LEGAL FRAMEWORK FOR THE REGULATION OF ACCESS TO, AND MANAGEMENT OF PASTORAL RESOURCES IN CAMEROON

Implications for Pastoral Livestock Production
(Points of Interest of Pastoralists of the North West Region)

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LIST OF ACRONYMS

CBOs  Community Based organizations
DO    Divisional Officer
GDP   Gross Domestic Product
LNRO  Land and Native Rights Ordinance
MBOSCUDA  Mbororo Social and Cultural Development Association
MINEPIA Ministry of Livestock, Fisheries and Animal Industries
PASOC Support Programme for the Structuring of Civil Societies in Cameroon
RDC   Rural Development Consultancy
SDO   Senior Divisional Officer
SNV   Netherlands Development Organization
SODELCO Socio-cultural Association for Livestock Breeding and Development in Cameroon

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INTRODUCTION

Livestock production accounts for about 12% of Cameroon’s primary sector GDP and represents the main source of income for more than 30% of the country’s rural population\(^1\). It also contributes enormously in improving the food security situation of the country and provides raw materials for other industries such as leather transformation and crafts.

Cameroon’s livestock production system is essentially extensive with pastoralism accounting for about 95% of cattle, goat and sheep production. More than 2.6 million Cameroonians depend directly on pastoral livestock production for their living\(^2\). The major production regions are the North West, West, East and the three Northern Regions.

The increasing demand for pastoral livestock products (such as meat and milk) and favourable natural conditions render the sub sector very strategic within the country’s economy. Also, Cameroon’s geographical position that offers the opportunity for regional and international economic integration is a plus for the development of the sub sector.

Despite these enormous potentials, the improvement of pastoral livestock production and productivity has remained rather unsatisfactory. Major constraints include:

- An acute pressure on pastoral resources leading to poor access for pastoralists, conflicts between pastoralists and other categories of users (mainly farmers), and the continuous depletion and degradation of the resource base;
- Various animal diseases that lead to low productivity, loss of animals through death, high cost of prevention and treatment, and compromise of exportation possibilities;
- Physical and institutional barriers to pastoralists’ access to markets such as poor market infrastructure, inadequate market information flow and poor organization of producers.

Because pastoral livestock production is an extensive system characterised by high mobility, accessing land and related pastoral resources (water and

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\(^1\) Source: National Institute of Statistics, Yaounde

\(^2\) Source: Idem
pastures) remains the main challenge faced by the pastoralists. This challenge is aggravated by the seasonality of the availability of water and pastures in officially designated grazing zones which are mostly marginal lands. Other threats to proper land access for pastoralists include the continuous expansion of sedentary crop farming, the creation of large plantations leading to permanent displacement of pastoralists, and the invasion of grazing land by obnoxious plants species.

Access to, and the management of pastoral resources are regulated mainly by the land tenure legislation and related legal instruments. However, Cameroon’s current land tenure legislation has a more or less blanket approach to land access and management, and is consequently insensitive to the specific needs of the pastoral livestock sub sector.

Since 2009, the Ministry of Livestock, Fisheries and Animal Industries (MINEPIA) has embarked on a process to elaborate a pastoral code for Cameroon. This code is expected, among other things, to supplement the present legal framework for the management of pastoral resources in the country. Since the announcement by MINEPIA of the intention to elaborate this pastoral code, MBOSCUDA and some of its partners have been carrying out a number of advocacy actions aimed at ensuring that the code effectively takes into consideration and properly addresses the specific needs of pastoralists especially as concerns their resource access and control rights.

Specific actions carried out so far include:

- An information and sensitization campaign to inform and prepare the pastoralists of the North West Region for their effective participation in the pastoral code elaboration process;
- Sensitization of pastoralists and other stakeholders on the existing regulatory framework in order to facilitate the assessment of its strengths and weaknesses vis-à-vis the needs of pastoralists and other stakeholders;
- Stimulation of the structuring of the pastoralists of the region into CBOs (divisional associations and a regional federation) through which the pastoralists will be able to properly engage with policy/decision makers during the pastoral code elaboration process and subsequently be represented in public debates concerning pastoral livestock and related issues.
During the implementation of these actions, the Netherlands Development Organization-SNV has been MBOSCUDA’s main technical partner providing technical support and capacity-building. Rural Development Consultancy (RDC) has also been contracted to carry out specific activities within this initiative. Financial support has been provided by the EU-funded Support Programme for the Structuring of the Civil Society in Cameroon (PASOC).

