

# The Legal Perspectives of Local Community Participation in Wildlife Management in Cameroon

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## 1. Introduction

The democratisation and liberalisation processes embarked upon by the State in the early 1990s have, in spite of the convoluted approach sometimes adopted, spilled over into other aspects of state-craft management. One of the prominent areas where the apparent withdrawal of State hegemony has been most evident is in the natural resource management sector. The framework legislation for this volt-face reversal of policy options is the 1994 Forestry and Wildlife law, which has as primordial objective: ‘the involvement of communities in the management and protection of forest resources’.<sup>1</sup> The new Law and its 1995 Decree of Application<sup>2</sup> in pursuit of this decentralisation fever elevated the traditional custodians of wildlife resources to the unprecedented status of partners in the management exercise.

The rationale for promoting this partnership is based on the assumption that effective management is more likely when local resource users have shared or exclusive rights to make decisions and benefit from resource use. Joint management of natural resources refers to ‘the arrangements for management that are negotiated by multiple stakeholders and are based on a set of rights and privileges (tenure) recognised by the government and widely accepted by users, and the process for sharing power among stakeholders to make decisions and exercise control over resource use’.<sup>3</sup> This management approach is usually manifested by legislative and policy changes having as objective the improvement of efficiency and equity in resource management. Such managerial measures are ‘likely to involve the decentralisation of forest management, the promotion of appropriate institutional reforms, increases in resource flows to forest – dependent populations, and the creation of new

<sup>1</sup> Explanatory Statement to Bill N° 544/PJL/AN, November 1993, now Law N° 94/01 of 20 January, 1994, to lay down Forestry, Wildlife and Fisheries Regulations, hereinafter referred to as “the new Forestry Law”.

<sup>2</sup> In full, Decree N° 95/466/PM of 20 July, 1995, to lay down the modalities of application of the Wildlife Regulations, hereinafter referred to as “the Wildlife Decree”.

<sup>3</sup> *Andrew, W. I., et al.*, The Participatory Process for Supporting Collaborative Management of Natural Resources: An Overview, FAO, Rome, 1999, p. 2.

partnerships involving changes in ownership and access'<sup>4</sup>. Apart from the proximity and equity argument, participatory wildlife management can be said to be an integral part of 'good governance' and 'subsidiarity' (the view that decisions should be taken as close as possible to the affected citizens), principles now commonly espoused in contemporary development philosophy.<sup>5</sup>

This concept of 'giving back' to the traditional users rights of ownership and control has been adopted with varying degrees of intensity in different countries. In Tanzania, joint management has been pushed to the level where hitherto disenfranchised communities have replaced the previous formal manager, the government, and reduced its role to one of technical adviser and watchdog. The Duru-Haitemba and Mgori Forests in the Arusha and Singida Regions, respectively, are illustrative of this point. In deed in the former case, title deeds have actually been awarded to the communities concerned.<sup>6</sup> Quite apart from the fact that this form of pragmatism was commenced without any framework legislation, the successful Tanzania experience (at least in the Duru-Haitemba and Mgori Forests) proves that when local populations have unfettered rights of ownership and control over wildlife resources, they are likely to be much better disciplined managers than usually poorly equipped and conflict-ridden public services. In Zimbabwe, lessons learned from practical field experiences have been translated into effective law formulation exercises. In fact the history of wildlife management in that country demonstrates how appropriate laws can improve both the effectiveness of conservation and the lives of rural people.<sup>7</sup> The introduction of a new wildlife management policy based on economic incentives to communities and councils commenced in 1960 culminated in 1975 with the enactment of the Parks and Wildlife Act. By providing landholders the opportunity to manage wildlife for their own benefit, the Act provided demonstrable economic and moral justifications for wildlife management. The Act also made provision for district councils to be designated 'appropriate authorities' for the purposes of managing wildlife within districts on communal lands, with the approval of the government and full participation of the community the council represents. The corollary of this law reform process was the introduction of Project Windfall (Wildlife Industries New Development for All) and the famous CAMPFIRE programme (Communal Areas Management Programme for Indigenous Resources). 'The reasoning was that local proprietorship of wildlife resources was likely to promote invest-

<sup>4</sup> David, B., Principles and Practice of Forest Co-Management: Evidence from West – Central Africa, European Union Tropical Forestry Paper 2, Brussels, 1999, p. 3.

<sup>5</sup> David, B., Principles and Practice of Forest Co-Management, *op.cit.*, p. 2.

<sup>6</sup> Liz, W., Villagers as Forest Managers and Governments "Learning to Let Go": The case of Duru-Haitemba and Mgori Forests in Tanzania, IIED Forest Participation Series N° 9, London.

<sup>7</sup> FAO / UNEP International Technical Consultation, Protected Area Management and Sustainable Rural Development: The Role of Policies, Laws and Institutions, Harare, Zimbabwe, 26-29 October, 1999, p. 9.

ment (of land, money, and time) for their efficient and sustainable management'.<sup>8</sup> The ultimate outcome of this endeavour has been the accruing of substantial benefits to the rural population.

Before discussing the Cameroonian experience at wildlife management devolution, it would be worthwhile presenting the environment in which the 1994 Law and its 1995 implementing Decree were drafted. The overall objective is to provide a broad panoramic view of the legislative environment which places one in a better perspective to appreciate where the country is and why it is there, as far as the decentralisation of wildlife management is concerned.

## 2. The Political Economy of the Wildlife Regulations

The policy reform process embarked upon by the government in 1994 has been a tortuous, complex and difficult one involving various stakeholders at various stages of the decentralisation exercise. The question is whether the adoption of an integrated and equitable natural resource management discourse by the State constitutes an integral part of the sometimes convoluted democratisation process commenced in the early 90s, and given an added impetus by the 1996 Constitution, or simply fitful lip service to devolution and environmental justice, usually at the behest of foreign donors and conservation watchdogs. Evidence points unambiguously to the fact that the 1994 Forestry and Wildlife Law (or at least provisions dealing with devolution, transparent and equitable management) is not the brain-child of the government, but an ill-timed<sup>9</sup> imposition by foreign donors championed by the World Bank, which is patronising the country's Structural Adjustment Programme (SAP).<sup>10</sup> The pervasive impact of this carrot-and-stick diplomacy which regrettably pays lip service to the need to seek a national constituency in the law reform process has manifested itself clearly in stipulations dealing with wildlife management.

