

PROMOTION, RECOGNITION AND RESPECT OF CUSTOMARY CLAIMS ON FOREST RESOURCES

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SUMMARY

The aim of this paper is to examine the legal changes brought about by the 1994 Forest Law and to explore how this law together with the 1974 Land ordinances regulates forest and land tenure. The paper in particular highlights conflicts with customary forest tenure and their social implications for Bantu and Bagyeli people. At the same time, the paper investigates the legal and procedural opportunities and constraints, but also the motivations the law provides for the local population to participate in forest management. First, the issues of forest control and administration, rights to economically exploit forest resources and sharing of forest benefits will be addressed to shed light on (potential) conflicts between state and customary forest management regimes. Second, the implications of legal land and forest regulations in the local setting are discussed. It will be shown that while the forest law is hardly implemented, it indirectly affects local forest tenure. Next, local conceptions of forest management are related to state's ideas of forest management and conservation. The paper concludes with some implications for future forest management scenarios.

Keywords: Sustainable forest management, state law, customary tenure, legal pluralism, community participation, Cameroon.

RESUME

Le sujet abordé ici a pour objet d'examiner les changements légaux induits par la loi forestière de 1994, et de voir comment cette loi, en relation avec l'Ordonnance de 1974 relative au régime foncier, règle les problèmes de droits sur la forêt et la propriété foncière. Il est en particulier question de mettre en évidence les conflits avec les droits coutumiers et leurs conséquences pour les populations locales (Bantou et Bagyeli). Les opportunités légales et les contraintes sont également abordées, de même que les motivations que la loi prévoit en vue de la participation de ces populations à la gestion de la forêt. Dans un premier temps, les aspects de l'administration et du contrôle de la gestion forestière, des droits à l'exploitation économique de la forêt et de partage des bénéfices seront abordés en vue d'avoir une claire idée des conflits (potentiels) entre l'Etat et le droit coutumier du régime forestier. Dans un deuxième temps, l'implication des droits de propriété des terres au niveau local et la réglementation forestière est discutée. Il sera montré que pendant que la loi forestière est difficilement appliquée, elle affecte de façon indirecte la jouissance locale de propriété forestière. Par la suite, la perception locale de la gestion de la forêt l'est en relation avec la réglementation en vigueur en la matière. Quelques implications pour des scénarios de gestion future de la forêt sont présentées en guise de conclusion.

Mots clés : Aménagement forestier durable, lois gouvernementales, tenure coutumière, pluralisme légal, participation communautaire, Cameroun.

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1. INTRODUCTION

In 1994, the National Assembly of Cameroon enacted a new Forest Law in order to match the political intention to encourage rational exploitation of forest resources in relation to timber extraction and conservation of the national forest area. Legal reform was proposed as part of the World Bank's structural adjustment program, also under pressure of the international interest in sustainable management of tropical forests and biodiversity. The new forest law places the state administration in the centre of forest management, while this law together with the current 1974 Land Ordinances ensures the state's control over land, trees and other forest resources. This is not new to Cameroon: also in the colonial past state control over forests was seen as one of the crucial conditions for rational exploitation of forest resources. However, the state's claim to forest management and control directly conflicts with local notions of forest tenure. Bantu and Bagyeli people living in South Cameroon consider the forest as their principal source of subsistence and maintain detailed rules on control over and ownership of land and other forest resources.

The aim of this paper is to examine the legal changes brought about by the 1994 Forest Law and to explore how this law together with the 1974 Land ordinances regulates forest and land tenure. The paper in particular highlights conflicts with customary forest tenure and their social implications for Bantu and Bagyeli people. At the same time, the paper investigates the legal and procedural opportunities and constraints, but also the motivations the law provides for the local population to participate in forest management. First, the issues of forest control and administration, rights to economically exploit forest resources and sharing of forest benefits will be addressed to shed light on (potential) conflicts between state and customary forest management regimes. In the fourth section, the implications of legal land and forest regulations in the local setting are discussed. It will be shown that while the forest law is hardly implemented, it indirectly affects local forest tenure. Next, local conceptions of forest management are related to state's ideas of forest management and conservation. The paper concludes with some implications for future forest management scenarios.