The objectives of this booklet are to further enhance stakeholders’ understanding of the current legislation regulating access to, and the management of pastoral resources, and to capitalize the implications of this legislation to pastoral livestock production from the pastoralists’ standpoint.

It is expected that the content of this booklet will serve as a checklist for subsequent advocacy actions aimed at ensuring the effective consideration of pastoralists’ points of interest in the pastoral code. At the end of the pastoral code elaboration process, the content of the pastoral code could be evaluated against the points of interest recorded here in view of assessing the effectiveness of the advocacy efforts of the various agencies involved. By facilitating stakeholders’ understanding of the implications of the current legal framework on pastoral livestock production, the booklet will also be useful in increasing sensitivity to pastoralists’ needs during the enforcement of these laws in the field. It is therefore intended for various categories of stakeholders including leaders of pastoralist associations, local administrative, traditional and technical authorities involved in the enforcement of the laws, civil society personnel working towards the improvement of land access and pastoral livestock activities, and decision/policy makers especially those directly involved in the pastoral code elaboration process.
SECTION 1: BACKGROUND OF CAMEROON’S LAND TENURE LEGISLATION

1.1 Colonial Land Tenure Legislation
Before the colonization of Cameroon, land was managed in the country following native laws and customs under the leadership of village chiefs. Official regulations governing land started with the colonization of the country and evolved as follows:

The Grundbuch System: This system was introduced by the Germans when they colonized Cameroon in the late 1880s. The very first formal instrument was an order of March 27, 1888 titled “66th Order concerning the Acquisition, and Loss and the Restrictions on Real Property” empowering the Governor to validate all agreements by which property rights might be acquired in native land. The second was a decree issued on June 15, 1896 titled “All Highest Decree Concerning the Creation, Occupation and Disposal of Crown Land and the Acquisition and Disposal of Landed Property in the Protectorate of Kamerun.” The decree provided for the creation of Land Commissions by the Governor. All land transactions leading to gain or transfer of ownership were recorded in a register called the “Grundbuch”.

Certification of Occupancy: When the British arrive in Cameroon in 1922, they started by studying the German land registration system and later decided to apply the Land Laws of the Southern Provinces of Nigeria (in 1925). Two years later, they reverted to the Land and Native Rights Ordinance (LNRO) which was in force in Northern Nigeria and the Northern half of Cameroon (the Sarduana Province). The LNRO recognized and safeguarded land occupation in accordance with native laws and customs. This led to two types of official land titles both recognized by the administration: titles held by non-natives evidenced by Certificates of Occupancy issued by the Governor (for a period of 99 years) and titles held by natives or native communities resulting from the lawful occupation of land under native laws and customs.

Verification and Registration under French Trusteeship: When the French took over the present French speaking part of Cameroon, they promulgated two decrees on July 21, 1932: the first enacted a procedure for verification and certification of real property rights enjoyed by natives under native laws and customs whereas the second introduced the system of registration of title to land under French Trusteeship.
1.2 Post Colonial/Current Land Tenure Legislation

After independence, the legal instruments put in place by the British and French continued to be applied until July 1974. Official land tenure legislation started in Cameroon with the following land ordinances of July 6, 1974:

- Ordinance No 74-1 to establish rules governing land tenure in Cameroon
- Ordinance No 74-2 to establish rules governing state lands
- Ordinance No. 74-3 to establish expropriation procedures for public purposes and the terms of compensation.

On April 27, 1976, the following decrees were passed to supplement the 1974 ordinances:

- Decree No 76-156 to establish the conditions for obtaining land certificates
- Decree No 76-166 to establish the terms and conditions for the management of national lands
- Decree No 86-167 to establish the terms and conditions for the management of private properties of the state.