<sup>8</sup> *FAO / UNEP, The Role of Policies, Laws and Institutions, op.cit.*, p. 9.

<sup>9</sup> In the wake of an economic malaise deeply accentuated by the 1994 devaluation of the CFA franc, the government was in dire need of foreign currency through increased wood logging and export. Also, the re-introduction of multiparty politics meant that timber concessions could be used as a weapon to perpetuate political patronage in favour of domestic and foreign pressure groups.

<sup>10</sup> *Nguiffo, S. A.*, La Nouvelle Legislation Forestière au Cameroun, Yaoundé: Fondation Friedrich Ebert, 1994, pp. 6 and 7, *Ekoko, F.*, Environmental Adjustment in Cameroon: Challenges and Opportunities for Policy Reform in the Forest Sector, 1999, available at <http://www.wri/iffeforest.html>, *Fombad, C. M.*, The Effectiveness of Environmental Protection Measures in Cameroon's 1994 Law Laying Down Forestry, Wildlife and Fisheries Regulations, *Journal of Environmental Law*, Vol. 9 N° 7, 1997, p. 57.

The casualties of this remarkable oversight on the part of the donor community to constitute a domestic constituency including civil society organisations (such as NGOs and projects), politicians such as parliamentarians and forward looking and younger forestry and wildlife staff,<sup>11</sup> are two in number. First, a unique opportunity was missed to formulate an all-embracing piece of legislation, which treats forests and wildlife management devolution holistically rather than fractionally. Second, the over emphasis on transparent and equitable management of timber resources and an apparent failure to exercise leverage in wildlife management has occasioned the abandonment or at best slow-footed activities in this domain. The practical manifestations and ramifications of this lopsided law reform process are not difficult to trace.

The drafting of the 1994 and 1995 forestry regulations was closely monitored by the donor community and this is reflected in the new paths that were charted, namely, sustainable logging of timber through long-term management concessions, transparent method of awarding exploitation titles through auction sales, the introduction of community forests and a relatively more equitable benefit sharing mechanism involving councils and communities. Without necessarily assessing the success of this endeavour, it must be remarked that it has been pursued with the rigour common to an Islamic jihad. The result has been the almost regular churning out of texts dealing with the above mentioned issues. In fact, the implementing decree to the forestry law was amended only one year after its enactment. In a country where implementing decrees dealing with resource tenure matters take about an average of two years to be enacted, this could possibly stand as a record-breaking event.

Curiously enough, the wildlife component of the 1994 Law appears not to have received a proportionate degree of attention, especially as far as community interests are concerned. The wildlife provisions of the new law make no mention of the interests of local councils and communities in wildlife management, except the so-called 'traditional hunting' right of local populations and the manner of exploiting wildlife in council and community forests.<sup>12</sup> If anything, these provisions reproduced *in extenso* some of the backward-looking stipulations of previous laws, such as prohibiting hunting in buffer zones to the same extent as in the protected areas.<sup>13</sup> However, the implementing decree to the wildlife law<sup>14</sup> which was passed almost one and a half years after the promulgation of the new law, in a most surreptitious manner, introduced concepts hitherto unknown to the law. These include the concept of community hunting zones, equitable sharing of benefits from the exploitation of

<sup>11</sup> Contrary to all expectations, NGOs proved their advocacy skills and were particularly active on sensitizing both the national and international community on the possible environmental dangers of the now apparently stalled Cameroon-Chad Pipeline Project.

<sup>12</sup> The 1994 Law, sections 86 and 95.

<sup>13</sup> *Ibid.*, section 104.

<sup>14</sup> Decree N° 95/466/PM of 20 July, 1995, hereinafter referred to as 'the wildlife Decree'.

wildlife resources, the possibility of councils managing hunting areas, and a forward-looking definition of buffer zones.<sup>15</sup> Although these provisions are sloppy and non-articulated, they represent a departure from the letter of the wildlife provisions of the new law. The puzzling question is what are the forces that engendered this variance in the law reform process?

The almost compartmentalised manner in which the Forestry and Wildlife and Protected Areas Department (DF and DFAP) operate dictated that the wildlife provisions of the new law would be drafted by DFAP. The generous material and financial benefits involved in the exercise attracted the attention of most of the senior staff (a great majority of whom are well schooled in colonial style wildlife policing) and provided a rare opportunity to patronise and fraternise with friends, some from the external services of the Ministry of Environment and Forests (MINEF). Not subject to insurmountable and sometimes arrogant pressure like their counterparts of the Forestry Department, and almost copious replication of the then existing texts was prepared. However, when the implementing decree was to be drafted in 1995, the circumstances had changed dramatically, with the conspicuous absence of these benefits. This meant that the task of preparing the implementing decree was shoved to the younger generation of wildlife staff. The circumstances in which they worked could explain the fact that the provisions of the decree dealing with joint management look like broken bones neither joined together by flesh nor by fibres. Recourse made to the first forestry implementing decree was of no avail because apart from being heavily flawed, it was itself already subject to an amendment fever.<sup>16</sup>

The ultimate casualty is that an opportunity to draft a wholesome piece of legislation dealing with local population involvement in wildlife management was trampled upon. This regrettable absence of donor leverage is said to have inflicted broader damage, as illustrated by this quotation from Ekoko,<sup>17</sup> commenting on the World Bank's ambivalence in the reform process:

“There is a cohort of younger foresters who seem genuinely motivated by concerns for greater efficiency and transparency. But if not supported and encouraged by external pressure for change they could well be subverted by the corrupting influence of their superiors.”

The consequences of this loss are already discernible. The sloppily drafted stipulations (such as those treating community hunting zones and community royalties from leased hunting zones) have laid redundant for more than four years without government attempt at

<sup>15</sup> *Ibid.*, sections 25-28, 51, 3(1) and 2(13).

