

## CHAPTER 42: REDD+ IMPLEMENTATION IN CAMEROON'S ENVIRONMENTAL LAW: THE ROLE OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

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### 1 Introduction and background

International climate change negotiations have recognised the value of forest ecosystems in terms of their carbon sequestration and carbon storage potential with climate change mitigation (CCM) relevance. There is ample literature showing that human development quest has increased the concentration of greenhouse gases (GHGs) in the atmosphere thereby causing global warming that causes climate change.<sup>1</sup> Emerging global payment for environmental services (PES) mechanisms such as REDD+<sup>2</sup> are seen as cost-effective, immediate and efficient CCM mechanisms with the potential to achieve some social and environmental objectives and are gaining widespread global attention. REDD+ seeks to create a financial value for the carbon stored in forests, offering incentives for developing countries to reduce forest-based GHG emissions and invest in low-carbon paths to sustainable development.<sup>3</sup> Initially conceived as a scheme focusing narrowly on reducing deforestation, the initiative has evolved over the past years to include forest degradation, and the latter includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks. Thus, in addition to reducing emissions from deforestation and forest degradation, REDD+ also sets out to reward actions that enhance carbon storage through forest restoration, rehabilitation or afforestation/reforestation (AR).<sup>4</sup> REDD+ could enormously reward indigenous peoples and local communities depending on the forest (IPLCs) participating in forest management. In fact, research has under-

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1 See Robles (2015:6); WWF (2013:ii); Barquín et al. (2014:19); Springer & Larsen (2012:3).

2 REDD+ stands for Reducing Emissions from Deforestation and Degradation, conservation of forest carbon stocks, enhancement of forest carbon stocks and sustainable forest management. See Paragraph 70 of Decision 1/CP.16 (the Cancun Agreements) which sets out the scope of REDD+.

3 See for instance, Robles (2015); WWF (2013); Barguin et al. (2014); Springer & Larsen (2012).

4 See Doherty & Schroeder (2011:66).

scored the potentials of involving IPLCs in REDD+ implementation but Cameroon's environmental law rarely responds to the needs of IPLCs. This legal lapse has resulted in their exclusion despite the historical acknowledgement that they were the first occupants of forests.<sup>5</sup>

REDD+ has sparked concerns about possible adverse impacts on IPLCs' rights and livelihoods, such as restrictions on land and resource rights, 'land grabs' that dispossess them, increased centralisation of forest management which may slow down formal tenure recognition by governments and inequitable benefit-sharing to the likely detriment of IPLCs and efforts to halt the trends of forest loss.<sup>6</sup> Due to the financial value attached to forest carbon stock, we fear that REDD+ implementation could generate potential social and environmental costs with unprecedented risk of marginalisation and exclusion of poor forest-dependent communities, if forest governance is not properly addressed. In response to such concerns, international guidance<sup>7</sup> on REDD+ implementation urges and directs states to ensure that REDD+ does not harm, but benefits IPLCs. REDD+ 'safeguards' have been adopted under the United Nations Framework Convention on Climate Change (UNFCCC)<sup>8</sup> with the aim to ensure broader positive social and environmental outcomes beyond forest carbon objectives and that risks are minimised or avoided. At the 16<sup>th</sup> Conference of Parties (COP16) to the UNFCCC in Cancun in 2010, social and environmental safeguards were developed to avoid the negative impacts of REDD+ actions including "respect for the knowledge and rights of indigenous peoples and members of local communities", and "the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities".<sup>9</sup> However, the COP decisions such as the one containing the REDD+ safeguard are not legally binding instruments or mandatory. The safeguards are not defined well enough to be meaningfully implemented. In many instances, IPLCs' rights are weak, ambiguous and their meaningful participation in REDD+ design and implementation lag behind. However, fostering REDD+ safeguard principles as universal norms will provide ample pressure on national governments "not to deviate too far".<sup>10</sup>

While states still own the greatest chunk of forests worldwide, the last two to three decades have seen a gradual shift in forest management from states to local commu-

5 See Chia et al. (2013:499-506); Tassa et al. (2010:3); Assembe-Mvondo (2013:37).

6 See Roe & Nelson (2009:12); Ituarte-Lima & McDermott (2017:1 and 4); Moore et al. (2012:84); UNEP (2015:1); Costenbader et al. (2015:1).

7 See REDD+ safeguards frameworks defined by the UNFCCC, FCPF, UN-REDD and REDD+ SES.

8 United Nations Framework Convention on Climate Change 11771 UNTS 107 (1992) (UNFCCC).

9 See Paragraphs 2 (c) and (d) of UNFCCC Decision 1/CP.16 (Cancun Agreement), Appendix I.

10 See Ribot & Larson (2012:236).

nities through decentralised models known very broadly as Community-Based Natural Resource Management. In Cameroon, the 1994 Forestry Law has enabled community associations to acquire rights to manage and exploit up to 5,000 hectares of community forest (CF), under a 25 years contract,<sup>11</sup> resulting in the allocation of hundreds of CFs across the national territory. However, even if the law appears fair, IPLCs always face severe implementation challenges due to poor governance. The participation of the IPLCs in REDD+ implementation is critical for its success. The looming question that begs for an answer is how will REDD+ strategies take IPLCs' needs and aspirations into account? If REDD+ is well designed, it could contribute to strengthening community land and resource rights, empower community-based forest management and diversify livelihoods through their participation in REDD+ activities. For this to happen, the government will need to create incentives at the local level for IPLCs to participate effectively in forest management.

It is iterated in the Readiness Preparation Proposal (R-PP) that the current forestry and related legislation will guide the implementation of REDD+ in Cameroon.<sup>12</sup> In this chapter, evidence from Cameroon's environmental law is examined to argue that the full and effective participation of IPLCs are unlikely to work unless their meaningful participation is increased by ensuring more legal guarantees and effective implementation. Cameroon has ratified the UNFCCC<sup>13</sup> and is fully engaged in the process of developing the necessary technical, policy and institutional competencies for REDD+ implementation since 2005 and is, therefore, challenged to ensure that REDD+ safeguards on the effective participation of IPLCs are respected. If REDD+ must achieve its primary objective of CCM and other social and environmental objectives, the participation of the IPLCs in the design and implementation of the mechanism is critical. Given that the implementation of the current legislation have yielded little in terms of responding to the need of IPLCs in previous PES initiatives, REDD+ implementation might suffer the same fate. Thus, REDD+ presents both opportunities and challenges for IPLCs.

In line with the theories of participation and subsidiarity in environmental and natural resource governance, this chapter underscores the importance of IPLCs' participation in REDD+ implementation in Cameroon by acknowledging that existing legal frameworks on which REDD+ hinges have not given special attention to the participation of IPLCs in REDD+ implementation. Studies conducted so far on REDD+ in Cameroon are instructive but are not focused on the assessment of the legal frameworks as they enhance the effective participation of IPLCs. The topic is ex-

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11 See Sections 37, 38 and 39 of Law No. 94/01 of 20 January 1994 to lay down Forestry, Wildlife and Fisheries Law.