2. CONTROL OVER AND ADMINISTRATION OF LAND AND OTHER FOREST RESOURCES

Forests in Cameroon are subject to two different state laws: the 1994 Forest Law and the 1974 Land ordinances. The 1994 Forest Law imposes a forestry regime by regulating access to and exploitation of mobile forest resources, such as trees, wildlife and fish. Forests are defined by their physical appearance and include all land covered by vegetation with a predominance of trees, shrubs and other plant species. The law makers declared the state the sole guardian and chief manager of all forests in the country, and thereby granted the state the exclusive right to exclude and allocate rights to economically exploit forest resources to the local population and corporate companies (Biesbrouck, 1997; van den Berg, 1998). The rationale for such a claim can be found in the national forestry document upon which the current law was shaped: "Forest management involves long-term investments. To be successful, related action needs constant support from the public in order to escape from the constraints of daily life" (MINEF 1992, in van den Berg, 1998). The lawmakers, therefore, opted for a policy of centralised control of forest resources, relying on state agencies for administration. The forest law organises the intervention of the state in all stages of forest management and for various purposes, e.g. conservation, subsistence, or industrial use.

Forest management is perceived as a technical exercise in which exclusion of forest users and strict regulation of forest exploitation are the main components (van den Berg, 1998:5). The outcome of forest management is restricted to forestry products and, hence, excludes any type of agricultural production. The viability of this narrow definition of forest management is contentious since Bantu and Bagyeli people practice shifting-cultivation agriculture, which is based on a forest-agricultural land interface (see also Karsenty, 1999a). The property implications, however, of the legal disconnection between land and forest management are even more problematic (van den Berg, 1998). After reconstitution of the forest cover, former fallow and agricultural land without any legal title once again becomes forest and is managed as such. Bantu and Bagyeli people on the other hand maintain property rights in the forest on fallow land and abandoned farmland and continue to maintain rights on abandoned campsites and villages (*bilik*) and surrounding land and vegetation (Parren *et al.*, 2001). Bantu farmers also claim property rights in those parts of the virgin forest where they plan to extend their fields and plantations. The broad definition of forest included in the current forest law denies these customary land rights and, indeed even, conserves the "myth of a vacant forest" (van den Berg, 1998). At the same time, the law forbids lightening of bush fires without prior authorisation of the forest officials, while forest clearing is not allowed in large parts of the national forest domain, i.e. permanent forest zone (see below).

The law provides very limited space for private appropriation of tree resources. The legal principle is that all naturally growing trees belong to the state, even when a tree grows on land under cultivation. Private ownership of planted trees is recognised on land, which is registered as private property, but the right to harvest timber is subject to the authorisation and restrictions of the forest service and may be suspended for the purpose of conservation or protection. While these provisions represent hardly any incentive for the local population to preserve trees, they also contradict customary property rights once again. Under customary tree tenure regulations, property rights on forest resources vary according to various conditions: their use, location, individual or collective land claims and individual or group investments (van den Berg, 1995; Karsenty, 1996). In principle, trees belong to the individual or group, which has planted them. These property holders can allocate user rights to other people, while some tree species, such as for example bush mango (*Irvingia gabonensis*), bita kola (*Garcinia kola*) and moabi (*Baillonella guineensis*) form part of a heritage when they grow on farm land (van den Berg, unpublished data). The exploitation of trees in natural high forest at a large distance from a village is not restricted to individuals or the village community, except where an individual or group has established exclusive user rights through clearance of the land on which the tree grows (van den Berg, 1995). The use of trees found in forest areas near a village is reserved to its inhabitants.

The 1974 Land Ordinances regulate tenure and management of land resources. According to this act, all unoccupied land belongs to the state, apart from land registered as public or private property and land under cultivation and/or with visible signs of human presence, such as planted fruit trees. The so-called National Lands (*Domaine National*) are administrated by the state on behalf of the public. Local people are granted user rights on National Lands to meet domestic needs (e.g. construction and firewood, wildlife, NTFPs and farming) but these can be overruled by the state for reasons of greater public interest. Those people who could prove effective occupation of their lands could continue to do so after the enactment of the 1974 ordinances and also convert them in private property through official land registration. These provisions parallel the German declaration enacted on 15 July 1896 which declared all land presumed vacant as part of the German Crown lands. Fisiy (1992:28-29) even argues that this 1896 law is the forerunner of the 1974 Land Ordinances. It set the stage for land registration and provided the

same economic arguments of certainty of title, promotion of plantation agriculture and the possibilities of raising capital; arguments which characterise the 1974 land reforms (*ibid.*). From a political viewpoint it served the colonial rulers to nationalise all land resources which were managed by local communities under customary laws and tenurial arrangements, and, thereby, limit customary land rights to residual user rights (Karsenty, 1999a). When the French took over command in 1916 they continued this land policy. All lands *vacantes et sans maître* remained under state control.