In addition to these ordinances and decrees, another decree (No 78/263) was passed on July 3, 1978 establishing the terms and conditions for the management of conflicts over agro-pastoral lands. This decree also creates and attributes functions to the Agro-Pastoral Commission which is responsible for the management of agro-pastoral lands.

These ordinances and decrees, amended and supplemented by decree No2005/481 of 16 December 2005, constitute the current land tenure legislation of Cameroon. This legislation does not recognize land ownership according to the native customary laws and by implication abolishes all titles claimed under customary laws.

1.3 Categorization of Lands according to Current Land Tenure Legislation

In accordance with the current land tenure legislation, land is categorized in Cameroon as follows:

**Private personal land:** This refers to land allocated to an individual or group of individuals evidenced by a land title (or land certificate). Claim of land ownership by any individual or group is legal only if the claim is backed by a land certificate. Lands covered by land certificates can be transferred (through sales, gift, marriage, inheritance etc). This transfer must however be accompanied by a change of ownership to be recorded in the relevant land registry.
**Land covered by final concession**: This is land allocated to an individual or group of individuals for a specific project. Final concession is different from a land title in that its validity depends on the existence of the project for which it has been issued. Examples of projects for which someone can obtain final concession over a piece of land include a plantation and a cattle ranch.

**Private property of the state**: This is any piece of land acquired by the state according to ordinary law, by defluxion or confiscation, or by withdrawal from national land in accordance with Section 18 of Ordinance No 74-2. The land title for this category of land is usually held by a state administrative or technical service and registered in the relevant land registry under the service concerned.

**Public property of the state**: This refers to land set aside for direct public use or on which there is an important public structure or resource. This category includes land such as coast land, water ways, roads, markets, palaces etc.

**National lands**: National lands refer to lands that have not been classified as private or public land. Such lands may be free of any occupation or occupied with houses, farms or plantations, or are being used for grazing. This means that someone can be occupying or using land for many decades, but if the land has not been officially allocated to him, it remains national land.
SECTION 2: LEGAL PROVISIONS FOR THE MANAGEMENT OF GRAZING LAND

2.1 Classification and Administration of Grazing Land
From the categorization of lands presented in Section 1.3 above, grazing land can be classified under national lands in accordance with Article 15 of Ordinance No 74-1. It is therefore administered, like other national lands, by two related structures: Land Consultative Boards and Agro-pastoral Commissions both headed by the Divisional Officers in conformity with Article 17 of Ordinance No 74-1 and Decree No 78/263. The composition and functions of these two structures are summarized as follows:

**Composition and functions of land management structures**

<table>
<thead>
<tr>
<th></th>
<th>Land Consultative Board</th>
<th>Agro-pastoral Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Composition</strong></td>
<td><strong>Chairperson</strong>: Divisional Officer</td>
<td><strong>Chairperson</strong>: The Divisional Officer</td>
</tr>
<tr>
<td></td>
<td><strong>Secretary</strong>: Head of the Divisional Service for Lands</td>
<td><strong>Secretary</strong>: A representative of the Divisional Service for Lands</td>
</tr>
<tr>
<td><strong>Members</strong>:</td>
<td>- The Divisional Chief of Surveys</td>
<td><strong>Members</strong>:</td>
</tr>
<tr>
<td></td>
<td>- The Chief of the village concerned and two notables</td>
<td>- A representative of the Divisional Service for Surveys</td>
</tr>
<tr>
<td></td>
<td>- A representative of the Ministry of Agriculture</td>
<td>- A representative of the Ministry of Livestock</td>
</tr>
<tr>
<td></td>
<td>- The Chief of the Village concerned and two notables</td>
<td>- The Chief of the Village concerned and two notables</td>
</tr>
<tr>
<td></td>
<td>- A grazer or head of the grazing community concerned</td>
<td>- A grazer or head of the grazing community concerned</td>
</tr>
</tbody>
</table>