12 FCPF (2013:18).

13 Cameroon ratified the UNFCCC on 19 October 1994.

amined with a twofold objective: to evaluate the legal frameworks with respect to the effective participation of IPLCs in REDD+ implementation in Cameroon; and to suggest legal measures for their effective participation. The two questions guiding this sub-chapter are: to what extent does Cameroon's environmental law purporting to guide the implementation of REDD+ in Cameroon guarantee the effective participation of IPLCs and what legal measures may be taken to guarantee their effective participation. The sub-chapter offers a new approach to assessing the legal framework for REDD+ implementation with respect to the participation of IPLCs and proffers an array of opportunities that the government can use to overcome current legal hurdles affecting IPLCs' effective participation in the implementation of REDD+ in Cameroon. The thrust is thus to demonstrate that the participation of IPLCs in REDD+ implementation is critical for CCM. More critical is the fact that the majority of REDD+ projects will be implemented on lands used by IPLCs and that taking away such lands from them will not only bring about social and economic hardships which the Cancun safeguards seek to prevent but also run the risk of undermining REDD+ success in Cameroon.

## 2 The legal framework for IPLCs' participation in REDD+ implementation in Cameroon: opportunities and challenges

REDD+ is already being translated into actions on the ground in Cameroon. Experiences from past PES schemes however demonstrate that failure to respect IPLCs' rights and adequately consider their views and effective participation can undermine the success of REDD+. Clear legal frameworks are crucial tools to ensure their effective

participation in line with human rights principles and international environmental legal instruments (e.g. the UNFCCC, the Convention on Biological Diversity (CBD),<sup>14</sup> and the United Nations Convention to Combat Desertification (UNCCD)).<sup>15</sup> International and national legal frameworks exist prescribing the participation of IPLCs in REDD+ implementation. International legal frameworks for REDD+ implementation are applicable in Cameroon by virtue of Article 45 of the 1996 Constitution.<sup>16</sup>

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14 Convention on Biological Diversity, 5 June 1992, 1760 U.N.T.S. 79 (entered into force 29 December 1993).

15 The United Nations Convention to Combat Desertification (UNCCD) was adopted in June 1994 and entered into force on 26 December 1996.

16 Article 45 of Law No. 96/06 of 18 January 1996 pertaining to the Constitution of the Republic of Cameroon provides that duly approved or ratified treaties and international agreements shall override national laws.

## 2.1 International legal framework for IPLCs' participation in REDD+ implementation

The international community generally under the auspices of the UN has deployed significant efforts aimed at reversing the state of environmental degradation challenges evident in the increasing number of Multilateral Environmental Agreements (MEAs) containing provisions prescribing the participation of IPLCs in environmental management in general and REDD+ implementation in particular.<sup>17</sup>

### 2.1.1 Global legally binding instruments: anchore points for IPLC in REDD+ implementation

The UNFCCC, CBD and UNCCD, the three MEAs most pertinent to climate change provide for the participation of IPLCs in REDD+ implementation. The UNFCCC COP's decisions arrived at during negotiations on climate change also make references to some conventions that define and protect the rights of IPLCs in natural resource and environmental management such as the ILO Convention 169 of 27 June 1989 Concerning Indigenous and Tribal Peoples in Independent Countries and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>18</sup> Although there are no specific provisions for IPLCs within the UNFCCC under which the REDD+ mechanism is essentially being negotiated, Article 6 which calls for education, training, awareness and public participation may be interpreted broadly to include support for their participation. The Kyoto Protocol<sup>19</sup> does not make specific provisions for carbon sequestration schemes by IPLCs but certainly does not preclude it. There is opportunity for them to participate in the Clean Development Mechanism (CDM) through AR sink projects.<sup>20</sup> There is however a strong argument that the CDM has been a failure, due to technical, economic and political constraints posed by the CDM framework.<sup>21</sup> There is an opportunity to redress this failure in the design and implementation of REDD+. The CBD specifically recognises the potential role of IPLCs in biodiversity conservation under Articles 8 (j), 10 (c), 10 (d) and 11. Some of the areas covered by these articles include maintenance of traditional

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17 Tamasang (2014:29).

18 See United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, UN Doc.A/RES/61/295 (13 September 2007).

19 See the Kyoto Protocol to the UNFCCC, Kyoto, 11 December 1997, UN Doc.FCCC/CP/1997/L.7/add.1.

20 See Tamasang (2009:174).

21 See Bond (2009:98).

knowledge, benefit-sharing and protection of customary rights which can equally apply in the case of REDD+.

The participation of IPLCs is also emphasised in Article 3 (a) of the UNCCD which enjoins parties to ensure that decisions on the design and implementation of programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities. The UNCCD places considerable emphasis on capacity building of IPLCs for sustainable land and resource management.<sup>22</sup> Annex 1 of the Regional Implementation for Africa suggests that national desertification action plans should include measures to delegate more management responsibility to local communities; diversify rural incomes and employment opportunities; improve institutional organisation through decentralisation and the assumption of responsibility by local communities; and amend the institutional and regulatory framework to provide security of land tenure for local populations.<sup>23</sup> Thus, there is a strong case for the UNCCD favouring the participation of IPLCs in REDD+ implementation. The primary purpose of ILO Convention 169 is to ensure the respect of the identity and wishes of the indigenous peoples; to guarantee respect for their integrity; to empower and provide for the increased consultation with, and participation by these populations in development projects and decisions affecting them, ensuring their representation; respect of their customs and tradition; and ensuring equal benefits and rights with the other members of the population.<sup>24</sup> Hence, there is also a strong case for this Convention favouring the participation of IPLCs in REDD+ implementation.

### 2.1.2 Some non-legally binding instruments on IPLCs' participation in REDD+ implementation

Soft law instruments<sup>25</sup> especially the UNFCCC COP's decisions arrived at during negotiations on climate change and other international declarations to which these decisions refer also provide guidance on the engagement and participation of IPLCs in REDD+ implementation. The Bali Action Plan adopted in 2007 at COP13 identifies the need to address the needs of IPLCs when taking actions to reduce emissions. The Cancun Agreements further provide that the implementation of REDD+ should

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22 Article 19.

23 See generally Article 8 (2) and (3) of Annex 1.

24 See generally Articles 2 to 8 of the Convention.

25 The so-called soft laws are non-legally binding instruments, simply reflecting the commitment of states to move in certain directions.

promote and support a set of social and environmental safeguards (SES), including the following two safeguards that are relevant to the rights of IPLCs:<sup>26</sup>

- (c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;
- (d) The full and effective participation of relevant stakeholders, in particular, indigenous peoples and local communities in REDD+ activities.