<sup>16</sup> This amendment materialized on 23 August, 1995, about 33 days after the wildlife decree was enacted.

<sup>17</sup> Ekoko, F., *Environmental Adjustment in Cameroon*, *op.cit.*, p. 77.

implementation. The last resort will be that complementary administrative texts lacking parliamentary and public scrutiny will be churned out in a desperate attempt to feign implementation. These texts, coupled with the not too few others postponed in 1994 and 1995 (including those dealing with community forest royalties), may constitute a veritable mosaic which can baffle even a trained lawyer to interpret, 'for no one is in a position to predict the type of menu that the administrative "kitchens" will produce tomorrow in those matters'.<sup>18</sup> Such a legislative environment provides unfettered avenues for discretionary and opposing interpretations by literate community members, local elite, and State bureaucrats. In such a system the discretionary interpretations of each individual become substitutes for the law, and it can be posited that everyone is at one time or another breaking the law. Ironically, a World Bank study on the legislative process in Cameroon once concluded that 'economic agents are never certain of the exact scope, precise meaning or real impact of new legislation'.<sup>19</sup> A preponderant factor which militates in favour of such uncertainty is a thumping regulatory environment, a form of 'legislative inflation, that is, too many laws chasing too few practical ideas'.<sup>20</sup>

### 3. The Concept of 'Community' in Wildlife Management

It may be well at this point to examine the nebulous concept of 'community' as it pertains to resource management devolution in Cameroon. This examination is underlined by the fact that recently, the Minister of Environment and Forests intimated that one of the hurdles which accounts for the present implementation morass in which community forests provisions of the new law are heaped, is the absence of a clear-cut definition of the word 'community'.<sup>21</sup> This assertion has been fuelled from within and without the Ministry. In the Ministry, it represents a last dish effort by a conflict of interest-ridden bureaucracy to castigate community participation (which entails divesting of interests) in the management of 'their' huge estate as an unworkable enterprise. Out of the Ministry, it is the handy work of some projects and NGOs who have unfortunately, mechanically interpreted their inability to constitute stake-holder groups for the purpose of managing natural resources as resulting from the legislator's failure to define 'community'.

<sup>18</sup> Ngwasiri, C. N., Land Tenure and Resource Access within some WWF – CPO Conservation Sites: An Analysis of the legal context and Traditional Tenure Systems, Consultancy Report submitted to WWF – Cameroon, Yaounde, 1998, pp. 110 and 111.

<sup>19</sup> Cited by Ngwasiri, Land Tenure and Resource Access, *op.cit.*, p. 111.

<sup>20</sup> Fisiy, F. C., Power and Privilege in the Administration of Law: Land Law Reforms and Social Differentiation in Cameroon, African Studies Centre, Netherlands, 1992, p. 3.

<sup>21</sup> Ministry of Environment and Forests, Report of the National Seminar on Community Forestry, Yaounde, 29-30 November 1999.

In both the new forestry and wildlife law and the wildlife implementing decree, the terms ‘village community(ies)’, ‘community’, ‘riparian community’, ‘one or many communities’ and ‘the members of the said community’ are used interchangeably as if the import is the same. The legislator has been faulted<sup>22</sup> for failing to provide guidelines as to how to identify or describe such a community. Does ‘a community’ include strangers (non-indigenes), women, youths or socially stigmatised groups such as the Baka pigmies? Does it mean a village, tribe, ethnic group or clan? Does it assume a traditional, politico-administrative or geographical dimension? But it is not true to say that the lawmaker does not provide at least minimum guidelines to indicate what a community means. First, forests and wildlife zones that can form the object of a management agreement are those situated at the periphery of one or many communities and in which the population has been exercising some activities in it. Second, all components of the community must be consulted in this endeavour. Third, a community hunting zone is awarded as a matter of priority to the nearest riparian community.<sup>23</sup> The latter guideline is most likely to be a problematic issue in the devolution process, for traditional tenure systems are not necessarily parallel to or dependent on geographical locations or proximity. Applying this definition may involve complete disregard of local perceptions of resource use and socially recognised principles of resource access.

It is important to put this definitional void in its proper perspective in the light of the policy underpinnings which seem to explain the legal vacuum. The fact that an attempt to define ‘community’ would involve admitting certain shareholders and excluding others, and the fact that the Forestry and Wildlife Regulations were enacted in the politically volatile mid 1990s, seem to explain the legislator’s reticence. The search for the definition of a community may, therefore, be as long and tortuous as the search for the definition of ‘minorities’ introduced by the 1996 Constitution. Apart from the possibility of fuelling the embers of tribal division and hatred, the State’s attempt at forging national integration of the disparate two hundred and fifty tribes that make up the Republic of Cameroon may be eroded by any exclusionary definition. By making reference to ‘all components of the community’ or ‘all members of the community’, the legislator opted for ‘operational social units’ of stakeholders which defy social, ethnic or tribal stigmatisation. The involvement of influential local administrative authorities (Prefects and Sub-Prefects) at the inception stage of the procedure points to the fact that the State has transferred the task of galvanising local populations into stakeholders groups to them. After all in some cases, definitions in themselves have no meaning unless they can be translated into social realities.

<sup>22</sup> Brown, Principles and Practice of Forest Co-Management, *op.cit.*, p. 23 et seq.

<sup>23</sup> The wildlife decree, sections 25-28.

Whatever form the operational social unit takes and whosoever are the stakeholders involved, the law obliges these institutions to prove their existence to the government. This requirement that the community must constitute a legal entity recognised by Cameroonian law has attracted vociferous lampooning from commentators who hold that traditional institutions already possess attributes of a corporate entity.<sup>24</sup> What section 28 of the Forestry and Wildlife Decrees, respectively, require is that *de facto* traditional entities could be transformed to *de jure* entities, thus transforming traditional or social legitimacy into legal legitimacy. This submission is buttressed by the fact that their constitutions and internal regulations could be drafted in a manner, which accommodates their traditional realities. The arguments against administrative recognition are based on some rebuttable presumptions; that the essentially acephalous forest regions in Cameroon possess strong and well organised traditional institutions which act equitable and there is a congruence of interests, and that the usurpation of community interests by some elite does not reflect a societal malaise which can afflict the so-called traditional institutions. By making reference to broad-based consultations involving 'all components' of the community, the lawmaker opted for an inclusive rather exclusive entity. Such inclusiveness in the character of the legal entity is sanctioned by the local Prefects who can also settle disputes relating to membership and boundaries by virtue of their pivotal position as leaders of the Land Consultative Board upon which community forests and community hunting zones are found.

