

FOCUS ON LAND IN AFRICA BRIEF

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Cameroon

Land Registration

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INTRODUCTION

In Cameroon, land titles are the only legal means of holding land rights. In the early 2000s, however, less than 2% of the land in Cameroon was registered or titled, according to the Ministry of State Property and Land Tenure (MINDAF, French acronym). Today, most land is still held and managed informally through local tenure arrangements. These local arrangements are a combination of statutory and customary tenure rules (Teysier et al., 2003; Yemmafouo, 2006). They form a complex, locally-specific and sometimes, malleable set of rules that creates uncertainty, fosters land conflicts and hampers local development.



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INTRODUCTION

In 2005, the Cameroon government decentralized and simplified land-titling procedures to address certain barriers to the titling of land. Five years later, however, the reform has achieved only modest results. Recent studies have found that, in practice, titling procedures remain long and complicated (AfDB, 2009; Tadjudje, 2005). The government has yet to support the effective implementation of the new land titling procedures and to address important issues undermining the credibility of the national land register. This lesson presents several Cameroon efforts to improve land titling procedure.

STATUTORY TENURE GOVERNS A FRACTION OF CAMEROON LANDS

In Cameroon, information on the number of land titles and other forms of registered land rights is difficult to gather and often inconsistent. It is clear, however, that only a small percentage of Cameroon's plots are registered and titled. In 2000, the national register ("livre foncier") listed 150,000 land certificates, while the National Cadastral Survey Project estimated that there were 2.6 million plots in the country (AfDB, 2009).

Formal registration of land rights is more common in urban areas (60% of all titles according to MINDAF Lands Division (AfDB, 2009)) than in rural regions. Research shows that civil servants make up approximately 50% of all titleholders (AfDB, 2009). Few women hold titles in both urban and rural settings. In the rural and densely populated North-West Region, for example, women hold only 0.1% of registered land (AfDB, 2009). Land registration rates have not significantly increased since colonial times: according to MINDAF, only 125,000 title deeds were issued between 1884 and 2008 (approximately 1,000 titles per year on average).

COLONIAL LAND TENURE SYSTEMS ESTABLISHED TO STRENGTHEN ADMINISTRATIVE AUTHORITY

Originally colonized by Germany, Cameroon was divided after World War I into the Republic of Cameroon, administered by France, and Southern Cameroon (today's Southwest and Northwest Regions), administered as a Region of Nigeria, then under British administration. The two colonial powers administered land differently, but each did provide for the registration of customary land—livrets fonciers in French Cameroon and "certificates of occupancy" in British Cameroon. Registration, however, offered weaker legal protection than land titles, which conferred irrevocable and inviolable ownership. In practice, the law privileged the colonial settlers, who were able to obtain land titles. The colonial administrations relied on traditional tribal authorities to manage access to land through customary or local tenure systems (Nach Mbak, 2000; Seignobos, 2002). Consequently, few rural Cameroonians formally

registered their land.

TITLE AND CONCESSIONS AS THE ONLY FORMS OF LEGAL PROPERTY RIGHTS OVER LAND

On 1 January 1960, French Cameroon gained independence from France and on 1 October 1961, the formerly British Southern Cameroon united with French Cameroon to form the Federal Republic of Cameroon. Just prior to independence, the French and British administrations had given local institutions more autonomy in their territories. In 1959, the Territorial Assembly of Cameroon conferred legal standing to customary tenure systems without requiring land registration (Fotsing, 1995). Individuals and communities could also obtain a title over customary land holdings.

In 1963, the new government of Cameroon repealed the statutory recognition of customary tenure and in 1974, passed the Land Ordinance-Laws 74-1 and 74-2. The new Ordinance-Laws unified the land tenure regimes of the two former territories and maintained land titles at the center of the new national tenure regime. Land titles and land leases, called "concessions," were perceived as more modern than local systems and became the only legal means of holding land property right. Holders of livrets fonciers and of certificates of occupancy had to convert them into land titles, which required expensive land surveys and, as a result, were difficult to obtain by poor people.

Today's tenure regime is still based on these two Ordinance-Laws, although they are now complemented by a large number of decrees and executive decisions or orders.

Ordinance-Law 74-1 established the State as "guardian of all lands" to ensure the "rational use of land in the imperative interest of national defense or the economic policies of the nation." Land was divided into three categories:

- 1) Public Lands, which consist of roads, rivers, the sea side and other lands for public use;
- 2) Private Lands, which consist of privately-held lands under title and Private State Lands ("domaine privé de l'Etat"). Private State Lands include lands acquired by the state (e.g., to support public buildings), degazetted lands and rural lands left "unexploited or abandoned" by the owner or custodian (Art. 10 of Ordinance-Law 74-2);
- 3) National Lands, which is a residual category and consists of land that is neither private nor public, and is considered a land reserve. This land is administered by the State "for the public good." The law explicitly includes untitled lands occupied or used by rural communities as National Lands. clearing forestland and cultivating otherwise fallow land, to protect the land from external appropriation (Fotsing, 1995; Filipky et al., 2006).