The Cancun SES seeks to ensure that REDD+ implementation minimises risks and protects social and environmental values. Thus, addressing and respecting these safeguards is an undisputed REDD+ requirement.<sup>27</sup> However, the COP decisions such as the one embodying the Cancun safeguards are generally not binding and non-mandatory. They are quite vague in their requirements and legal consequences with however, two partial exceptions in this respect.<sup>28</sup> The first is the reference to the UNDRIP whose core element often emphasised in the context of REDD+, is the well-defined procedural requirement for free, prior and informed consent from IPs before conducting activities that affect their rights. The second exception is a general reference to human rights enjoining UNFCCC parties to ensure that all climate change related actions fully respect human rights. A Safeguard Information System (SIS) further expect parties to provide transparent and consistent information periodically on whether and how safeguards are being addressed and respected via national communications submitted to the UNFCCC.<sup>29</sup> It is submitted that without the full implementation of the safeguards, the risks are potentially high for IPLCs and the success of REDD+.

Paragraph (q) of Decision X/33 on Biodiversity and Climate Change stresses on the need to take into account the need to ensure the full and effective participation of IPLCs in relevant policy-making and implementation processes, where appropriate; and to consider land ownership and land tenure, in accordance with national legislation.<sup>30</sup> The UN-REDD Programme and the Forest Carbon Partnership Facility have developed joint guidelines on stakeholder engagement in REDD+ readiness, with a focus on the participation of IPLCs, calling on REDD+ activities to avoid potentially

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26 Cancun (2010) decision 1/CP.16, Paragraphs 2 & 72 and Appendix I, Paragraphs 2 (c) and (d). For the full text of the Cancun safeguards, see the Report of the COP on its sixteenth session' (29 November to 10 December 2010) (2011) FCCC/CP/2010/7/Add.1.

27 REDD+ Safeguards Working Group (2014:2).

28 See Ituarte-Lima & McDermott (2017:10).

29 UNFCCC Decision 2/CP.17, paragraph 2; Decision 1/CP.16, Paragraph 71(d); Decision 9/CP.19, Paragraph 4.

30 See 10th meeting of the COP Convention on Biological Diversity (COP10), Nagoya, Japan, 2010.

harmful impacts on IPLCs, and to minimise or compensate them for any unavoidable negative impacts.<sup>31</sup> Principle (e) includes the statement that: clarifying and ensuring their rights to land and carbon assets, including community (collective) rights, in conjunction with the broader array of indigenous peoples' rights as defined in applicable international obligations, and introducing better access to and control over the resources will be critical priorities for REDD+ formulation and implementation. On its part, the UNDRIP is comprehensive on the duty of states to consult with indigenous peoples on decisions affecting them.<sup>32</sup> As part of the global trend to grant IPLCs rights and genuine powers over the management of natural resources, the Central African Forest Commission<sup>33</sup> adopted the Sub-regional Guidelines on the Participation of Local Communities and Indigenous Peoples and NGOs in Sustainable Forest Management in Central Africa in 2010.<sup>34</sup> Although these are all non-binding instruments, they can bring pressure to bear on states to act accordingly. Cameroon being a party to the UNFCCC, has and continues to participate in COP meetings and in consequence, has been guided by COP Decisions in designing projects, programmes, plans and strategies for implementation REDD+ initiatives.

## 2.2 Opportunities and challenges for IPLCs' participation in REDD+ implementation under domestic law: experiences from Cameroon

Environmental and natural resources law and governance are evolving rapidly, with significant implications for IPLCs especially in the context of REDD+. It is advocated that local stakeholders should enjoy genuine rights to manage land and natural resources after decades of centralised and poor governance by post-colonial administrations, with some timid measures adopted in Cameroon.<sup>35</sup> Although the REDD+ processes have gained momentum in Cameroon with an initial draft REDD+ strategy submitted to the World Bank in November 2015<sup>36</sup>, there is no legislation governing REDD+ in Cameroon. REDD+ pilot projects are being governed by various existing

31 See FCPF & UN-REDD Programme (2012).

32 See UNDRIP, Articles 10 (no relocation without free, prior and informed consent), 11 (2) (redress and potentially restitution if taking of property or violation of customs without free, prior and informed consent), 19 (free, prior and informed consent before legislative or administrative decisions affecting them), 28 (right to redress for land or resources taken). See generally Articles 10, 11, 15, 17, 19, 28, 29, 30, 32, 36 and 38.

33 See the Central African Forest Commission (COMIFAC) Treaty established in 1999.

34 See *Directives sous-régionales sur la participation des populations locales et autochtones et des ONG à la Gestion durable des forêts d'Afrique Centrale*, at [www.comifac.org/Members/webmaster/dir-popaut.pdf](http://www.comifac.org/Members/webmaster/dir-popaut.pdf), accessed 10 October 2017.

35 See Assembe-Mvondo (2013:33).

36 IUCN (2016:11).



national forestry and related legislation and policies as iterated in the R-PP of Cameroon.<sup>37</sup> Relevant domestic legislation for REDD+ implementation include the environmental impact assessment (EIA) legislation,<sup>38</sup> forestry legislation,<sup>39</sup> the 1996 Framework Law on Environmental Management<sup>40</sup> and the land tenure legislation,<sup>41</sup> which all have implications for IPLCs' participation in REDD+ implementation. Other pieces of REDD+ related legislation<sup>42</sup> also have implications for IPLCs' participation.

The land and territories of IPLCs in most developing countries including Cameroon, on which they depend and exploit constitute a large part of forested lands likely to be targeted by REDD+ actions making them a major stakeholder in the REDD+ process and necessitating that REDD+ programmes build on the understanding of this forest dependency. Conservation initiatives such as REDD+ are more likely to succeed if they build on the interest of IPLCs rather than if they conflict with their interests.<sup>43</sup> Their participation in activities and decision-making correlates with more equitable outcomes and greater achievement of forest conservation. Their rights, views and values need to be incorporated into all the stages of the REDD+ process.<sup>44</sup> However, this is only possible if they are granted genuine ownership and control

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37 R-PP (2013:18).

38 Decree No. 2005/0577 /PM of 23 February 2005, Arête No. 0070/MINEP of 22 April 2005, Arête No. 0001/MINEP of 3 February 2007, all on EIA.

39 See the 1994 Forestry Law; Law No. 96/237/PM of 10 April 1996, fixing the modalities of the functioning of the special fund for Forestry, Wildlife and Fisheries; Decree No. 95/531/PM of 23 August 1995 setting the terms and conditions of application of the forest regime; Decree No. 2000/092/PM of 27 March 2000 amending Decree No. 95/531/PM of 23 August 1995 setting the terms and conditions of application of the forest regime; Order No. 0222/A/MINEF of 25 May 2001 on Procedures for preparing a Forest Management Plan; Joint Order No. 122 of 29 April 1998 issued to lay down conditions for the use of revenue derived from forestry fees; Joint Order No. 76/MINADT/MINFI/MINFOF of 26 June 2012 to lay down conditions for the planning, use and monitoring of the management of forest and wildlife revenue allocated to councils and local communities.