From a legal point of view, both the 1974 law on the organisation of councils and the 1977 law on the organisation of chieftaincy fail to recognise village councils and traditional institutions as public law corporate bodies or *personne morale de droit public*. Section 7 of the 1974 law reserves this attribute only to local councils and the same is true of the 1996 Constitution which states in Article 55(2) that: 'Regional and local authorities shall be public law corporate bodies. They shall have administrative and financial autonomy in the management of regional and local councils. They shall be freely administered by elected bodies'. It is therefore important to distinguish between *de facto* corporate bodies or *personne morale du fait* sometimes attributed to traditional institutions as auxiliaries of the administration on the one hand, and the concept of public law corporate body or *personne morale de droit public* attributed to councils and regions.

It is even most doubtful if the absence of a definition of community and the requirement that such a stakeholder group must show prove of its existence to the government are the major obstacles to the development of participatory resource management in Cameroon. After all in countries with positive experiences such as Namibia, not only is the notion of

<sup>24</sup> *Diaw, M. C.*, Anthropological Institutions and Forest Management, Report of WWF Cameroon on Community Based Forest Management, Nkongsamba, September 1997, p. 72, *Ngwasiri*, Land Tenure and Resource Access, p. 118, *Brown*, Principles and Practice of Forest Co-Management, p. 25 et seq.



community not defined but the government obliges interested local stakeholder groups to constitute associations (some of which because of internal squabbles take about three years to be constituted) known as ‘conservancies’ for the purposes of recognition.<sup>25</sup> It is submitted that the subsequent approval of village by-laws by the District Council in the Duru-Haitemba forest in Tanzania is tantamount to a form of recognition by a local authority, the difference being that this approval is not a condition sine qua non for the commencement of the devolution exercise.<sup>26</sup> The problem in Cameroon is not necessarily that of definition than of the pervasive influence of powerful commercial loggers, nonchalance of State bureaucrats committed to hegemonic paradigms and ‘result hungry’ projects adept at mechanically heaping their lack of tenacity in rural advocacy and conflict management onto the government.

#### **4. Community Rights in Wildlife Resources**

Cameroon possesses vast and diverse species of wildlife resources (popularly known by the pidgin word ‘beef’), and is said to be one of the richest countries in Africa in terms of biological diversity.<sup>27</sup> There is no use belabouring the point that wildlife is very important to local populations. In fact, in some areas it is inextricable intertwined in their daily lives. Apart from furnishing communities with a greater part of their protein requirements, it provides a much-needed avenue for them to supplement their meagre income from agricultural activities. To the Baka pigmies, hunting may be regarded as a fashionable way of life. In the first part of this section of the paper, an attempt would be made to articulate the institutional context in which this dependence operates, before charting the practical realities as observed in the field. The section closes with possible suggestions for legislative reform.

##### *4.1 Theoretical Conception of Traditional Hunting Rights*

The importance of these analyses lies in the fact that the way communities perceive and exercise their traditional hunting rights necessarily has an impact on the manner of managing wildlife sustainably. Traditional hunting is authorised throughout the national territory except in State forests protected for wildlife conservation or in the property of third parties. It is legally defined as hunting done with use of material made of plant origin. It may be

<sup>25</sup> Brian, T. B. J., *La Gestion Communautaire des Ressources Naturelles en Namibie*, IIED Dossier N° 90, 1999, pp. 5, 9-13.

<sup>26</sup> Liz, *Villagers as Forest Managers*, *op.cit.*, p.9.

<sup>27</sup> Gartlan, S., *Biodiversity and Wildlife: Analyses of Critical Natural Resources and Environmental Issues in Terms of Economic Development*, USAID-Cameroon: Yaounde, p. 1.

forbidden or regulated where it endangers the conservation of certain animals and in protected areas where its exercise is subject to special regulations taking into consideration the management plan of the area. The animals that can be hunted are small reptiles, birds and other class C animals,<sup>28</sup> the list and quota of which is fixed by the Minister of Environment and Forests. The products of traditional hunting are exclusively meant for subsistence consumption and can under no circumstances form the object of a commercial transaction.<sup>29</sup>

#### 4.2 Practical Application of Traditional Hunting Rights

It may be well at this point to state that the concept of traditional hunting right as conceived by the Cameroonian legislator, is unrealistic and completely in dissonance with prevailing realities. This view is shared by other commentators.<sup>30</sup> Even a cursory examination reveals that the use of the home-made 'Dane gun' and steel wire cable in hunting is almost universal. Also, almost all over the country, the commercialisation of 'bushmeat' or 'beef' by members of communities exercising their traditional hunting right is a common form of activity. This is done either directly by the hunters themselves, or indirectly through urban elite, 'pepper soup' sellers and *buyam-sellams* (businessmen, mostly women), who sometimes provide the necessary means such as guns and cartridges. The animals hunted and sold include elephants, buffaloes, deer, antelopes, panthers, chimpanzees, gorillas, civet cats, porcupines, hedge-dogs, monkeys, mushroom, honey, caterpillars and snails. The sale of these animals, some of which are by law deemed protected species, is becoming very rampant in the urban centres, including Yaounde, the capital city. Yet all these activities are by the tenor of the statute book deemed to be patently illegal. Ridiculously, the State compounds this deplorable policy ambivalence by variously collecting the business licence tax (*Impôt Libérateur*) from these *buyam-sellams*. It is germane to posit that to declare the most common form of conduct illegal is to make a law which is respected more in its breach than in its observance. In the final analysis such a law constitutes an instrument of indiscipline which benefits neither the State, the communities, nor the over all objectives of sustainable exploitation.