| **Functions**            | **- Receives applications, inspects land and makes recommendations for the issuance of land titles or concessions** | **- Determines and demarcates farmland and grazing land** |
|                          | **- Allocates land for projects of public interest (such as schools, markets, government buildings etc)** | **- Defines conditions for the use of mixed farming zones** |
|                          | **- Examines and settles land disputes**       | **- Supervises the use of farmland and grazing land** |
|                          |                                                | **- Examines and settles conflicts between farmers and grazers (excluding criminal cases, which are fall within the competence of the Law Courts).** |
2.2 Provisions for Accessing and/or Gaining Control over Grazing Land
The land ordinances of 1974 and decrees of 1976/1978 provide for the following ways of accessing and/or gaining control over portions of national land (and consequently grazing land):

i. Occupants of land before 5\textsuperscript{th} August 1974, date of entry into force of Ordinance No. 74-1, shall continue to occupy or use the said land and may apply for land certificate according to the law. The law does not allow for the issuance of land certificates for the purpose of grazing, but this article implies that a pastoralist who occupied grazing land before 5\textsuperscript{th} August 1974, say with a compound surrounded by a farm, can apply and obtain a land certificate for that portion of land.

ii. Grazing land can be allocated to individuals or groups for grazing purpose by the agro-pastoral commission. It should however be noted that land allocation by this commission is temporal.

iii. A grazer or group of grazers can acquire grazing land through concession. This means that the concerned person(s) can put up a cattle rearing project and ask for final concession. As mentioned earlier, when grazing land is acquired through this method, the validity of access and control over the land will depend on the validity of the project.

2.3 Provisions for the Management of Conflicts over Grazing Land
Conflicts over grazing land (and consequently pastoral resources) are managed in accordance with the provisions of Decree No 78/263 of July 3, 1978, which also puts in place the agro-pastoral commission (see table 1. for its composition and functions).

This decree provides for the following procedures in handling conflicts among the stakeholders of grazing land:

- The Divisional Officer, in his/her capacity of chairperson of the agro-pastoral commission is informed by the more diligent conflicting party.

- The chairperson immediately appoints a subcommittee of inquiry of not less than four members of the commission.

- The subcommittee visits the area of dispute within three days, notes and estimates the value of the damage(s) if any (following tariffs fixed by Decree No 2003/418/PM of 25 February 2003 ), hears the conflicting parties and submits its minutes to the chairperson duly signed by the conflicting parties in addition to the subcommittee members.
The chairperson enters the dispute on the agenda of the commission’s routine meetings or, in case of urgency, immediately convenes the commission. Decisions of the commission are valid only if 2/3 of the commission members are present.

After examining the minutes of the subcommittee of inquiry and hearing the views of members, a decision is taken by vote. In case of a tie, the chairperson has a casting vote.

Decisions taken are recorded in minutes signed by all the members present. The chairperson forwards these minutes to the Senior Divisional Officer.

The decisions of the commission are rendered enforceable by a prefectoral order.

Appeal against the decision of the commission can be made within 30 days from the date of signature of the prefectoral order. The competent authority that receives the appeal is the Administrative Bench of the Supreme Court. The decision of the commission is however final when it concerns a dispute relating to the boundary between farmland and grazing land or the designation of mixed farming areas.

Non respect of the decisions of the agro-pastoral commission or the provisions of Decree No. 78/263 is punishable in accordance with the provisions of the Cameroonian Penal Code (Section R. 370(12))
SECTION 3: IMPLICATIONS FOR PASTORALISTS’ ACCESS TO RESOURCES (Points of Interest of Pastoralists of the North West Region)

3.1 General Considerations
The provisions and enforcement of Cameroon’s current land tenure legislation have serious implications for pastoralists’ access to, and control over land and consequently pastoral resources. These implications correspond to the points of interest requiring careful consideration in subsequent legislative reforms (such as the elaboration of Cameroon’s pastoral code), as expressed by the pastoralists of the North West during interactions with the various institutions working towards the improvement of pastoral resource management.