40 Law No. 1996/12 of 5 August 1996 relating to environmental management in Cameroon (1996 Framework Law on Environmental Management).

41 See Ordinance No. 74/2 of 6 July 1974 to Establish Rules Governing State Lands; Ordinance No. 74/1 of 6 July 1974 to Establish Rules Governing Land Tenure; Decree No. 76/165 of 27 April 1976 to establish the conditions for obtaining land certificates as amended and supplemented by Decree No. 2005/481 of 16 December 2005; Decree No. 2005/481 of 6 December 2005, modifying and completing certain provisions of Decree No. 76/165 of April, 1976 laying down conditions for obtaining land titles.

42 See Order No. 103/CAB/PM of June 13, 2012 pertaining to the creation, the organisation, and the operation of the REDD+ Steering Committee.

43 Because most of rural people in Africa rely more heavily on subsistence agriculture and exploitation of forest resources for their livelihoods, REDD+ implementation must provide sufficient incentive for IPLCs to maintain natural forest cover. See Chia et al. (2013:505) and Mboh et al. (2012:35).

44 Viana et al. (2012:59).

rights. Any policy which excludes these components will frustrate the goal of making IPLCs effective stakeholders in resource management. REDD+ implementation presents opportunities and risks to IPLCs in Cameroon. The risk factors include unclear tenure rights, weak institutions, corruption and often weak legal and policy frameworks act as disincentives. Actors with secure property rights to land, forests and forest products will likely be better positioned to capture benefits than those without rights or with insecure rights.<sup>45</sup> If IPLCs gain secure rights over their land and forests, they would be well-positioned to participate in REDD+ actions and capture benefits. If, however, local lands and forests come under the control of government or elites, IPLCs' rights would be undermined and forest benefits siphoned from them.<sup>46</sup> Inability to reconcile conservation and the livelihood of IPLCs goals has led to conflicts and mistrust between managers of protected areas and IPLCs.<sup>47</sup> The REDD+ process must learn from these previous experiences.

### 2.2.1 Key elements of the legal framework for IPLCs' participation in Cameroon

Effective decentralisation and devolution of forest management power to IPLCs, clarification of land and forest ownership and use rights, carbon rights, benefit-sharing mechanisms at all levels, fair allocation and disbursement of funds, adequate access to information, monitoring, access to justice, etc., are all key elements of an effective strategy to promote IPLCs' participation and ensure their supports for REDD+.

#### 2.2.1.1 Land and forest tenure rights and security

Land and forest tenure rights and security are a crucial component of IPLCs' empowerment and participation in REDD+ implementation. Tenure in this sub-chapter is defined as a system that determines who owns and can use what resources for how long, and under what conditions while, tenure security refers to certainty that rights to land and forest is recognised, respected and protected.<sup>48</sup> Tenure rights arise from two sources, including customary and statutory law. Customary or community tenure refers to a system derived from traditional or ancestral occupancy and use of lands and resources which derive from and are sustained by the community itself, while

45 See Loft et al. (2015:1053); Costenbader et al. (2015:11).

46 Veit et al. (2012:12).

47 See Huynh et al. (2016:878).

48 See Springer & Larsen (2012:4).

statutory tenure refers to rights formally enshrined in the laws of a state.<sup>49</sup> Many customary and statutory systems overlap, with unrecognised or vulnerable customary rights with the result that the vast majority of IPLCs have no formal legal title to their customary lands (which the state claims ownership over). Since most of the carbon rich forests are found in areas where land and forest ownership are unclear due to weak tenure, the potential increases in the financial value of forests for their carbon price and uncertainties about who will benefit create more potential for tenure conflict and corruption that will be detrimental to IPLCs.

While tenure is often equated with ownership, it constitutes a bundle of rights that may include various combinations of: ownership, access, management, exclusion and alienation rights and in some cases, a single user may command all of these rights, while in other cases, different users may claim some subset of these rights associated with the same area of forest.<sup>50</sup> For example, the state can claim ownership of forest lands, while at the same time a community may have the right to live in and use the same forest, even where the state has given permits to a private company to carry out other activities. These rights are often poorly defined, weakly enforced, overlapped and/or contradictory, generating tenure conflicts in these areas.<sup>51</sup> Cameroon's land and forest tenure laws create a certain degree of uncertainty regarding land ownership and tenure rights. In particular, customary tenure is not recognised under the land legislation as all land without a registered land title is treated as state land<sup>52</sup> implying that customary landholdings are also treated as state-owned land. Under this scenario, without a land certificate one cannot claim ownership of land or forest no matter how long one has been living on the land. In fact, most forested areas in Cameroon are classified as national land despite centuries-old claims by IPLCs, with limited contributions of state-controlled forests to local livelihoods.<sup>53</sup> Section 17 of the Land Tenure Ordinance gives customary communities occupying land since August 1974 the right to apply for a land certificate but obtaining land certificates is expensive, cumbersome and subject to corrupt procedures. Although Section 8 (1) of the

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49 (ibid.).

50 UNEP (2015:45 & 46). See also Barquin et al. (2014:67).

51 Korwin (2016:17). See also Blomley (2013:11); WWF (2013:30).

52 Cameroon land tenure is under-pinned by Ordinance No. 74/1 of 6 July 1974 to establish rules governing land tenure, the 1995 Indicative Land Use Framework, and the local cultural and traditional land tenure systems and according to the 1974 Land Ordinance, all uninhabited forestland without land title is owned by the state which abolishes ancestral rights that were recognised in the pre-independence period, making registration the only way to gain ownership and places all unregistered lands under state control. Land certificate is the official certificate of real property rights according to Article 1 of Decree No. 6/165 of 27 April 1976 to establish the conditions for obtaining land certificates as amended and supplemented by Decree No. 2005/481 of 16 December 2005.

53 Springer & Larsen (2012:3).

1994 Forestry Law recognises customary rights of the local population to harvest forest, wildlife and fisheries products freely for their personal use, except the protected species, it precludes any sale of those products.

The bundle of rights which could be of particular relevance to REDD+ include: ownership rights which are often exclusive; use or *usufruct* rights which is more limited than ownership rights and can pertain to a different actor than the owner; individual and collective rights; tangible rights pertaining to physical land and resources (such as trees) and intangible rights (such carbon). An analysis of existing statutes in Cameroon reveals that the bundle of rights available for IPLCs tend to be more limited such as to access, management and use and often for a limited periods of time (e.g., 25 years for CF).<sup>54</sup> They are also often limited to a specific resource (forests) rather than taking a more integrated or holistic approach such as focusing on management of carbon in the context of REDD+. Here, tenure rights take a weaker form for IPLCs as they are granted limited and revocable *usufruct* rights to forest products while economically valuable resources (minerals, timber and wildlife) are expropriated by the state and its commercial allies and local exploitation criminalised. Land and forest resource management under state control is unfair, making IPLCs tenants of the state, subject to the whims of state planning and regulation.