While the application of the principle *vacantes et sans maître* encountered strong resistance from local communities in the past, its property implications have social significance until today and affect the viability of the current forest management regime. In the TCP area, as elsewhere in rural areas in Cameroon, the vast majority of the population does not have any official title to their land. An exception is the new elite² who has enough means and skills to gain access to the complex administrative procedure (Tiayon, 1999; van den Berg, unpublished data). The vague legal status of customary lands and weak local user rights under the current land ordinances are not only retained, but even weakened under the new forest management regime. As shown above, rights to former agricultural land are very limited, there are no access rights to timber resources and there is a strict regulation of the use of other forest resources. While this situation will significantly affect the subsistence base of Bantu and Bagyeli people in the future, it remains to be seen how the lawmakers envisage co-operation from forest communities under these unfair legal conditions.

2.1. Zoning and control

The 1994 Forest law provides for forest zonation to separately regulate forest management and agricultural activities. Zoning provides for the establishment of a permanent forest zone, which in the future must cover at least 30% of the national territory. This national forest reserve will be used solely for forestry and wildlife habitat and, hence, all agricultural activities are forbidden. The 1981 forest law also provided for the creation of a national forest reserve. About 1.9 million hectares have been set aside as forest reserve, but the annual production of 2.8 million m³ originates almost entirely from unreserved forests (Parren *et al.*, 2001).

Permanent forests will be created in those forest areas considered free of any human occupation, while the instrument of zonation takes into account the location of villages and surrounding land use and allows for the creation of land reserves for future forest clearance based on demographic developments (*zones tampon*). This highly specialised type of forest management denies the way in which the local population makes use of forest space. For Bantu farmers and Bagyeli, all forest whether under cultivation or fallow, or in secondary or high forest represents a multiple use environment on which hunting, fishing and NTFP collection are carried out all together.

The current law distinguishes two types of forest in the permanent forest zone: state forests (*Forêts Domaniales*) and council forests (*Forêts Communales*) (see Table 1). The establishment of state forests (*Forêts Domaniales*) is not new to Cameroon. At the end of the 1940s and the beginning of the 1950s, the French colonial rulers classified vast forest areas for industrial timber exploitation (Biesbrouck, 1999). State forests include various types of forests affected to different forest management purposes, such as game reserves, timber production, and forest conservation. To make the states control over the national forest reserve more effective, the

² In the literature the term 'new elite' refers to a new type of local leaders within rural areas who derive their power mainly from external factors, such as for instance career in the civil service and their connections in the urban centres (see further Geschiere, 1982; Geschiere and Gugler, 1998).

lawmakers granted the state private ownership rights over state forests. Council forests fall indirectly under the private property of the state because the classification procedure serves for the establishment of a land title for the local council concerned. F. and K. von Benda-Beckmann (1999:22) rightly remark that the state can not be considered to be the owner in the sense of private law, unless the state has acquired these private ownership rights via legitimate transfer, such as sale or legitimate expropriation. The classification procedure under the current forest law, however, only provides for compensation of loss of customary property rights held by the local population in cases of physical investments in the forest such as for instance houses, fields and plantations. Consequently, in large parts of the country, the local population finds their forest resources absorbed in the national forest reserve, which implies that their rights will be curtailed or even withdrawn for the purpose for which the forest was designed. The highest interest, which the local population is allowed to have in permanent forests, is a customary right to harvest forest products for their personal use. It is to be expected that the physical delineation of permanent forest areas will encounter, even indeed active, resistance from the population concerned. Experiences under French colonial rule give proof to this, since their classification projects not only created a lot of unrest among farmers, but also resulted in tensions between them and the authorities (Biesbrouck, 1999:66-71).

