding what they should ask the judge to do. They could be in a difficult position if they want to reclaim the land, as they are not landowners and would therefore find it hard to oppose the concession on the grounds that they hold rights to the land. Another alternative would be to challenge the way that the company takes account of their rights. The problem here is that the company's obligations are set out in the terms and conditions of the land allocation, and as these are prepared by the administration, the company cannot be held responsible for their content.

So should communities call for the government to take greater account of their rights or rescind the concession agreement? This would involve going through the Court of Administrative Disputes, which is a long, expensive and complex process. Until now, recourse has been oriented towards companies, and has focused on issues such as the destruction of crops or other goods belonging to members of the community, rather than the decision to allocate the land.

- The judicial system is slow, and court rulings may have little effect as their enforcement sometimes depends on the goodwill of government officials. This allowed the company at the centre of a case brought by the NGO Struggle to Economize the Future Environment (SEFE) to keep operating with impunity despite the court in Mundemba clearly ruling that it should cease its activities.
- The selective nature of justice: the right to litigation is subject to a set of conditions, and if they are not fulfilled the court will declare the action inadmissible without considering the basis on which it was initiated. Legal proceedings are only available to people with a legitimate interest in the success or failure of the claim, “based on a right and aimed at protecting this right”.

With disputes over land, the interest must be personal, direct, innate and current. As Mr Roger Sockeng noted, “an interest that is merely possible or hypothetical is insufficient” (Sockeng, 1998). Preventive sanctions are only permitted in exceptional circumstances, so if communities complain about the future impacts of an investor’s actions, the judge could rule that their interest was hypothetical.

- Limited means of proof: individuals, associations and communities that wish to bring proceedings against companies for violating their right to a healthy environment have to overcome numerous difficulties in accessing and using evidence to support their case.
- Legal action is expensive. Justice may be free in principle, but in practice the cost of taking legal action (lawyers’ and experts’ fees, the costs of analyses, legal fees, travel expenses, etc.) is likely to limit access to justice, especially for village communities. During our field studies we came across several instances of administrative officials and investors using the cost of legal proceedings to discourage local people they regard as their opponents from attempting to challenge the establishment.

For example, a company that had started project activities without obtaining a legal title to the land instituted proceedings against four of the local people who objected to its presence on the site. They had to travel to the main county town to attend numerous hearings, and cover their lawyer’s travel expenses.

In another case, the director of a local NGO that was very active in monitoring the activities of an agro-industrial company also had legal action taken against him, and recently received a custodial sentence. The same strategy was used in another borough, where the administration took legal action against a villager trying to prevent the road whose construction he had financed from being used for prospecting activities that could result in his community’s land being assigned to an Asian company.

- Legal coverage of the national territory is extremely patchy. The courts still operate on a periodic basis in many areas, which means that people seeking legal action either have to go elsewhere or wait until their local court is in session in order to obtain justice. Rural areas are particularly poorly served, despite the

recent creation of administrative courts in the ten regions of the country as part of the government's efforts to decentralise the administrative justice system.

There are also alternatives to the state justice system. Communities can seek recourse through voluntary mechanisms that vary according to the investor concerned (e.g. with regard to the Guidelines for Multinational Enterprises developed by the Organisation for Economic Co-operation and Development), their funding arrangements (grievance mechanisms established by some international financial institutions) or membership of certification bodies (e.g. Forest Stewardship Council, Roundtable on Sustainable Palm Oil). These mechanisms are relatively easy and inexpensive to use, but their decisions are not binding.

6. Conclusion and recommendations

The financial crisis of 2008 marked a turning point for land investments in many African countries as they intensified their efforts to emulate the emerging economies of Southeast Asia, China and Brazil. In order to do so, much of their attention has focused on large-scale investments in the exploitation of land and natural resources, especially in the Congo Basin.

Land tenure in Cameroon is still regulated by legislation that was formulated over 40 years ago and was itself inspired by colonial responses to land governance: registration as a mechanism for recognising property rights, and state control over “unappropriated” lands that can be allocated to investors.

These features lead to the marginalisation of rural communities. It seems that the current land law reform is doing little to address these features. In the meantime, investments in related sectors (mines, forestry) are proceeding without any real coordination, in a context of increasing pressures on land. Land allocations are decided without any genuine public participation, with affected communities given token positions on advisory land committees and a meagre share of the revenues generated by projects as a form of (inadequate) compensation for losing the use of their land and resources.

The lack of information about operations on large-scale land concessions makes it hard to monitor the extent to which the companies that run these projects fulfil their social, environmental and legal commitments. Communities seeking recourse for the adverse effects of land concessions usually go through the administrative courts, but this can be a lengthy and expensive process. And although each region now has an administrative court (thanks to the decentralisation of the judicial system), access to justice is physically and financially beyond the reach of most local people.

Recommendations:

1. Large-scale land allocations and the assignment of rights to land and resources should cease until mechanisms have been put in place to (i) identify and protect communities’ rights and (ii) ensure that there is some consistency in the allocation of commercial concessions in order to avoid overlapping rights. Continued land allocations will cause numerous conflicts in the future unless the regimes regulating land and resources are improved and enforced.
2. The current land reform needs to address a series of issues that are poorly regulated or completely unregulated:
 - a. Recognition of customary ownership as land ownership. The simplest way of doing this would be to adopt the position of traditional chiefs in Cameroon, who are asking for each village to be recognised as the owner of its lands.

All village lands would be collectively owned and inalienable, with individual rights within village territories recognised under customary systems.

- b. The mandate and funding arrangements for the advisory land committees need to be clarified to ensure that they are completely independent of investors.
 - c. The advisory committees' operating procedures also need to be clarified, through an explicit obligation to consult all members of the communities concerned, and for the committees' final proposals to be validated by all affected villages.
 - d. The advisory committees should be given greater powers enabling them to agree or disagree with land allocations.
 - e. The methods for setting land rental fees need to be clarified, and should take account of the viability of possible alternative activities on the allocated land.
3. Compensation rates and procedures for victims of agribusiness investments should also be reviewed so that communities whose assets have been destroyed do not become impoverished. This could be done by:
- a. Providing compensation for all useful assets that contribute to the affected party's quality of life, whether they are naturally occurring or planted resources.
 - b. Whenever possible, lost or damaged goods should be replaced in kind.
 - c. All members of affected communities should be taken into consideration (women, youth, and other groups) so that the compensation process does not increase inequalities within the family or community.
4. There should be clear guidelines on the way that communities are consulted during environmental and social impact assessments, and legal provisions for rapid recourse for communities around project sites if they contest the quality of the ESIA. This could include a legal requirement for participatory mapping in order to identify and protect community rights to and uses of land and resources on the sites that projects wish to acquire.

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Land investments, accountability and the law: Lessons from Cameroon

The recent wave of land deals for agribusiness investments has highlighted the widespread demand for greater accountability in the governance of land and investment. Legal frameworks influence opportunities for accountability, and recourse to law has featured prominently in grassroots responses to the land deals.

Drawing on legal and anthropological field research in Cameroon, this report interrogates the legal and socio-political context in which large-scale land acquisitions are taking place in the country. It explores how investments are decided and implemented, takes stock of what recourse mechanisms are available to local communities and provides recommendations for improvement.

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