National Lands are administered by the State to "guarantee their use and effective exploitation" (Art. 14 of Ordinance-Law 74-1). To advise the State in this mission, Land Consultative Committees (LCCs) were established at the arrondissement or district level. In 2008, there were 319 districts and, in theory, as many LCCs. LCCs are presided over by the sous-préfet (District Officer). The other LCC members are three local representatives of MINDAF services, the village chief, two other village leaders and one representative of a relevant Ministry. Decisions are adopted by a simple majority rule. Despite being consultative only, deliberations of LCCs are significant for the attribution of land titles and land concessions.

TITLING OF CUSTOMARY LANDS

On National Lands, the 1974 land Ordinance-Laws establish different rules for titling land in areas occupied and effectively used by communities, and in areas called "vacant lands" (terres libres de toute occupation effective). Individuals and communities may apply for a title on land that they effectively occupied and used before 1974. On lands occupied and used after 1974, as well as on lands deemed vacant, applicants must draft a development project and obtain a provisional concession (concession temporaire). This distinction prevents communities from titling unoccupied land that is nevertheless vital for its members. It also creates incentives for local populations to establish visible signs of use, such

clearing forestland and cultivating otherwise fallow land, to protect the land from external appropriation (Fotsing, 1995; Filipisky et al., 2006).

LAND TITLE IS THE ONLY PROTECTION AGAINST EVICTION OR REALLOCATION FOR MORE EFFECTIVE EXPLOITATION OF LAND

Communities and individuals are not required by law to title their land prior to usage. Ordinance-Law 94-1 indicates that people may “continue effectively and peacefully occupying” the land without a title. Individuals may also continue hunting and fishing on “vacant land” as long as it does not conflict with other uses by the State (Art. 17 of Ordinance-Law 74-1). These rights, however, are not guaranteed; if the LCC considers that a community or an individual are not “effectively” using the land, it can propose to reallocate it. The government can also bypass the LCC’s recommendation if it wants to reallocate the land.

Rural people perceive that LCCs do not provide sufficient protection for customary land rights (Tadjudje, 2005). Individuals are known to have registered, in their names, lands used by communities and/or claimed to be customary land. In 1995, the Supreme Court supported land certificates against local chefferies (Tagne Sobgui jurisprudence, cited in Nach Mback, 2000). As a result, there are strong incentives for Cameroonians to document their land claims.

TITLING PROCEDURES REMAINED CHALLENGING, PROMPTING DECENTRALIZATION REFORM IN 2005

Several factors account for the small number of land certificates and titles, including: limited awareness by the public of the legal framework; the common practice of relying on local rules to secure land; and the complexity and cost of titling procedures. These issues prompted the Cameroon government in 2005 to simplify the titling procedures.

The government reduced the number of steps and departments involved in the process of reviewing and approving a request to title land. The responsibilities formerly attributed to the Préfet (senior Divisional Officer, under the authority of the regional governor) were passed to the sous-Préfet (District Officer located at the arrondissement level, under the Divisional Officer authority). Applications, which previously required approval by the Ministry of State Property in the capital city, only needed approval of the MINDAF Delegation at the regional level.

Another improvement ushered in by the 2005 reform was the creation of a single agency within MINDAF to handle most services concerned with the titling process (“one-stop shop”). MINDAF offices—Delegations—at the regional and divisional levels are now responsible for organizing local consultations, issuing land certificates, and

maintaining land certificate archives in a safe and secure manner. The Department of Surveys is responsible for establishing and overseeing norms and standards of accuracy related to the physical description of the land (AfDB, 2009).

In 2005, the government also reduced the number of steps in the land titling procedure and established a timeline for processing applications. These measures have reduced the time needed to obtain a land title from several years to less than one year on average (AfDB, 2009).

Decree No. 76-165 (modified by Decree No. 2005-481) provides three titling procedures:

- The “transcription regime” allowed holders of certificates of occupancy and “livrets fonciers” issued before 1974 to transform them into land titles, but only for a period of time (within six years for land in urban areas and within 15 years for land in rural areas). After these deadlines (in 1980 and 1989, respectively) the certificates and “livrets fonciers” were cancelled;
- To establish a new title for occupied or exploited lands that are part of National Lands; and
- To modify existing titles through transactions and subdivision.

LAND TITLING PROCEDURES AFTER 2005 SHIFTED RESPONSIBILITY TO LOCAL ADMINISTRATIVE UNITS

The procedure for titling occupied land and used land within National Lands has 12 steps. These steps can be grouped into three main stages: (i) Preparation of the application and its local publication; (ii) Establishment of a Local Consultative Committee, composed of five local administrative officials and three representatives of local traditional authorities to review the application, resolve any contestations, and—if the land is effectively used or occupied—to initiate and supervise a land survey; (iii) The regional MINDAF Delegation reviews the application, signed land survey report and LCC meeting minutes, and publishes a demarcation notice in the regional Lands Gazette (“Bulletin des Avis Domaniaux”). If approved, the application is transferred to the Lands Registrar and the title is issued.