<sup>28</sup> The Forestry and wildlife Law categories animals into three classes, namely, A, B and C. Class A animals are totally protected, class B partially protected and the hunting of class C animals is subject to the respect of conditions laid down by the Minister in charge wildlife.

<sup>29</sup> The Wildlife Law, section 81 and 86, The Wildlife Decree, sections 2(20) and 24.

<sup>30</sup> *Gartlan, Biodiversity and Wildlife, op.cit.*, p. 6, *van der Wal, M., et al.*, Large Mammals of the Dja Reserve: Conservation Status and Threats, The Golden Ark Foundation / IUCN, Yaounde, 1999, p. 8.

Institutional arrangements which supply constraints that lack social legitimacy cannot become effective. First, the prohibition of steel wire cable and Dane guns is particularly frustrating. The procedure for obtaining a gun permit is too cumbersome and costly for the ordinary villager. Even if the permit is obtained, the cost of an imported gun is too prohibitive for them (the cheapest could be about seven hundred thousand (700,000) francs CFA). The procedure to obtain a gun permit, like that of a land title, is a game for the literate, rich and powerful. This is borne out by the fact that most of the regular gun owners are either urban dwellers or retired military officers and civil servants. The situation is further muddled by double signals emanating from the State which in some areas collects taxes from the Dane gun owners but cannot issue the latter the necessary authorisation to buy cartridges. Second, the line between domestic and commercial use, while important in terms of statutory rights, is too tenuous to draw in practice. What, for instance, constitutes personal consumption where a hunter sells a few 'smoked' porcupines to buy medicine? The present policy has wrought a deep mistrust between the communities and the wildlife services, including their cohorts (NGOs and conservation projects). Since it is impracticable or difficult to enforce the law, the principal enforcement activities consist of seizures of meat and arms. Apart from the fact that this begs the development of more 'sophisticated' and insidious methods by the so-called illegal hunters, the latter are hardly prosecuted for these offences as required by law. This act of desperation has been given an added momentum by the creation of a National Committee for the Fight Against Poaching.<sup>31</sup> Although it may be too early to assess the efficacy of this donor inspired institution complete with provincial associates, it is submitted that this committee attacks the symptoms rather than the causes of the ailment. Thus rather than fostering a responsible attitude towards wildlife, the policy-maker persist in doing just the reverse.

It is strongly suggested that the concept of traditional hunting right should be re-defined in the light of the remarks made above. This should include hunting equipment and techniques commonly used in a particular area, while at the same time maintaining destructive practices (such as the killing of fish and animals with poisonous substances) as punishable offences. There is need to consider possibilities of legalising the use of steel wire cable and Dane guns, and introducing small access permits upon the payment of a realistically affordable fee. Such a permit should be managed by the most proximate wildlife service. In the long-term, the objective should be to group such small permit holders into associations having elements of self-governance and in which rules are established and compliance is enforced by the communities rather than by an outside bureaucracy. The enforcement of the rules of the organisation must be backed up by the local wildlife service. The importance of dual enforcement lies in the fact that it is a mutually reinforcing process. The wildlife service is scandalously in dire need of personnel and resources to monitor the activities of hunters. There is a higher probability that social sanctions and the omnipotence of 'their

<sup>31</sup> Prime Ministerial Order N° 082/PM, of 21 October 1999.

gods' will ensure that a rule infraction will hardly go unnoticed and unsanctioned. More so, such associations could be of invaluable assistance to the local wildlife service by identifying and reporting the presence of 'stranger hunters' within their territorial boundaries.

## 5. Community Benefits from the Exploitation of Wildlife Resources

The word 'benefit' is used here widely to denote any advantage that accrues to riparian communities from commercial hunting and protected area activities. Protected areas are included because conservation has certain features that may not be attractive to local populations; it takes a substantial chunk of available and valuable resources out of the immediate reach for consumption and it may not yield benefits both in the short and long-run. In the near future the situation could become more contentious because the 1994 law earmarked thirty per cent (30%) of the national territory for classification as the permanent forest estate.<sup>32</sup>

### 5.1 *Benefits from Commercial Hunting*

In spite of the innovative 'community friendly' approach adopted in 1994, the law failed to allocate a certain percentage of hunting fees for the development of local communities. Yet these hunting activities can be very lucrative especially in the northern parts of the country.<sup>33</sup> The wildlife decree surreptitiously introduced the idea of equitable sharing of the proceeds from wildlife exploitation, but such contribution for the realisation of socio-economic infrastructure for the benefit of communities is limited to instances where exploitation is done by a hunter guide licence or *licence de guide chasse*.<sup>34</sup> More than four years after the enactment of the wildlife decree, it is only recently that the Minister of Environment and Forests fixed the fee at ten percent (10%) of the tax collected from hunting zones leased to professional hunter guides.<sup>35</sup> The legal validity of this fee is not questionable because it represents an internal redistribution of tax benefits which does add any additional fiscal burden on the licensee.

<sup>32</sup> Section 22. The national forest estate in Cameroon is divided into permanent and non-permanent forests. Permanent forests are lands used solely for forestry and/or as a wildlife habitat. Non-permanent forests are forest lands that may be used for other purposes than forestry (section 20 of the new law).

<sup>33</sup> Gartlan, Biodiversity and Wildlife, *op.cit.*, p. 10.

<sup>34</sup> The Wildlife Decree, s. 51.

<sup>35</sup> Ministerial Service Note N° 2978/MINEF/DFAP/AC, of 14 October, 1999. Councils also receive forty percent (40%) of this tax, known in French as *taxe d'affermage des zones cynégétiques*.

The situation in the field remains virtually unchanged and communities do not appear to be receiving any fee yet. Certain problems need to be resolved. First, the new model form of concessionary agreement or *cahier de charges* which may define the modalities of payment has not been officially approved. Second, it is not clear who will receive and manage this money on behalf of the communities judging from the murky cesspool in which forest royalties are presently heaped.<sup>36</sup> The decree does not provide any guidelines. Third, the money cannot be treated in the same way like community forest royalties because the relevant texts deal with fees from forest exploitation. A Ministerial Service Note can not amend previous regulations so as to put community wildlife fees in the same category as timber royalties. Even if the principle of existing custom were to warrant such a practice, the proper thing to do would have been to expressly merge the management of community timber and wildlife royalties. The prevailing atmosphere is devoid of practical policy coherence.