Table 1. Forest Classification under the 1994 Forest Law. Source: van den Berg (1998)

National Forest Area					
Permanent Forests		Non-Permanent Forests			
State Forests		Council Forests	Communal Forests	Community Forests	Private Forests
Protected Areas for Wildlife	Forest Reserves				

The remaining part of the national forests falls under the category of non-permanent forest zone, which may be cleared for agricultural purposes. In those areas registered as communal forests (*forêts de Domaine national*), the local population can submit an application for the creation of a community forest. This involves handing over the management of communal forests with a maximum area of 5000 ha for a renewable period of five years. The forest products (timber, NTFP, wildlife, fishery resources) resulting from the management of the forest belong to the community concerned. Although this provision represents a step in the direction of the decentralisation of forest control from central forest officials to forest communities, serious doubts have been raised as to their likely efficacy. At worst the concept of community forests is criticised as an empty nut shell (Biesbrouck, 1997; van den Berg 1998), given that forest officials retain strong controlling power over these forests, and the land remains the ownership of the state. The forest service has the right to suspend community forestry management and consequently the state retains the sovereign right to dispossess a community forest if the terms and conditions of the hand-over are not met. The law, on the other hand, provides little protection for local communities in case of bad governance since it remains unclear about the legal conditions of suspension and does not make any provision for legal appeal.

There is hardly any political commitment behind community forestry to guarantee its implementation, and, therefore, powerful economic interests in logging may overrule the promoters of community forestry, such as the Dutch (SNV) and English (DFID) development agencies. Complex and expensive procedures together with a general lack on information among the local population on the current forest management regime have been reported as a problem (Karsenty, 1999b; Parren *et al.*, 2001). At the same time, it is uncertain whether it is possible to identify local forms of organisation and leadership able to delineate forest space held under customary tenurial arrangements on behalf of forest communities and to control its future

utilisation. Villages and Bagyeli settlements are certainly not suitable for this aim since control over forest land and other forest resources, even over those resources which take part of their territories, is vested in lineages and households.

So far, preliminary zones are established upon a prototype project carried out by the Cameroon forest service with assistance of the Canadian development co-operation. This project which applied a rather technical and top-down approach with almost no consultation of the local population, resulted in a zoning plan (*plan du zonage*) for the tropical rainforest area of Cameroon. This plan still waits for legal ratification by the central state officials.

3. RIGHTS TO USE AND EXPLOIT ECONOMICALLY FOREST RESOURCE

The major social significance of the 1994 Forest Law, if effective, is that, as shown in the previous section, it will restrict future access to land for agricultural purposes in large parts of the country and strictly regulate hunting, fishing and NTFP gathering by the local population. The state forest administration is at the centre of forest management and regulates access to forest areas and has the exclusive right to allocate rights to use and exploit economically forest resources. The TCP area can serve to show some of the social implications of the current forest management regime, though the creation of the forests such as described by the zoning plan is now under a process of refinement and so far none of these planned forests are legalised. The zoning plan provides for the establishment of one council forest, five protection forests and one production forest in the TCP area. The remaining land surface, including Bantu villages, surrounding lands under cultivation and strips of uncultivated forest reserved for future agricultural use, will be managed as agro-forestry zones under conditions set by the regulations on the management of the non-permanent forest zone. Whether Bagyeli base camps and hunting camps will be managed under the same conditions, remains to be seen in the process of refinement of the zoning plan.

Hunting, fishing and NTFP gathering will be allowed in the entire area, except of those forest areas classified as protection forests. Commercialisation of forest produce is forbidden and, hence, Bagyeli, but also Bantu farmers will certainly suffer from a significant loss of income with no financial or material compensation at all. At the same time, locally commonly used hunting techniques such as trap-hunting with steel-wire cables and hunting with the use of guns are forbidden, as is also extraction of a set of protected wildlife and NTFP species. Protection forests are dedicated to protect fragile ecosystems or to serve scientific purposes. To attain this aim, all local types of forest utilisation are forbidden without taking into account the cultural and subsistence value of these areas for the local population. Local people are allowed to continue wood extraction for subsistence needs, as for instance for construction and firewood in other forests than protection forests. The forest law denies the local population, however, access to wood for industrial ends. Timber resources, which can be found in the council forest, are exploited on behalf of the council concerned by external and preferably Cameroonian logging operators. Production forests are also exploited by outsiders, but timber revenues are shared among different levels of state administration and the local population concerned. Ekoko (1997:26) reports that the new auction system for allocation of timber concessions provided by the application decree of the 1994 Forest law is hardly implemented and the forest administration continues to direct allocate them to logging companies, in particular when it presents advantages to the administrative decision makers. In the agro-forestry zone, the forest administration is authorised to allocate logging licenses of 2.500 ha, the so-called *ventes de coupe*, to nationals. Rational extraction of timber resources under conditions provided by *ventes*

de coupe is hardly possible. The short non-renewable licence period of 1-3 years together with inferior legal technical requirements to logging operations, and traffic in licenses is often seen as main factors that fuel forest destruction (Nguiffo, 1992; Verhagen and Enthoven, 1993; Toornstra *et al.*, 1994). In the past years attribution of these licences have known sharp increase and in certain areas, such as for instance in the area of Dimako, commercial logging competes forest space with other forest management and land utilisation purposes (Karsenty, 1999b).