Three main issues need to be clarified in order to properly understand how the legal and informal land tenure systems in force affect pastoralism in Cameroon:

The British and French land tenure legislations recognized land ownership according to native laws and customs. Because of this upholding of the influence of native laws and customs over land tenure legislation (and other factors such as the complexity of, and high cost of legalization of land ownership), the natives of most villages continue to claim and enjoy land ownership under their native laws and customs with a reasonable degree of security. Pastoralists are considered as non-natives in almost all the villages and their occupation of land without official title is therefore threatened by both legislation and native laws and customs.

Secondly, Pastoral livestock is characterized by high mobility and requires larger expanses of land as well as more flexible access than other activities carried out on national land. Also, the seasonality of the availability of pastoral resources in grazing land complicates pastoralists’ land needs. the fact that the current land tenure legislation has a blanket approach to national land renders pastoralists’ tenure security more precarious.

Thirdly, pastoralists tend to perceive land as a resource to be used to carry out grazing activities rather than an asset to be owned. While other land users approach land with a grabbing spirit (either within their native laws and customs or in the context of official legislation), pastoralists are more concerned with the resources thereof (water and pastures) for their animals. This perception shapes pastoralists’ approach to land and consequently their access to, and control over land and related resources.
3.2 Implications for Pastoral Livestock Production
(Pastoralists’ Points of Interest)

**i. Representation of pastoralists in land management structures**
The compositions of the land consultative board and agro-pastoral commission are largely biased as far as the representation of pastoralists is concerned. The agro-pastoral commission includes only one representative from the pastoralist community (a grazer or leader of the pastoralist community) as against three from the non-pastoralist community (the chief and two notables). On its part, the land consultative board does not include pastoralists at all. Though the current legislation does not recognize land ownership according to native customs, the way non-pastoralist natives have been involved in these two land management institutions indirectly recognizes, upholds and even strengthens their influence while weakening the influence of pastoralists as far as land management is concerned. This renders the pastoralists more vulnerable to land rights alienations.

**ii. Financing of the activities of land management structures**
According to the current legislation, the costs associated with the functioning of the land management structures is supposed to be borne by the budget of the ministry in charge of lands. Unfortunately, Cameroon’s public financial management system is cumbersome making it difficult for the necessary resources to be made timely available to the structures when needed. Also, budgetary allocations for their functioning seem not to be effective. This has rendered the work of the structures ineffective. For example, the agro-pastoral commission is in charge of demarcating farmland and grazing land, but this function has not been effective due to insufficient means.

**iii. Procedures for authorizing access to grazing land**
As mentioned earlier, Decree No 78/263 attributes the function of allocating both farmland and grazing land to the agro-pastoral commission. In practice, the main instrument for the allocation of grazing land is the grazing permit which serves as a temporal authorization to access the land (usually for one year). While some grazing permits are single-handedly issued by officials of the ministry in charge of livestock, some are issued (also single-handedly) by Divisional Officers. The temporal nature and the confusion as to the competent authority in charge of this allocation renders pastoralists access rights more insecure.
iv. **Complexity and cost of obtaining land concession**
The only means of securing land on a long term basis for grazing activities within the current land tenure legislation is through concession. The complexity of the procedure as well as the cost of obtaining land concession under the current legislation render this means of securing land nearly impossible for the majority of pastoralists.

v. **Arbitrary crop evaluation tariffs**
The tariffs for the evaluation of the value of crops damaged by animals as contained in the relevant decree (No 2003/418/PM) do not always reflect the reality. This obliges members of the subcommittee of inquiry to use their discretion. In most cases, they exaggerate the value of the damage thereby causing pastoralists to pay more than they normally should.

vi. **Permanent occupation of transhumance zones, gorges and drinking points by other users**
The current land tenure legislation provides for mixed farming zones such as transhumance zones. Demographic pressure and the cultivation of off-season crops in these mixed farming zones have led to their permanent occupation by crop farmers and other users. Also, farmers often block drinking points and transhumance gorges making it difficult for cattle to circulate without conflict. This renders pastoralists’ access to pastoral resources in mixed farming zones very difficult.