While Cameroon has not yet established a coherent policy to address the rights of IPLCs, certain *ad hoc* policies have been introduced for individual programmes in response to pressure from international organisations. For example, to meet the World Bank operational policies on indigenous peoples, the Pygmy Peoples Development Plan was established as part of the Forest and Environment Sector Programme to facilitate the access of Pygmies to CF and to ensure fair distribution of the annual forestry fees (RFA)<sup>55</sup> and the wildlife tax.<sup>56</sup> Indeed, their tenure rights were established long before the state was formed. The importance of resolving tenure challenges and ensuring IPLCs engagement is well recognised under REDD+. It has become a standard operating assumption that clear and secure land tenure is a prerequisite for participation in REDD+ projects, to reduce risks.<sup>57</sup> Without secure tenure, forest users have few incentives and often lack legal status to invest in protecting forests.<sup>58</sup> These risks are of particular concern in Cameroon where participation of IPLCs in forest management is low due to the fact that existing tenure rights and governance are weak.

54 See Article 37 of the 1994 Forestry Law.

55 *Redevance forestière annuelle in its French acronym.*

56 See Viana et al. (2012:29).

57 See Naughton-Treves & Day (2012:iv, 1 and 3); Chia et al. (2013:506); Moore et al. (2012:83).

58 See Springer & Larsen (2012:11); Sam & Shepherd (2011:11); Day & Naughton-Treves (2012:3).

Community tenure has received substantial attention in REDD+ discussions for several reasons. Tenure security will safeguard against risks of involuntary resettlement; will guarantee IPLCs' participation in REDD+ activities; will support more effective forest stewardship; will support the exercise of traditional knowledge and practices; will influence the distribution of REDD+ potential benefits; will influence carbon rights; and tenure is itself a benefit. Rewarding these communities for conserving forests is a more effective conservation strategy than state institutions.<sup>59</sup> It is very critical that IPLCs be allowed to exercise their rights of ownership, otherwise, they may resist REDD+ projects fearing that such projects will violate their land rights, threaten agricultural practices and traditional livelihoods with the Kilum-Ijum Mountain Biodiversity Conservation project being a good example.<sup>60</sup> Thus, the recognition of the customary land ownership and resource rights of IPLCs will be ideal for the REDD+ process to guarantee its success. Formal recognition via a legal instruments can contribute to legitimacy and support for REDD+. Good forest projects should be more about recognising the rights of IPLCs, rather than claiming ownership and control of their territory.<sup>61</sup>

Effective decentralisation of forest management when combined with strong support of IPLCs can prove effective at inducing better management of forest resources. The 1994 Forestry Law guarantees the protection of the rights of IPLCs through CF<sup>62</sup> which is an opportunity for local forest communities to improve livelihoods while promoting conservation. With more complete bundle of rights, CF could enhance better protection of standing forests and restoration of degraded forests. Local participation is more meaningful and effective when local populations are involved not as cooperating forest users but forest managers and even owners.<sup>63</sup> Thus, there are lessons and linkages between CF and REDD+. CF should thus be included as a strategic option in the national REDD+ strategy. However, CF in different parts of Cameroon have also resulted in some negative experiences such as confiscation of the process by elites in complicity with economic operators and therefore low involvement of IPLCs, resulting in mismanagement of revenues and conflict.<sup>64</sup> Moreover, CF in Cameroon is slow as the procedure for applying for an award of CF are cumbersome and costly for local communities to afford.

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59 Lastarria-Cornhiel et al. (2012:102).

60 The government of Cameroon in its effort to maintain the natural biodiversity of this mountain forest, entered into a contract with the NGO BirdLife International to conserve the forest. This decision was taken without involving the inhabitants who were all asked to quit the forest, especially those who grazed their animals there. The decision was never implemented due to resistance from the local population.

61 Awung & Marchant (2016:20).

62 See generally Sections 37 and 38 of the 1994 Forestry Law.

63 Sam & Shepherd (2011:9).

64 Fobissie et al. (2012:15). See also Roe et al. (2009:121).

To ensure that REDD+ does not increase the marginalisation and vulnerability of IPLCs, good practices include: adopting a simple, low-cost and verifiable procedures for legalisation of CF agreements and management planning which integrate all legitimate stakeholders and zoning and land use planning for different land uses. The 2011 orientation law on zoning provides an opportunity to adjust and secure IPLCs' interests and also avoid conflicts among IPLCs, conservation, agriculture, mining and forestry concessions; facilitating the process of obtaining collective land titles for IPLCs; and co-management agreement with IPLCs over protected forest. There is also the need to ensure that rights cannot be arbitrarily revoked.<sup>65</sup> The Development Law Service of the FAO has produced guidance on the statutory recognition of customary land rights based on an analysis of cases in Africa, highlighting seven key steps including:<sup>66</sup> creating local tenure structures that consider local and customary land management structures while also being low cost and easily accessible; establishing administrative processes and dispute resolution mechanisms that are simple, clear, streamlined, local, and easy to use; establishing appropriate checks and balances between customary/local leadership and state officials; safeguarding against intra-community discrimination against women and other vulnerable groups; protecting community land claims while allowing for responsible investment in rural areas; and ensuring enforcement of laws and setting up dispute resolution mechanisms. Though essential, tenure recognition and reform may take decades of struggle to achieve<sup>67</sup> and trying to formalise tenure too quickly can lead to the exclusion of IPLCs and may constitute a threat to REDD+.

### 2.2.1.2 Carbon ownership rights and benefits

REDD+ creates a new resource known as carbon sequestered and stored in forests with an undefined and unclear ownership rights in most countries. Carbon rights, i.e., the bundle of legal rights to carbon sequestered, present a set of theoretical and practical challenges. Since Cameroon has no legislation on carbon rights to date, its legal system does not equally make a distinction between rights over the tree storing carbon and the carbon itself. This elusiveness of legal clarity is problematic as different interpretations of the law lead to competing claims among stakeholders who hold different property rights over forest and land resources. In addition to land and forest tenure, Cameroon will also need to define and clarify rights over sequestered carbon. Rights over carbon can belong to an individual, a group, such as a community or the

65 Springer & Larsen (2012:15).

66 See UNEP (2015:49). See also Lastarria-Cornhiel et al. (2012:105).

67 Costenbader et al. (2015:10).

state, depending on national legislation.<sup>68</sup> According to the 1994 Forestry Law which puts in place a system of different use rights in state and national forests, the state as owner of most of the forest land will by implication be the main beneficiary of any carbon rent obtained under REDD+. Consequently, the right to carbon as a property would belong to the state where it is a state forest while the right to carbon on community and private forests would belong to the owners of these forests,<sup>69</sup> and the carbon on council forests and national land would respectively belong to councils<sup>70</sup> and to the nation managed by the state. However, ownership over natural resources in private forests is limited by Section 39 (4), according to which forest products under Section 9 (2) (which classifies various products or resources as special, belong to the state).<sup>71</sup> Such special products may be extended to include carbon stored in trees. Under this legal construct, most carbon credits realised from REDD+ will belong to the state with the significant risk that IPLCs will not reap adequate financial rewards, stifling incentives to support conservation efforts.