Customary land rights held by residential units, such as the Bagyeli settlements (*kwaato*) and Bantu villages, do not have any legal status under the zoning plan. In the preparation of classification projects, which includes final demarcation of the various forests, allocation of local user rights and compensation of people whose investments will be lost, village chiefs are expected to defend local interests in the forest. However, the power of village chiefs to speak on behalf of their fellow villagers is questionable since their authority has above all a personal character and is certainly not based on their official positions. At the same time, their ability and motivation to fairly represent Bagyeli groups is certainly problematic. Village chiefs are deemed to promote primarily the interests of Bantu farmers, which not always parallel, and even sometimes conflict with those of Bagyeli people. The local population on the other hand only has the right to oppose a classification project within the very restricted time frame of 30 to 90 days before its final approval. After this period claims are dismissed. These provisions hardly can be considered as an opportunity for meaningful consultation, let alone participation in forest management. In particular in a local setting, such as the TCP area, where ordinary people have difficult access to administrative structures and also have very little understanding of their rights under the current forest management regime.

4. SHARING OF TIMBER AND FOREST MANAGEMENT BENEFITS

4.1. Sharing of timber benefits

The 1994 Forest Law restores the obligation for concession holders to negotiate with the local population to provide them with social overhead capital, such as roads, bridges, and school and health facilities. This legal obligation, which establishes a direct link between logging operations and local benefits, is not new in Cameroon, but was abolished with the enactment of the 1981 Forest Law. This law provided for a system of local taxes to be paid in a national fund, which in theory should have financed development activities throughout Cameroon, but in practice hardly served as such. While in the past concession holders never ceased to negotiate logging compensation with the local population, the new provisions are potentially positive for them. In preparing forest management plans for their concessions, concession holders are expected to come to agreement with local communities, which has to be recorded in the management plan. The oral agreements of the past, on the other hand, appeared often to provide for empty promises and at best provided the local population with infra-structural improvements which mainly ensured the economic priorities of the company concerned. Under the 1994 Forest Law this may be changed, but it remains to be seen on implementation whether Bantu villagers will feel they gain from the new system sufficiently to compensate for the costs of logging. Since the law does not take into consideration the unequal access to logging compensation between villagers and Bagyeli people, the new provisions will certainly not improve the negotiation position of the latter. There is also (in theory) an improvement in the distribution of tax revenues that should benefit local communities. The application decree provides for a payment of 10% of the surface tax directly to the local communities concerned and 40% to the implicated municipalities (Parren *et al.*, 2001).

The 1994 law, if effective, will affect the relation between holders of a logging concession in the permanent forest estate and the surrounding local communities. Before the enactment of this law, concession holders were allowed to exploit timber on the basis of a forest inventory and a simple road plan (Parren *et al.*, 2001). While there was no legal obligation for concession holders to take into consideration the interests of the local population in the forests or to comply with their social needs, the population was only informed about logging operations in the surroundings of their villages just before the actual felling activities started. The weak negotiation position of the local population *vis-à-vis* logging operators may change under the current law. The actual concession period to maximum of 25 years may provide an incentive for logging operators to establish and maintain sound relations with the local population concerned (see also Short, 1994). But even more important is the prerequisite (MINEF 1997: 1998) for concession holders to define a forest management plan in collaboration with the village communities concerned can (in theory) strengthen their customary rights on land and other forest resources. Agreement needs to be obtained from local communities on the demarcation of the production forest, areas of existing and future cultivation and the allocation of user rights. To this end, logging companies are charged to carry out socio-economic surveys in their concession area which include a description of actual forest utilisation by local communities. These proposals serve as basic documents in official consultation with the local population concerned. However, meaningful negotiation on local rights on forest resources and sharing of timber benefits can be realised only if:

- the local population is well informed about their interests and rights in management planning;
- they and other actors involved (logging operators, forest officers, local authorities) have the appropriate skills and the will to negotiate agreement.

Herewith, it is essential that special attention is paid to Bagyeli, in particular with regard to extension and capacity building activities (Parren *et al.*, 2001).