vii. **Corruption and malpractices**
The enforcement of the land tenure legislation is characterized by ineffectiveness and malpractices resulting either from ignorance or corruption on the part of some of the enforcement authorities. This further renders the pastoralists more vulnerable to exploitation and tenure/access rights abuse by corrupt officials.

viii. **Misinterpretation of parts of the land tenure legislation**
The interpretation of some sections of the land tenure legislation seems to be a problem for some of the authorities charged with its enforcement. For example, some members of land consultative boards (notably traditional authorities) have refused to sign for the issuance of land certificates to pastoralists even when the latter have occupied the land before August 5, 1974 arguing that land certificates are not supposed to be issued inside grazing land.
SECTION 4. RECOMMENDATIONS AND CONCLUSIONS

4.1 Recommendations
The following recommendations have been formulated based on the pastoralists’ points of interest and the persisting need to improve on their access to, and control over land and other pastoral resources:

i. In order to increase sensitivity to the specific needs of pastoralists, it will be necessary to advocate for a more equitable representation of farmers and pastoralists in the land management structures.

ii. Considering that the pastoral code will obviously define conditions and modalities for accessing and managing grazing lands, advocating for the consideration of the specificity of pastoralists’ land needs will be useful in securing their land access and tenure rights.

iii. Stimulating and strengthening pastoralist community based organizations (associations, federations etc) will facilitate pastoralists’ representation in public debate on issues concerning their livelihood and enable them to engage more effectively with resource management authorities in view of claiming their collective and individual land access and tenure rights.

iv. Considering the negative effects of conflicts on productivity and the sustainability of the resource base, it will be necessary to upscale and extend the dialogue initiatives already being carried out by some stakeholders in view of stimulating and facilitating dialogue and negotiation among the stakeholders. The ultimate goal of the various interventions should be to transform the persistent conflicts among stakeholders into profitable alliances. This will cause actors to perceive cohabitation not only as obligatory, but also as mutually beneficial, leading to a more peaceful and harmonious access to, and management of the resources.

v. A large proportion of the conflicts between farmers and grazers of the North West Region occur in transhumance zones and result from the non-respect of transhumance orders. Involving the main categories of stakeholders in the planning of access to these zones as part of the dialogue process could help in ensuring a mutual understanding of users’ specific needs as well as more respect of access plans.
vi. In order to enhance the functioning of the land consultative boards and agro-pastoral commissions, it will be necessary to advocate for the allocation of autonomous budgets for these structures. This will enhance their functioning and reduce pressure on poor resource users to sponsor the activities of the structures.

vii. Considering the importance of the mastery of the existing laws to the effective participation of stakeholders in the pastoral code elaboration process, it will be useful to intensify sensitization in the field. Increased awareness of the laws will also reduce corruption and malpractices by some authorities and enhance implementation in the field.

viii. In order to ensure the relevance and consequently proper use of crop compensation tariffs, it may be useful to update these tariffs on a yearly basis. This will ensure that the tariffs are in line with the value of the crops at the time of the evaluation thereby rendering the evaluations fairer to all conflicting parties.

ix. Considering that the only possibility offered by the current land laws for securing grazing land on a long term basis is the land concession method, advocacy actions should also aim at advocating for the simplification of the procedures for obtaining land concession.

4.3 Conclusions
Facilitating the identification of pastoralists’ points of interest and the stimulation of their structuring into associations and a federation have been very useful in preparing the pastoralists of the North West Region towards their participation in the pastoral code elaboration process. The capitalization of these points of interest will serve as a checklist for those who will represent the North West pastoralists on the process. Comparing the content of the pastoral code with the points of interest as recorded in this booklet will facilitate the evaluation of the effectiveness of the pastoralists’ participation in the elaboration process, and the success of the advocacy actions of the various support organizations.

The emergence of strong pastoralist CBOs will go a long way to enhance their participation in debates on issues concerning pastoral livestock beyond the pastoral code elaboration process while enabling them to engage more effectively with decision/policy makers in order to influence decisions and policies affecting them. It will therefore be critical to upscale ongoing efforts to strengthen the institutional capacity of the emerging pastoralist CBOs.