Carbon rights, whether explicitly or implicitly defined, may be linked to the property rights over land and forests in which the carbon is stored, or use and management rights related to forests.<sup>72</sup> However, the right to own a forest does not necessarily confer a right to benefit from it.<sup>73</sup> Carbon rights may be assigned independently of land rights as in New Zealand and Australia.<sup>74</sup> Thus, claims would not necessarily be based on tenure, but could also include ancestral rights, management rights, use rights or capital investment.<sup>75</sup> Clarification is required as to whether a communal title to a forest area also grants the title holder the right to the carbon. Good practice requires devolving carbon rights to IPLCs, along with other forest rights.

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68 Angelsen (2009:144).

69 Natural resources found within a private forest are owned by the individual as defined by Section 39 (1) of the 1994 Forestry Law as read with the 1974 Land Tenure Ordinance.

70 See Article 32 (3) of the 1994 Forestry Law which states that forest products of all kinds resulting from the exploitation of council forest shall be the sole property of the council concerned.

71 Section 9 (2) of the 1994 Forestry Law classifies various products as special and belonging to the state: namely, ebony, ivory, wild animal horns, certain plants and medicinal species or those which are of particular interest.

72 Ministry of Environment, Water and Natural Resources Republic of Kenya (2013:109).

73 (ibid.).

74 Day & Naughton-Treves (2012:3).

75 Loft et al. (2015:1044).

### 2.2.1.3 Fair and equitable benefit allocation and distribution

Benefit-sharing<sup>76</sup> has been highlighted as a key aspect of REDD+ but questions as to who will benefit at the national and subnational levels and how such benefits might be allocated and shared among different actors in REDD+ countries remain largely unresolved. An effective and equitable distribution of benefits can incentivise and empower IPLCs and facilitate the positive outcome of carbon projects<sup>77</sup> while inequitable distribution is a threat to IPLCs' participation in REDD+ schemes. The risks of capture of readiness preparation funds designed for local forest-dependent stakeholders by vested interests have been highlighted in Cameroon,<sup>78</sup> meaning that benefit-sharing is not necessarily pro-poor in nature as is often thought.<sup>79</sup> Diversion of these revenues can lead to perverse incentives to continue degrading forests, or result in the exclusion of vulnerable groups, compromising the achievement of REDD+ objectives. A national REDD+ benefit-sharing scheme needs to be established and it needs to be clarified who will be the eligible recipients. In designing benefit-sharing mechanisms, particular attention must be given to IPLCs, especially their marginalised and vulnerable groups such as women, older members and youths.

Cameroon's approach to REDD+ benefit-sharing is based on previous revenue sharing mechanisms such as the redistribution mechanism of RFA.<sup>80</sup> Under relevant legislation, any financial benefits resulting from the exploitation of forest resources are subject to the payment of royalties to the state.<sup>81</sup> In turn, the state distributes royalties collected thus: 50% to the state, 40% to the councils, and 10% to the local population.<sup>82</sup> The management of the RFA at the community level has been very controversial because of large-scale misappropriation. While the meager 10% share was originally meant to be paid directly to the community level, a joint administrative decision of the Ministry of Economy and Finance and of the Ministry of Territorial Administration on 29 April 1998 provided for the management by local governments. A widespread lack of implementation of these tax allocations to concerned

76 In the context of REDD+, benefit-sharing refers to how financial incentives transferred from international funds or carbon markets are shared between actors within a country.

77 Fair and equitable benefit-sharing allows IPLCs to become partners in projects and potentially empowers them, encouraging local level stewardship of natural resources and leads to decreased pressure on forest ecosystems.

78 Korwin (2016:18).

79 See Sam & Shepherd (2011:31).

80 See FCPF (2013:72). According to the R-PP, REDD+ benefit-sharing hinges on Cameroon's existing revenue sharing mechanisms such as the RFA.

81 Decree No. 96/642/PM of 17 September 1996, fixing the amount and the modalities of tax recovery and the rights of royalties and tax relative to forestry activities.

82 See Decree No. 96/237/PM of 10 April 1996 defining the conditions for the functioning of special funds provided in the 1994 Forestry Law.



villages is common, including no consultation process with the IPLCs before fixing the percentage allocated to them.

The way in which REDD+ financial flows will be monitored is currently unclear and if such monitoring system is not developed, including substantial improvements in governance, significant corruption, misappropriation and diversion of REDD+ funds will be detrimental to IPLCs given the inherent weaknesses in current benefit-sharing scheme in Cameroon. There is genuine concern that governments or brokers will appropriate revenues from REDD+ activities.<sup>83</sup> It is critical to consider to link the IPLCs involved in REDD+ activities to the international carbon funds and market without going through government. One option being tested in Brazil is to use commercial banks to transfer payments from the voluntary carbon market to farmers and community organisations.<sup>84</sup> Apart from direct cash flow, the payment of REDD+ benefits could also be made by building social infrastructure for IPLCs to promote community development and poverty reduction activities. In this respect, Sections 50 and 61 (3) and (4) of the 1994 Forestry Law require the project participant to undertake to carry out industrial installations, developmental works, and provide social amenities for the benefit of the local population. While there is no single formula for equitable benefit-sharing, a transparent and participatory process that is based on legitimate tenure rights likely has the best chance of success.<sup>85</sup>

#### 2.2.1.4 Equity issues

Concerns have grown regarding the equity implications of REDD+ for IPLCs.<sup>86</sup> Equity in the context of REDD+ embodies a wide variety of theoretical parameters including most notably the following elements: equitable compensation according to which all participants' rewards match contributions towards realising REDD+; equal opportunity which involves safeguards to ensure poor and marginalised groups have equal chance to participate; poor targeted requiring poor communities are actively involved, provide equal voice to all participants; and poverty alleviation in which participation and rewards are prioritised to those in greatest need, irrespective of contribution or ability to perform.<sup>87</sup> In this respect, it would be equitable to prioritise the participation of IPLCs and to ensure that they adequately reap the benefits of REDD+ implementation.

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83 Katerere et al. (2009:19).