4.2. Sharing of forest management benefits

The only option, which the local population has to direct profit from the new forest management regime provided by the 1994 Forest Law is to create community forests in the non-permanent forests zone. All other forests in the country will be managed by the state on behalf of the public, except private forests. The professed positive ecological and economical effects of the new management regime will, hence, in large parts of the country only contribute indirectly to the living conditions of the local population. While the ownership of the land and trees remains with the state, community forests in theory strengthen the user rights of the local population *vis-à-vis* the state and provide for direct benefit of forest management for the local communities concerned. Community forests also give the local population direct access to timber resources for commercial use.

Since the enactment of the current Forest Law in 1994 only two community forests has been demarcated which still need legal approval (Karsenty, 1999b). Lack of information among the local population, the complex and expensive administrative procedures, the lacking co-operation of the national forest officers and in particular the difficulties to link local realities with the bureaucratic and centralised administrative culture makes the realisation of community forests a difficult and time consuming process (*ibid.*). Of even more concern is the competition between Cameroon logging operators (*vente de coupe*) and promoters of community forests over forest space on the National lands (Cleuren, 1999; pers. comm.). Given the actual administrative unwillingness to increase the pace in the creation of community forests and the relatively short

procedure for allocation of *ventes de coupe*, there is a real danger that timber resources are already exhausted before the local population has the possibility to exploit them for their own benefit. Meanwhile, the administrative regulation of 1996 (MINEF circular letter 370/LC/MINEF/CAB) that requires holders of a *vente de coupe* licence to attribute 1000 F CFA per cubic meter of timber extracted from their area to local communities will certainly make the arrival of logging operators more attractive for the populations concerned. The provisions on community forests also appear to create new alliances between Cameroonian logging operators and village elites in order to create community forests with the intent to log it over as rapid as possible, and primarily for their own benefit (Karsenty, 1999b; Nkwinkwa, 1999; pers. comm.).

5. LEGAL PLURALISM AT COMMUNITY LEVEL

Bantu farmers and Bagyeli, perceive the forest and its resources as their subsistence base created by God and entrusted to them by their ancestors. Customary laws and tenurial arrangements still mediate access to and withdrawing of rights to land and other forest resources. At the same time, Bantu farmers are aware of the state laws on land ownership and forest regulation, though, without knowing the details. While legal forest regulations are widely ignored by the local population in social practice (Tiayon, 1999; van den Berg 1995), they do use elements of the state laws, in particular when it presents advantages to those individuals who invoke their application. For example, in some cases the legal principle of *mise en valeur*, which is derived from the 1974 Land Ordinances, is applied to gain individual property rights over land and other forest resources, which are held as common property under customary law (van den Berg, unpublished data). Fisiy (1992), depicts this selective use of state law, as the law of the last resort, and argues that the tendency of village communities to fall back on state law suggests that in some cases they may accept the state as the ultimate source of power. Many Bantu farmers recognise the power of the state to regulate forest and land management, but stress that this power should serve primary their needs. Often, this condition is based on religious arguments in the sense that the state is created by God, as is mankind; the state therefore is the brother of the villagers and has the obligation to take care of them (van den Berg, unpublished data). In the eyes of Bantu farmers, however, the weakness of the state to improve their living conditions, and in particular to grant them a fair share of timber revenues prove the unwillingness of the state to adhere to this obligation. They see their forest and timber resources being appropriated by logging companies and feel alienated from the state. In particular, the use of police men, in name of the law, to ‘solve’ local problems around logging operations, give rise to strong feelings of discontent and powerlessness among Bantu farmers and, thereby create a general mistrust towards state officials and other external agents. Feelings of insecurity of rights also created by presence of TCP in the area, among the local population trigger coping strategies among them to ensure individual and collective property rights in the long term.

There is a trend in some part of the area among Bantu farmers (especially in Bulu and Fang villages) to clear high forest; thereby they leave family lands aside, to secure future access of land for their children *vis-à-vis* the ownership claims of the state (Twigt, 1996; van den Berg, 1996). These lands are claimed private property through planting of palm- and fruit trees. At the same time, there is a tendency to reinforce collective appropriation of uncultivated forest space through strict demarcation of those parts of the forest that are believed to belong to a village or *kwaato* (Tiayon, 1999; Biesbrouck, 1999; van den Berg 1996)³. Old boundaries in the high forest which were set down by the ancestors when Bantu people of different family groups crossed each other during their hunting and fishing trips, are used today to defend exclusive access rights to land and other resources by Bantu village communities. Parallel to this trend,

³ This tendency is called by Tiayon (1999) *tendances villagisantes* in local forest tenure, and privatisation of village lands by van den Berg (1996).