There is need to amend the wildlife regulations to institute a veritable equitable benefit-sharing mechanism. The payment of tax royalties to local populations should be an obligation wherever and in whatever form of concessionary covenant wildlife is exploited. Communities could be obliged to devote a certain percentage of these fees to compensate locally recruited guards to monitor and report 'stranger' poachers to the local wildlife service. This might be the only way out if efficiency, equity and transparency are the overall objectives. Also, the designation of the mayor as head of the committee charged with the management of community royalties should be seriously reconsidered. Under the present political and administrative set up of the country, the mayor could be said to be unjustly imposed upon the communities. He is the product of a list system, which implies that the future mayor cannot be identified by the electorate at the preliminary stages of the election. Apart from the fact that independent candidates are not permitted, the subsequent voting and removal of the mayor from amongst the elected councillors is meddled upon by the national party hierarchy. In one way or the other, therefore, he must receive the blessing of the national political process. The inherent danger here is that not only may his actions be politicised, but also his allegiance to the electorate may be marginal.<sup>37</sup>

<sup>36</sup> *Egbe, S. E.*, The Range of Possibilities for Community Forestry Permitted within the Framework of Current Cameroonian Legislation, Consultancy Report Submitted to the Community Forestry Development Project, Yaounde, 1998, p. 10 et seq., *Milol, C. A.*, Impact de la Fiscalité Décentralisée sur le Développement Local et les pratiques d'utilisation des Ressources Forestières au Cameroun, Rapport Final, Yaounde, 2000.

<sup>37</sup> For a more detailed discussion, see *Momo, B.*, Réflexions sur le système communal Camerounais: contribution à l'étude de la décentralisation territoriale au Cameroun, *Juridis Info* N° 24, Octobre 1995, pp. 81-92.

## 5.2 *Benefits from Protected Areas*

The wildlife regulations make provision for the protection of the interests of populations before, during and after the establishment of the protected area. Since the creation or extension of a protected area may impinge upon the customary right<sup>38</sup> of the local population, the law adumbrates that the temporary or permanent suspension of this right must be done in consonance with the cardinal principle of expropriation by reason of public interest, that is, compensation.<sup>39</sup> Section 5(2) of the wildlife decree specifically enunciates that the protected area instrument can only be enacted after indemnifying individuals whose rights have been infringed by such an operation. These laudable provisions have hardly been applied because of some practical difficulties. First, it may be difficult, if not impossible, to quantify the customary rights of communities so as to determine the compensation due them. Second, the wildlife regulations make recourse to the 1985 law on expropriation as far as the conditions and procedure of compensation is concerned. The combined effect of the 1974 and 1976 Land Ordinances and the 1985 law on expropriation is that communities can only be compensated for the loss of their investments such as crops found on the land which is the object of expropriation by the State. Compensation for the value of the land is tied to a land certificate, which can only be obtained through a costly, long and cumbersome procedure. In fact in the rural areas, only about three percent (3%) of the lands are registered as against about eighty percent (80%) in some towns, thus confirming allegations that the real beneficiaries of the 1974 and 1976 land reforms are the educated elite and town dwellers.<sup>40</sup> And as if this were not enough, the last scale guiding compensation for crops was made in 1982. It is thus outdated and out of touch with market realities. The corollary is that where the State is so minded to pay compensation (often done as an impulsive reaction to the agitation of the victims), very derisory amounts are dished out to those concerned.

The broader repercussion of this State ambivalence is that the seed of discord is sowed between the protected area authority and the community. This is further exacerbated because there are hardly any demarcated boundaries and management plans, which take the interests of communities into consideration, contrary to the provisions of the wildlife

<sup>38</sup> Logging or customary right is defined by the law as 'the right, which is recognised as being that of the local population to harvest all forests, wildlife and fisheries products freely for their personal use, except the protected species'.

<sup>39</sup> The controversial Chad-Cameroon Pipeline Project is presently enmeshed in this compensation imbroglio. NGOs have been very active in deriding the payments and the occult bureaucracy involved.

<sup>40</sup> *Ngwasiri, C. N.*, *Advocacy for Separate Land Legislation for the Rural Areas of Cameroon*, PVO - NGO/NRMS Cameroon Publication Yaounde, 1995, p. 3.

regulations.<sup>41</sup> And as if to add insult to injury, the law forbids hunting in so-called buffer zones in the same way and to the same extent as in the protect areas.<sup>42</sup> The authoritarian character of this stipulation constitutes a flagrant betrayal of the forward – looking though timid path charted by the new law. This betrayal is also underlined by the failure of the legal framework to make allocation for a certain percentage of protected area access fees to be injected into the local economy. Such abject neglect gives the protected area the status of a territory to defend by military style staff wearing uniforms and carrying arms. The status quo of confrontation and lack of confidence inherited from colonial times continues unabated. There is no wonder then that these areas are generally regarded as zones to be taken advantage of through poaching when and where the need arises.

It is a hazardous venture to ponder on how the policy – maker expected co-operation from these unjustly treated communities, who often have to incur the wrath of marauding animals.<sup>43</sup> There is an urgent need to revisit the existing protected area policy. The failure to adopt an integrated policy involving communities and their socio-economic environment does not instil a positive sense of sustainable use but accounts for their complaisant attitude verging on connivance with illegal hunters who provide them with meat. Possible benefits from hunting may only have an effect if they surpass the value of the so-called ‘illegally’ acquired meat. It is also important to consider possibilities of devolving management of these areas to local Regions and Councils for purposes of efficiency.

