

# STATUTORY VERSUS CUSTOMARY /

# Land Ownership Conflicts in Cameroon



For nearly a century, up until the 1960s, Africa was colonised by Europe. During this period the coloniser's laws replaced many traditionally enforced regulations. After independence the new African states instituted laws that often mixed customary practices and colonial rules. Using his home country of Cameroon as a case, the author illustrates how land-ownership conflicts in Africa arose through this

problematic mix of tradition and modernity.

From the European perspective, Cameroon was discovered, and its discoverer was Christopher Columbus, the fifteenth-century Portuguese explorer. Cameroon became a German colony in 1884. After the first world war the territory was divided between France and Britain. The Republic of Cameroon gained independence in 1960 and is still bilingual; in eight of the ten regions French is spoken and in the other two the tongue is English.

## French Rule

Indigenous people were deprived of their rights under German occupation; only Germans could acquire land. They confiscated most of the south-west region of Cameroon to establish industrial plantations. Traditional rulers resisted, but the penalties for protesting were execution and deportation. France used land registration to formalise the rights of French citizens and other whites. The indigenous people retained the right only to occupy and exploit land in their native localities. In urban areas indigenous people were segregated and not allowed to live in the same areas as whites. All productive land was attributed to French citizens and Cameroonians were forced to live in slums. Cadastral surveying of parcel boundaries consisted of drawing a sketch in an arbitrary coordinate system, using a steel chain to determine the dimension of the parcel. There was no geodetic network and there were no institutions for training surveyors.

## British Rule

Southern Cameroon, ruled by the British, was subdivided into two regions. The North applied regulations in use in Northern Nigeria, the South those of Eastern Nigeria. Native rights decrees were enacted in 1927 enabling the governor-general of Nigeria to confer statutory rights on non-natives and foreigners and customary rights of occupancy to natives. In 1956 all lands became the property of customary authorities, except private land called 'freehold' and 'leasehold' lands. The rights of indigenous people were now protected under traditional rulers. The representative of the Crown, the 'commissioner', was charged with ensuring the application of the law and protecting all indigenous rights. The 'public land acquisition decree' enabled government to acquire land for public purposes.

## Post-colonial Era

To boost economic growth, new regulations came into force in 1974 enabling investors to buy land and develop it. For this purpose land was classified into three categories: private property, national land, and public land, guaranteeing free ownership and issuing of land to all naturalised persons and corporate bodies. Procedures and conditions for obtaining land certificates were put in place. The regulations also empowered the government to act as guardian of all land, thus allowing intervention to ensure the use of land as national tenure. This was a major change to the British colonial system; rather than the government acquiring land from the natives, this regulation confiscated land under the control of native authorities.

However, the 1974 land-reform regulations appeared ineffective and inefficient. The assignment of category type to land was carried out rather arbitrarily, while the rights of traditional rulers were omitted, resulting in land related conflicts. Once a land certificate had been issued it was unassailable, inviolable and final. When rights were encroached upon, usually due to fraud, the actual owner could only claim compensation, and to get this he had to go to court. Furthermore, traditional rulers had to acknowledge the land-use rights in order to allow the owner to peacefully enjoy the parcel. The buyer had also to respect the government's land procurement regulation. As a result, the buyer paid twice, both government and traditional ruler.

## Corruption

In addition, obtaining a land certificate is difficult. While this should be free, the costs are in fact high. Bureaucracy slows down the process, and there is corruption and endless conflict. Civil servants, politicians and businessmen seize large pieces of land on the outskirts of big towns and rural zones just to feed speculation and deprive the poor of their customary land. The government closes its eyes to illegal transactions on national land by traditional rulers. As a result, the 1974 land reform has not resolved land-ownership conflict. Only

the rich and political powerful were able to obtain land certificates; the government thus modified procedures aimed at accelerating the process of obtaining them. Now all land-ownership conflicts are settled at regional level, without the intervention of the ministry. The time necessary for issuing a land certificate is limited to a maximum of six months. This is not realistic in practice; processes have not been speeded up and procedures are progressing as slowly as before.

### **Proposed Solutions**

Many conflicts arise because of uncertain boundaries. A geodetic network is a prerequisite for establishing accurate and reliable boundaries and in this way supports smooth land transactions. With new technologies and political will a national geodetic network can be quickly put in place, and if this solution proves too costly, an homogeneous network can be set up using the same technologies in each big town to link all land surveyed in the localities.

To resolve the high costs of obtaining a land certificate and to beat bureaucracy, a commission should be established to deal with the procedures involved in issuing certificates, avoid delays and realise the six-month time limit. To tackle corruption, applicants should be allowed to attend commission meetings. The role of the Ministry should be confined to controlling whether regularisations have been applied correctly.

Part of the problem is caused by an insufficient level of education among land-administration personnel. These should be trained not only in surveying and GIS technology and law, but also in moral and ethical issues vital for good governance. Present training institutions in Cameroon lack qualified specialists, and an improvement in knowledge and skills as well as enforcing staff levels is of utmost importance.

### **Concluding Remarks**

Land should be put into the hands of the local people as a means of empowering rural populations whose land is their only capital. They may then exploit this for further development for themselves and future generations. Further, pre-eminent government attention for land must be ascertained, with immediate compensation for owners in case of expropriation in the general interest.

## **Series Statutory versus Customary**

Land ownership, political power and economic domination are strongly intertwined. In many developing countries statutory land tenure arrangements are considered superior to customary ones, although the latter have existed for many centuries. The controversy between customary versus statutory land rights often culminates in the loss of land rights for the poorest and most vulnerable families. GIM International in this new series of articles aims to investigate the resulting conflicts and how they can be resolved, if at all. We start with a contribution from Bernard Puépi, who discusses land-ownership conflicts in Africa using his home country, Cameroon, as a case. He also proposes a set of solutions. In the next issue we proceed with an article written by the former director-general of Survey Department Nepal, Babu Ram Acharya, who covers Nepal. If you are a land-administration expert active in a developing country, please feel free to contact me to discuss the possibilities of providing a contribution for this series. Your response will be most welcome.

*Mathias Lemmens, senior editor*  
*m.j.p.m.lemmens@tudelft.nl*