84 Bond (2009:103).

85 See UNEP (2015:57).

86 See Costenbader et al. (2015:2) and Ituarte-Lima & McDermott (2017:4).

87 See Mboh et al. (2012:34).

### 2.3 Access to information, decision-making and participation

Access to information is vital to environmental and natural resource management.<sup>88</sup> The rights to access to information and to full and effective participation in decision-making are crucial for a legitimate and successful REDD+ implementation. Robust freedom of information laws are an important foundation on which to build.<sup>89</sup> In line with international guidance, access to environmental information in Cameroon is enshrined in the 1996 Framework Law on Environmental Management.<sup>90</sup> Under the 1994 Forestry Law, public information, consultation and participation is required under Articles 8 (2), 51 (2), 61 and 142 (3). The preamble of Cameroon's Constitution equally provides for public participation in environmental matters. The 2005 EIA laws also make public consultation and hearings mandatory during EIA processes. Information, decision-making and participation is supposed to involve all concerned stakeholders, but sometimes, there are no consultations with IPLCs when granting concessions over their land. Given that freedom of information laws exists in Cameroon, the government should provide the necessary institutional support for implementation.

#### 2.3.1.1 Access to justice (effective dispute resolution mechanism)

The right of access to justice is crucial for the successful implementation of REDD+. In fact, a well-functioning justice mechanism is critical for the success of any system. REDD+ has the potential to create conflicts among the various actors hoping to benefit from it. Adequate access to justice is a critical component of effective forest governance structures without which, stakeholders will be unable to enforce and protect their rights, rendering forest governance ineffective. Poor dispute settlement mechanism can undermine efforts to ensure the accountability of the use and distribution of funds and is likely to reinforce tenure insecurity, which may weaken the chance of effective participation especially for IPLCs. There is the need for strong, independent dispute resolution mechanisms with the capacity to identify and deal with grievances. Avenues such as administrative procedures, judicial forums, traditional authorities, and arbitration provided for through environmental laws, Forestry Law and other

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<sup>88</sup> See Principle 10 of the 1992 Rio Declaration.

<sup>89</sup> UNEP (2015:33).

<sup>90</sup> See generally Articles 6, 7 and 9.

natural resource laws<sup>91</sup> are all available for settling disputes. These avenues however need to be strengthened in order to respond to the exigencies of REDD+.

### 2.3.2 A critic of the legal framework with respect to the effective participation of IPLCs

Cameroon's environmental law and related natural resources laws give less rights to IPLCs and the implementation of the weak protection systematically hinder these groups from enjoying adequate forest benefits. Provisions of these national laws and their implementation on the effective participation of IPLCs in REDD+ implementation fall below international standards on this subject in Cameroon. In comparison with legally and non-legally binding international instruments, there is a limited guarantee for IPLCs' participation in REDD+ implementation in Cameroon. Despite a theoretical transfer of powers to local level stakeholders in line with the theories of participation and subsidiarity, the practical forestry management reinforces strongly central stakeholders' power with strong political and economic incentives for elites to consolidate their control over natural resources. Because international instruments are sometimes ratified for political reasons, many of the treaties do not have the necessary mechanisms and direct authority to sanction states for non-compliances, which constitutes a weakness in the implementation of treaties at the national level.<sup>92</sup> There is great limitation with respect to land ownership rights and access to resources for IPLCs. For instance, the 1994 Forestry Law provides for CF but puts in place very stringent conditions and procedures for communities to access, posing a major constraint for IPLCs. Genuine devolution of power involves a real transfer of rights and responsibilities, which the state is reluctant to effect as those who have the power to effect the change have a strong interest in resisting these changes.

Furthermore, administrative bottlenecks and corruption render access to environmental information very difficult or almost impossible for IPLCs; very few have been involved in environmental projects. Although they are key players in the implementation of REDD+, they are either not consulted or largely sidelined and relegated to the background. This can be detrimental to the success of the REDD+ scheme. The current benefit-sharing arrangements in Cameroon allocating only 10% of revenue to IPLCs often fall prey to elite capture as a result of the top-down preferences of central and local governments on communities.<sup>93</sup> Thus, owing to poor en-

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91 The 1996 Framework Law on Environmental Management, 1994 Forestry Law, 1998 Water Law, 2001 Mining Code, 2003 Biosafety Law and the 1974 Land Tenure Laws.

92 See Suksuwan et al. (2015:15).

93 See Murphree & Taylor (2009:109).

forcement of existing laws because of weak governance, institutional capacity, lack of political will, vested interests and absence of rule of law or impracticable legislation, there is often a vast gap between policy rhetoric and on the ground practice.<sup>94</sup> Providing secure and enforceable rights, accompanied by simple and affordable procedures for the exercise of such rights that are within the reach of IPLCs, is critical. The current legal framework on which it hinges must be revised to clearly define the role that the IPLCs will play in REDD+ implementation. The law should clearly identify the various activities and levels at which IPLCs will participate; the incentives and institutional frameworks that will facilitate their participation should also be clearly spelled out for best outcomes.

The duty to adopt effective national legislation and to enforce laws to meet international legal obligations is well recognised, but hardly practised.<sup>95</sup> Evaluation of REDD+ readiness preparation processes in Cameroon indicates insufficient attention to these international REDD+ legal frameworks providing important tools for IPLCs' participation. The involvement and participation of stakeholders, especially the most vulnerable IPLCs, are essential elements for the success of natural resource management initiative such as REDD+. However, the effectiveness of the rights granted to IPLCs will largely depend on the political will of the state and quality of their enforcement.

### 3 Enhancing the participation of IPLCs in REDD+ activities

The engagement of IPLCs in REDD+ implementation can be enhanced by allowing them to participate in REDD+ activities such as carbon schemes and monitoring activities. REDD+ processes, if well institutionalised and realigned with community-owned forest models, are a potential opportunity for CCM and delivering local social benefits. Emissions reductions and improved forest outcomes have occurred in places where IPLCs have been given enhanced rights to manage forest resources.<sup>96</sup> Participation can reduce the vulnerability of IPLCs through income diversification generated from small scale carbon offset schemes and other mitigation activities.<sup>97</sup> As such, the government may consider as part of an emissions reduction strategy, the need to devolve management rights to IPLCs through appropriate legislation in order to fully recognise customary tenure systems, as has been the case in India and Vietnam.<sup>98</sup>