## **6. Community Hunting Zones**

This is the greatest innovation introduced by the 1995 wildlife decree. Unfortunately, community-hunting zones (CHZ) have not generated the euphoria and excitement common in the timber sector. The reasons for the marked difference in reception by the public are easily explicable. First, the forestry portions of the 1994 law generated some of the bitterest arguments in Cameroon’s legislative history where even traditionally strong party allegiances faltered. The House Members put up a most spirited fight against the government and the divergent interests of its external cohorts, the donor community and commercial interests groups. Parliamentarians from forest regions proved to be particularly active,

<sup>41</sup> The new Law, sections 26 and 29(1), the wildlife decree, sections 5(3) and 11(2). See also, *Parren, M.*, Review of Nature Conservation Projects in Cameroon during the last Decade: Nature Conservation Projects in Perspective, Wageningen, The Netherlands, 1997, p. 6.

<sup>42</sup> The new Law, section 104.

<sup>43</sup> For example, between the 20th and 30th of September, 1993, hundreds of elephants, some from protected areas and some reportedly from the Central African Republic, attacked and destroyed over 500 hectares of food crops and killed four people, leaving a specter of famine looming over a population of about 22,000 people, Cameroon Tribune N° 5436, Monday, 27 September 1993, p. 2.

perhaps much to the amazement of their counterparts from the savannah and northern areas who in the midst of the heated debates may not have noticed the absence of the equivalent of community forests in the wildlife section of the law. Second, dating back to the period after independence and even beyond, timber exploitation has always attracted much attention, perhaps because of the huge sums of money involved and the visibly noticeable exploitation activities, which hardly leave local people indifferent. In fact, Pénélon, describing the people of the eastern part of the country, has stated that. 'even poorly or badly informed rural people are not unaware of the economic importance of timber'.<sup>44</sup> It is therefore no accident that the first attempt at legislative harmonisation after the Referendum of May 20, 1972, which united Anglophone and Francophone Cameroon, was in this area.<sup>45</sup> The importance of this lucrative resource has recently been inflamed by the payment of timber royalties to communities and local councils. Third, the pervading influence of the donor community has been lopsided; the overriding interest has been timber to the detriment of other important resources such as wildlife.

The cumulative effect of these factors may account for the relatively low-keyed attention community hunting zones have received. This is not tantamount to saying that activities in this new domain are virtually absent. In the Yokadouma and Lomié (Djaposten) areas in the East and the Poli Subdivision in the North, projects are assisting communities to acquire hunting zones.<sup>46</sup> The question that may be asked is that what has stalled the practical development of community hunting zones more than four years after their legal birthday? This will be answered by describing these zones and attempting to verify if the enabling environment warrants their acquisition.

### 6.1 Description of Community Hunting Zone (CHZ)

The wildlife decree defines a CHZ or *territoire de chasse communautaire* as a hunting territory of the non-permanent forest estate, which is the object of a management agreement between the riparian community and the wildlife service. A management agreement is defined in the same text as a contract where by the wildlife service confides to a community a hunting territory of the communal lands, with a view to its conservation and the sustainable use of its wildlife resources in the interest of the said community. The agreement must precise the limits of the territory and the rights and obligations of each party, the laws and regulations applicable, the practical methods of sustainable exploitation, and the ultimate

<sup>44</sup> Pénélon, A., Community Forestry: It may be indeed a New Management Tool, but is it Accessible? Two Case Studies in Eastern Cameroon, IIED Forest Participation Series N° 8, 1997, p. 10.

<sup>45</sup> The first forestry law of the United Republic of Cameroon was enacted on May 22, 1973 (L'Ordonnance N° 73/18, Fixant le Regime Forestier National)

<sup>46</sup> *Egbe*, Communities and Wildlife Management, op. cit., pp. 23 - 24.



destination of the products or results flowing from the exploitation. In these endeavours, the communities are entitled to receive the gratuitous technical assistance of the wildlife service in the definition and implementation of the agreement.<sup>47</sup>

Forests that can be the object of management agreements are those situated at the periphery of one or many communities and in which their populations have been exercising some form of agricultural or hunting activities in it. While the agreement is approved on the part of the administration by the Prefect where the zone is within the limits of a Division, by the Governor where it criss-crosses two Provinces, and by the Minister of Forests where it is found between two Provinces, priority for acquiring this area is given to the nearest riparian community. The total surface area of a CHZ must not be more than five thousand (5,000) hectares and the zone must be free of any exploitation title or concession.<sup>48</sup>

To prepare for this venture, the community must designate a representative after consultations between the members during a meeting presided by the local administrative authority and attended by representatives of the wildlife service. During this meeting, the minutes of which must be signed by all those in attendance, the objectives assigned to the hunting zone and its limits must be clearly defined. The application must consist of the following documents:

- the name and copies of the constitution of the community;
- a map and the objectives assigned to the territory;
- a copy of the minutes of the consultation meeting; and
- a copy each of the papers which certify to the aptitude of the community's designated representative.<sup>49</sup>

## 6.2 Appraisal of Legal Framework

The first remark is that this is a word verbatim reproduction of the provisions of the now amended forestry decree dealing with community forests. Curiously, even this repetition is haphazard and half-hearted. Many important issues are timidly mentioned and non-articulated. The result is that there is no well-defined procedure by which communities can apply for and acquire a CHZ. The various stages and the relevant authority to whom the application document is submitted for consideration and onward transmission remains an enigma. This is compounded by the fact that unlike the forestry decree which states that the agreement shall be signed on behalf of the government by the Prefect, Governor or Minister, as

<sup>47</sup> The wildlife decree, section 2(2) and (19), 23 and 25(1).

<sup>48</sup> *Ibid.*, sections 25 and 26, the forestry decree, s. 27 (4).

<sup>49</sup> *Ibid.*, sections 27 and 28.

the case may be, the wildlife decree provides that these authorities shall approve (*approuvée*) the same. Does this imply that the agreement is signed by some other authority before being approved? If the answer is affirmative, who is the individual who signs first? What is the extent of the free technical assistance required from the wildlife service? Does this include the conducting of a wildlife inventory in collaboration with community? Is the maximum area of 5,000 hectares prescribed for CHZs appropriate for sustainable wildlife management? Experiences from field projects point unambiguously to the fact that these issues need serious re-examination, which should culminate in the establishment of a wholesome piece of legislation.