The role of the District Officer is instrumental in moving the titling process along. The District Officer presides over the LCC and designates members of ad-hoc groups within the LCC to participate in land surveys. The role of the village chief is not laid out in the law, but is also important and may even supersede the authority of the District Officer in powerful chefferies, such as the Bamiléké lamidats in North Cameroon (Teyssier 2004). Powerful village chiefs are able to delay or accelerate the process during the endorsement of the survey report, and can use their connections to influence the position of the LCC (Tadjudje, 2005).

Titles cannot be granted for parcels of National Lands that were occupied after 1974 or that are currently deemed vacant and ineffectively used. To gain access to such land, Cameroonians and “moral entities” (e.g., firms and associations) must apply for a five-year concession, which includes submitting a development project demonstrating that the land will be effectively used in support of “the National economic, social and cultural objectives” (Decree No 79-166). Once approved by the District MINDAF Delegation and the LCC, concessions are granted by ministerial decree (MINDAF) for plots that are less than 50 hectares; and by presidential decree for larger areas. A formal agreement specifies the rights and obligations of the concession holder and the State.

At the end of the five-year period, the LCC testifies as to the effective implementation of the development project. It advises the Senior Divisional Officer on whether to extend the concession, cancel it or transform it into a “permanent concession,” which confers the right to title the land. The Senior Divisional Officer makes a final determination based on two criteria: the investments made by the leaseholder in the development project and the implementation of the initial agreement.

OBSTACLES REMAIN, DISCOURAGING CAMEROONIANS FROM REGISTERING LAND

The 2005 land reform helped streamline the titling process, but other hurdles remain for landholders, especially low-income rural citizens, to obtain titles for their lands. The regulatory framework for land registration remains complex; the government has passed dozens of laws, decrees and executive decisions to amend the 1974 Ordinance-Laws. Some of the amendments appear to contradict or conflict with others. In addition to the titling fees required by law, citizens have had to cope with requests by administrative officials for illegal payments to process applications (Fotsing, 1995; Tadjudje, 2005; AfDB, 2009). The high, unpredictable costs discourage low-income citizens from titling their land.

Further, land titles often fail to provide secure tenure because of poor record keeping and document management. Incomplete geographic information and the use of different spatial referencing systems has resulted in overlapping land titles (following the 2005 reform, all overlapping titles were cancelled, including the original title). For example, in 2008, more than 19,000 land titles in Yaoundé had inconsistent geo-references and could not be positioned on a map. Insufficient capacity to process land titles and corruption of administrative support services have also been cited as titling problems (AfDB, 2009; Tadjudje, 2005). As a consequence, land titles are often challenged in court, resulting in the cancellation of titles.

LOCAL TRADITIONAL RULERS REMAIN CUSTODIANS OF MOST RURAL LAND

After independence, the government of Cameroon, like the colonial powers, relied on traditional rulers to manage land, albeit under the authority of the central State administration (Nach Mback, 2000). Today, most rural people still recognize traditional rulers as legitimate authorities in their communities. In many areas, the influence of these rulers depends on their control of land matters, including allocating rights, levying fines and arbitrating land disputes (Seignobos 2002). In parts of the Northern Region, Bamileke chefferies have established “a property tax system parallel to the state’s, and land management represents their principal source of income” (Teyssier, 2004).

In rural areas, land titles are often viewed as serving private interests at the expense of the wider community (Seignobos, 2002). Many urban elites have titled land in their village of origin to establish a plantation build a second residence or simply to hold in speculation (Yemmafouo, 2006). Several government- or NGO-led projects also use land titles as a way to encourage investment and improve land management and use—land plots are allocated to local farmers who commit to cultivate specific crop varieties in prescribed manners.

When village land is titled, community members often respond by extending their cultivation areas, creating clear boundaries or planting perennial crops (e.g., cocoa, oil palm or coffee trees). “If we don’t occupy all our land, the State will take it and our community will lose its territory” (pers. comm. Bamboutous village chief, in Fotsing, 1995). These actions can lead to conflicts among community members and with herders and neighboring farmers.

In some communities, customary tenure systems are breaking down or are being manipulated for private gains. Many village chiefs are manipulating customary rules for their personal benefit. As in other African countries, a system of *petits papiers* has emerged to fill-in the gaps between cumbersome titling procedures and undocumented customary arrangements. Some village chiefs now prepare and sign paperwork to document land transactions. Such documents are often recognized by decentralized State services as sufficient proof to arbitrate minor land conflicts (Teyssier, 2004). Some



traditional rulers in north Cameroon also deliver written and stamped decisions to resolve land conflicts (Seignobos, 2002).

CONCLUSION

The 2005 land titling reform in Cameroon aimed to secure tenure by streamlining the procedure and decreasing the costs of titling land. Other factors that discourage Cameroonians from titling their land have yet to be addressed. Most land is still held under customary tenure arrangements and administered by traditional rulers. As more land is acquired by the government, influential urban elites, powerful agro-industrial companies, and manipulative traditional leaders, customary tenure systems no longer provide people with security over their land.

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