Bagyeli demarcate forest space that belongs to their settlements (Biesbrouck 1999). While in the past Bantu farmers were also only allowed to create farmland in the forest areas that belonged to their village, it was accepted to carry out other subsistence activities in neighbouring areas. Today, however, there is a strong plea among increasing numbers of Bantu people to exclude neighbouring villagers and Bagyeli, from all types of utilisation of forest resources found on their village domains. This situation, together with diminishing feelings of tolerance against strangers and in some cases organised control to exclude and sanction intruders harbours a great potential for social conflict. Young men of the village of Yem, for instance, have established a *comité de vigilance* to control poaching in the forest that belongs to their village. This informally organised committee, which is actively supported by the village chief, primarily aims to exclude and sanction non-authorized strangers. Similar initiatives were recorded in other villages, not only with regard to hunting activities, but also with regard to commercial valuable NTFPs. The provisions under the current forest law, which provides that logging companies should agree with village communities on the limits of forest management units and the logging compensation to be paid, coupled with the new rule of 1000 F CFA/m³ (see previous section), increase the danger of social conflict since village boundaries in the high forest become even more important.

Apart from such plurality of norms and feelings of insecurity about rights in the local setting, changing economic value of forest resources also affect local management of the forest. For example, the effect of compensation of individuals for logging commercial tree species by Wijma (logging company working in the TCP area) was that individuals increasingly claimed private ownership on trees which were previously held under common property arrangements and created conflicts between different right holders (van den Berg, 1998). In a general way, customary regulations which define who has access to what resources are overpowered by short time economic benefits; because of the sharp increase of bush meat prices, new commercial value to a number of NTFPs, new markets, but also the current economic crisis. In some Bantu villages this trend has even created social tensions between promoters of the 'old' rules and individuals who are primarily interested in direct economic gains (van den Berg, 1995).

6. LOCAL PEOPLE'S VIEWS ON STATIST CAMPAIGNS FOR FOREST CONSERVATION

In the eyes of the Bagyeli and Bantu population the forest is an inexhaustible resource (Tiayon, 1997; Nkoumbele, 1997; van den Berg, 1995). Even in villages where people complain about decreasing availability of wildlife and fish resources, such as for instance in the villages of Ebimimbang and Messambe, they are convinced that the forest will sustain their livelihood in the future. Degradation of forest resources is hardly associated with local exploitation techniques, but rather to the economic crisis in Cameroon which forces kin who lived in the cities before to come back to their home villages. For those people wildlife, fish and other NTFP resources are essential to make a living in the village, at least until they have access to agricultural produce. While the idea of sustainable forest management, such as promoted by the government and NGOs, is alien to the local populations in the area, forest conservation is not felt as a social need at all (Tiayon, 1997). The establishment of permanent roads and market access together with improved school and health facilities are among the first needs expressed by the Bantu farmers in the area. If anything, they perceive the notion of forest conservation as a means used by the government to deprive them from their customary rights on forestland and other forest resources. The forest itself is mainly valued for its productive capacity and, hence, as the subsistence base for current and future generations.

Although past and current forest laws, as shown in the previous section, have indirect effects on local management and exploitation of forest resources, the direct effects are controversial. While there is very little implementation of forest regulations at community level, aside from official attempts to control local bush meat trade and tree felling, forest officers also use forest

regulations for their own benefit. For example, it is a public secret that the controls of bush meat trade on the entrance roads near market towns largely serve the private pockets of the forest officials concerned. Selective implementation of forest regulations together with the absence of extension activities, except for insignificant efforts of NGOs in the area, to inform the local population on the potential benefits of and their rights under the new forest management regime, produces among the local population feelings of mistrust against the state officials and other outside agents. They perceive the state as only interested in timber and wild life resources for state revenues, and believe that most of their subsistence and commercial activities are forbidden without authorisation of forest officials (Tiayon, 1999). This situation creates unexpected outcomes of the law. For example, in the village of Bidjouka, some villagers have cleared old fallow lands with the only purpose to extract wood resources (*ibid.*). Forest officials in the area only allow tree felling for agricultural purposes and forbid all other types of timber extraction, even for personal use. This practice contradicts, as shown in the previous section, legal provisions provided by the 1994 Forest law which grant the local population user rights to non-classified forests.