From a more global perspective, the Cameroonian attempt to involve hitherto disenfranchised communities in the management of wildlife resources needs a serious overhaul. Like in most other French-speaking African countries,<sup>50</sup> the devolution process in Cameroon has been essentially 'cosmetic'. The State remains the *de jure* owner of the resources charged with conflict resolution (including prosecution of offenders) and the manner of exploiting the same. It retains exorbitant powers of suspension or annulment of the unilaterally drafted management agreement with the communities. In fact, the local populations appear to be tenants at sufferance, subject to the whims and caprices of overbearing State bureaucrats whose ability to act fairly and dispassionately leaves much to be desired. The reasons for this State ambivalence are many and varied. First, the concept of participatory management is a matter of recent pedigree in the country, more often than not at the behest of foreign donors. It is therefore not the brainchild of the government, especially coming at a time when the State is in dire need of scarce foreign currency from the exploitation of these very resources. Second, after the Referendum of May 20, 1972, which saw the birth of the United Republic of Cameroon, the country under its then President Amadou Ahidjo, became a highly centralised unitary State and the preservation of national unity through hegemonic resource access policies was elevated to an art of statecraft. The institutional and administrative set-up developed and perfected over the years cannot easily be dismantled in a twinkle of an eye. The situation is further compounded by the lack of preparedness of staff impregnated with an authoritarian ideology of resource management. The 1993 drastic slashes of the salaries of State bureaucrats accompanied by the devaluation of the CFA franc a year later complicated matters further by opening avenues for possible conflicts of interests which does not augur well for transparent decentralisation of resource management. The consequence is that the devolution process, as it exists in Cameroon today, bears little resemblance to the experiences obtained in countries such as Zimbabwe, Tanzania and Namibia.<sup>51</sup>

<sup>50</sup> Bara, G., *Où va la participation? Expérience de l'Afrique de l'Ouest Francophone*, IIED Programme Zones Arides, Dossier N° 87, London, 1999.

<sup>51</sup> These experiences were discussed in the introductory part of this paper.

## **7. Conclusion: The Role of Administrative Authorities in the Devolution Process**

Because of the multiplicity of actors and stakeholders involved in the decentralisation of forests and wildlife management, the place of administrative authorities, especially local ones, is increasingly becoming questionable. Their pivotal role in the process cannot be belaboured, for they are primarily charged with the implementation of the new laws and policies to meet fresh aspirations. But their legendary inaptitude, exacerbated by an acute lack of resources, both material and human, has rendered most of them redundant and pushed some to the unenviable position of passive spectators. Their training has not prepared them to respond actively to the prerequisites of this new aspect of natural resource management. The overall tendency has been for projects and NGOs to sideline or even ignore them in their attempts to foster the new paradigms and reach out to the communities.

The casualties of this trend which appears to be gathering unstoppable momentum are many and varied. First, a great and unique opportunity is being missed to put the State at the centre stage of events and reconcile it with its hitherto abandoned riparian communities. The new method degrades the administration which, unlike projects and NGOs, has both a permanent stake and is a permanent factor in the process. The corollary can be that some communities in project areas may tend to regard the new laws and policies as emanating from projects and NGOs, or at best that implementation is due to their aggressiveness. These are distorted forms of confidence and institutional capacity building more often than not cheaply espoused, and the aftermath of the project and NGO activity holds grim reality for these very communities. Second, if lack of training in the new paradigms is partly to blame for their inability to actively participate, then it is contradictory that they are not being brought 'over board' through field training. It is true that conflict of interests may generate some resistance to change, but this does not justify an attempt to sideline them. The reason behind this suggestion is that it forces the various stakeholders to establish objectives together, and then develop a programme to meet those objectives. District heads, Sub-divisional Officers and Prefects should be particularly targeted for rural animation as the settlement of disputes are integral parts of their official duties. Collaboration and involvement should not be limited to making recourse to them when there is conflict. As influential members of the Land Consultative Board, which manages national lands, their role should be seen to be preponderant. The advantage here is that communities tend to appreciate the evolving attitude of the State towards them as traditional custodians of forests and wildlife resources. In the long run, it is hoped that this may dissipate the prevailing atmosphere of competing for control of resources, essentially for immediate and unsustainable exploitation purposes.

well as the erection of autonomous and democratic state structures. It is disputed, however, whether the latter may be characterized as a right.

Since 1995, the Sri Lankan government submitted five proposals for constitutional amendment. Each of them – and especially the latest, dating from August 3, 2000 – provides several checks on secession. Therefore, it is extremely doubtful whether the proposed establishment of a "Union of Regions" will contribute to conflict settlement. The promised rights of autonomy are no adequate substitute for an independent Sri Lankan Tamil state. Additionally, one has to be prepared that the constitutional reform which has been initiated by the Sri Lankan government is likely to run aground already due to the resistance of the opposition and the Sri Lankan Tamil guerrilla.

### **The Legal Perspectives of Local Community Participation in Wildlife Management in Cameroon**

By *Egbe Samuel Egbe*, Yaounde

The participation of hitherto disenfranchised local populations in the management of natural resources is an issue commonly espoused in contemporary development philosophy. Different countries with varying degrees of policy reformulation have embarked upon this rather novel aspect of good governance and equity. In Cameroon, where for a long time hegemonic paradigms were elevated to an art of statecraft management, resource management devolution even constitutes a donor community conditionality for the disbursement of Structural Adjustment Loans (SAL). This culminated with the adoption of a new forestry and wildlife law in 1994, which has as one of its primordial objectives the involvement of local communities in the management of the country's huge natural resources.

However, the enactment of a new policy which apparently lacked a domestic constituency, the continued existence of a highly centralised administrative machinery and staff impregnated with authoritarian management styles, coupled with pressure from different interests groups, meant that the decentralisation exercise would be a difficult and tortuous one. In such an atmosphere of strong conflicting interests, the potentials are real that devolution could become an exercise in futility. The thrust of this paper is to examine the constraints and opportunities available in the reform process, all in an attempt to engender a more forward-looking integrated wildlife management policy.