94 See Dkamela (2010:47); Roe et al. (2009:128).

95 See Assembe-Mvondo (2013:38 and 40).

96 See UNEP (2015:52).

97 See Chia et al. (2013:499).

98 See UNEP (2015:52).

#### 4 Activities and levels of IPLCs' participation in REDD+ implementation

REDD+ has grown within international climate negotiations to include a suite of forest sector CCM actions involving five activities identified under paragraph 70 of Decision 1/CP.16.<sup>99</sup> In line with these, the major key aspects of IPLCs' participation include: undertaking carbon sequestration and conservation projects through for example agroforestry, AR and other carbon services such as participation in monitoring activities, decision making, etc. Enhancement of the carbon concessions concept is fundamental for IPLCs' participation.<sup>100</sup> The government can allocate degraded and barren land for forest regeneration or tree planting which would require interested IPLCs to apply for concessions. Climate-smart agriculture (CSA)<sup>101</sup> is also important. Examples of CSA include agroforestry system and improved grassland management. IPLCs can also play a vital function in accurate data collection given their traditional knowledge and relationship with the forest.<sup>102</sup> The UNFCCC Subsidiary Body on Scientific and Technical Advice recognises the need for the engagement of local communities with their local knowledge in the monitoring and reporting of activities related to REDD+.<sup>103</sup> Studies suggest that community information is often as cost-effective as that collected by professionals and sometimes more cost effective.<sup>104</sup> Community forest user groups in Nepal have for example included provisions for community forest monitoring and compliance with local rules into their operational plans.<sup>105</sup> Cameroon could replicate and incorporate similar provisions into its monitoring plans as a way to enhance monitoring. IPLCs can also participate in information gathering for safeguard information requirements as they are most present in forests and therefore often most able to observe them.

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99 One of the Cancun Agreements, Decision 1/CP.16, that resulted from UNFCCC 2010 COP16 encourages developing country Parties to contribute to mitigation actions in the forest sector by undertaking any of the following five activities as deemed appropriate and in accordance with their respective capabilities and national circumstances: (a) Reducing emissions from deforestation; (b) Reducing emissions from forest degradation; (c) Conservation of forest carbon stocks; (d) Sustainable management of forests; and (e) Enhancement of forest carbon stocks.

100 See Alemagi et al. (2014:1).

101 CSA is an approach for addressing food security challenges under the new realities of climate change, which identifies synergies and tradeoffs among food security, adaptation and mitigation as a basis for reorienting agricultural policies and practices in response to climate change. See Alliance for a Green Revolution in Africa (2014:16).

102 UNEP (2015:18).

103 See Kusaga (2010:17).

104 See MacFarquhar & Goodman (2015:9); Bradley (2012:69).

105 UNEP (2015:56).

## 5 Enabling institutional and governance environment for IPLCs' participation

Statutory rights do not automatically guarantee to the IPLCs the exercise and benefit thereof. Their effective realisation requires that supportive institutional and governance frameworks be in place at multiple levels with enabling procedures.<sup>106</sup> An enabling institutional environment is needed to support project development, certification, negotiate deals with buyers on IPLCs' behalf and ensure benefits reach them.<sup>107</sup> There is the need to develop and reform legal frameworks to facilitate and enhance IPLCs' participation in REDD+ implementation, by specifying clear legal rules and procedures allowing them to acquire and register lands and forests on which to carry out carbon schemes. With REDD+ strategy yet to be fully developed, opportunities exist for these challenges to be addressed.

## 6 Conclusions and recommendations

### 6.1 Conclusions

It is clear from the foregoing that local people's ability to manage the lands and resources they depend on has been disrupted. Governments have signed and/or ratified numerous international instruments of legally binding and non-legally binding nature that, among other things, recognise IPLCs' rights to land and resource management which have been incorporated into national legislation, but these have rarely been implemented. Cameroon's environmental law and related legal frameworks and the way they are implemented continue to be disadvantageous for IPLCs, demonstrating the multiple and competing interests and goals of different stakeholders and the weaker power of IPLC who consistently lose out in favour of the state, conservation organisations and investors. Authorities who implement and enforce laws systematically create multi-layered barriers for IPLCs to exercise their rights. State overall ownership and control over land and forest is detrimental to IPLCs' participation in REDD+ implementation. Therefore, in addition to limited statutory rights, IPLCs must also have the minimum guarantees to exercise these rights which only take effect when implemented – a political process that will likely challenge vested interests.

In light of the generally weak implementation of decentralisation and devolution policies, REDD+ may lead to recentralisation of forest management or be implemented through exclusionary approaches that would restrict local uses or result in

106 Springer & Larsen (2012:16). See also Roe & Nelson (2009:9).

107 Katerere et al. (2009:19 and 20).

land grabs triggered by large sums involved in REDD+ implementation. It is no surprise that the UNFCCC safeguards speak against adverse impacts on IPLCs and emphasise respect for their rights. REDD+'s threats on IPLCs are evident, but it has much potential in showcasing the opportunity it holds if carried out through a bottom-up approach where IPLCs are the main stakeholders and managers of the initiative. Tenure needs to recognise customary tenure systems where communal ownership is recognised alongside state ownership via legislation. The legal clarification of allocating and issuance of permits for carbon projects, who holds the rights and obligations to carbon is a necessary step in the implementation of REDD+ which will in turn determine the sharing of benefits from REDD+ activities. The analysis of the current legal framework in Cameroon reveals that explicit legal provisions are lacking to secure effective participation by IPLCs with implications for their dispossession. Compliance with the weak legal framework is still far from satisfactory, with key weaknesses being the lack of genuine political will and poor governance. As such, the land and forest governance challenges faced by the IPLCs over the past decades will need to be addressed in the context of REDD+ implementation. A core conclusion is that IPLCs will only be empowered if REDD+ implementation prioritises local interests and capacities. The findings of this sub-chapter make more prominent the understanding of the vulnerability of IPLCs in the context of REDD+ implementation in Cameroon, underscoring the need for legislative reforms to scale-up IPLCs' participation by bringing their voices and active role into the REDD+ process.

## 6.2 Recommendations

The land tenure, forestry, zoning laws and other related legislation and policy that make up part of Cameroon's environmental law need to be reformed to provide for greater and effective IPLCs' participation by responding to the following concerns: what rights should be allowed for IPLCs and what the clear requirements and procedure for acquiring such rights are. This will facilitate the participation of IPLCs in REDD+ activities and projects. Specifically, the law reform and clarity to be carried out by the government should:

- conduct an analysis on the land and forest rights regimes;
- recognise the collective property rights of IPLCs and finalise legislation on customary tenure on community lands which allows customary right holders to engage in REDD+ processes, and protect their rights to carbon benefit-sharing; the customary tenure should be more resilient, inviolable and unassailable;
- simplify and facilitate the procedure for the acquisition of customary tenure titles over land;

- identify the IPLCs' potential in contributing to CCM through forestry activities; and
- simplify and facilitate the procedure for the acquisition of permits for the establishment of forestry or REDD+ projects.

These recommendations are based on the premise that the effective restitution of rights over land and forests is necessary for the effective participation of IPLCs in REDD+ implementation. This will, however, require strong legal and institutional frameworks which will be possible only with the genuine political commitment of decision-makers. It is hoped that policy makers will consider and incorporate the above findings into strategies formulated to advance the implementation of REDD+ in Cameroon.

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