It is evident that local protection and conservation of forest resources is mainly based upon customary tenurial arrangements, and not on the current forest management regime imposed by the administration. In particular, regulations on allocation of access rights to strangers (von Benda-Beckmann *et al.*, 1997; van den Berg, 1995)⁴. Tiayon (1997:3) even perceives the property regime maintained by the Ngoumba as the main brake on future agricultural expansion. At the same time ideological rules shape the ends for which property should be used (F. and K. von Benda-Beckmann, 1999). Bulu farmers, for example, primary value land ownership, but also ownership of NTFP trees through planting, in terms of subsistence security for their families and not for short term economic interests (van den Berg, unpublished data). In principle, all members of a family must have enough land to sustain their livelihood, and therefore land, even if individually owned, needs to be shared with old and ill family members who are not able to clear land themselves. Even in case those people do not belong to the direct kin group. Bagyeli perceptions on the forest as a place of safety and food production for current and future generations which is ruled by the spirits of the ancestors, explain, on the other hand, their reluctance to appropriate forest space (Nkoumbele, 1999:16). These ideological elements behind tenurial arrangements, in particular their care for future generations, may form a stepping stone for environmental awareness building among the local population.

7. CONCLUSION

The pertinent issues of this paper involve an understanding of the way in which the state regulates forest and land tenure and the legal opportunities for local participation in forest management. It was explained that the state ownership claims on the forest deny almost all customary rights held by Bantu and Bagyeli people on land, except of lands under cultivation. At the same time it was shown that their vague legal rights to land on the National Lands (*Domaine National*) since 1974 have not changed under the new forest management regime and even have become more restricted in permanent forests. Their customary rights on forest resources other than land, such as wild life, timber and NTFP plant species are limited to weak user rights, while the local population received no guarantee at all that these rights will be protected in the future (see also Egbe, 1995; Ekoko, 1997). While it is evident that the state laws and regulations significantly affect the local subsistence base, related problems of insecurity of land rights harbour a risk, as shown, to increasing local forest destruction by forest clearance. Karsenty (1999a) even concludes, that the forest will become a free access resource and also

⁴ The use of exploitation techniques is almost not regulated, though some rules do exist, such as entirely stripping the bark of valuable NTFP trees or the use of toxin or dynamite for fishing.

argues that forest clearing will become for the local population the most appropriate way to gain or maintain user rights.

Bantu and Bagyeli would have the greatest power to negotiate and promote their interests in the forest if the government recognised their customary property rights (von Benda-Beckmann *et al.*, 1997). Nkwi *et al.* (2001) even suggests that the local populations are the only holders of legitimate exploitation rights and that it are them who should grant concession rights to third-parties and be the prime beneficiaries of the profits in return. State involvement should be restricted to designating the areas or kinds of resource environments in which concessions can be given. The decision of whether a concession is actually granted, however, should be with the local property right holders. The state, as in other economic activities of its citizens, would participate in economic profits in the form of taxation.

Although the actual laws and decrees, but also the actual balance of power between the different interest parties i.e. state officials, logging operators, NGOs, local population, exclude recognition of customary rights, at least in the short time, there are still possibilities to strengthen these rights. Participatory mapping of forest areas controlled by Bantu villages and Bagyeli settlements is an instrument to identify customary rights holders and their representatives (see also Tiayon, 1997; von Benda-Beckmann *et al.*, 1997). These maps can be used to discuss future forest management plans for permanent forests, including negotiations over fair compensation schemes and their obligations in forest management, with forest officials and other parties (e.g. logging operators, NGOs) concerned. Since customary boundaries in the high forest vary according to different activities, and territories are overlapping, it seems to be essential to include neighbouring communities in these discussions. It needs to be stressed that future obligations of local people *vis-à-vis* the forest should be balanced with their rights and both Bagyeli and Bantu should be allowed to make economic use of forest resources. Such a participatory strategy of forest conservation has been called “productive conservation” (Hall, 1997). Its application in the context of Cameroon requires, however, that administrative procedures need to be re-shaped. At the same time, new procedures have only practical value if people are well informed on their legal rights.

The actual problems around the creation of community forests, which represent the only legal instrument for community-based forest management, highlight the need for strengthening the power position of the local population *vis-à-vis* the state and other powerful external actors. Not only is there a need to re-shape the complex and expensive procedures and to inform the local people on potential benefits of community forestry, but even more important is to restrict legal access to timber resources by commercial logging operators.

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