Chapter 6:
Forests, forest rights, benefit-sharing and climate change implications under Cameroonian law

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1 Introduction

In addition to the vital functions of forests, international climate change negotiations have given an additional dimension to the value of forests regarding their climate change mitigation (CCM) relevance. Cameroon's forestry legal framework classifies forests into various types, and a corresponding bundle of rights is attached to each forest type in addition to a mechanism for the allocation and sharing of benefits. The implementation of this legal framework has CCM implications. This chapter identifies the various forest types, the bundle of rights attached thereto and the formula for allocating and sharing benefits under the forestry laws, analysing their implications for CCM. The chapter argues that although Cameroon's forestry legislation puts in place a bundle of rights attached to each forest type and a mechanism for benefit-sharing (BS), the forest rights are not adequate for some relevant stakeholders involved in forest management, and the BS mechanism is plagued with inherent flaws. By extension, it does not enhance the role of forests in contributing to CCM in Cameroon. The principal objective of this chapter is to demonstrate that the role of forests in contributing to CCM in Cameroon, which can only be enhanced by the establishment of adequate forest rights for relevant stakeholders involved in forests management, and the effective implementation of a fair and equitable BS paradigm aimed at incentivising sustainable forest management (SFM) and forest conservation. The chapter analyses Cameroon's legislation, focusing specifically on how it provides for the protection of the various types of forests, forest rights, mechanisms for BS, assessing their CCM implications in Cameroon. The chapter concludes that the role of the country's forests in contributing to CCM is greatly hindered due to aninadequate and inappropriate recognition of forest rights reserved for some relevant stakeholders involved in forest management and a corresponding inadequate and inappropriate BS formula, underscoring the need for urgent legal reforms. The chapter ends with some recommendations.

1.1 Contextualising the study

Global climatic change primarily driven by the quest for economic development across countries is accelerating. Humankind has altered the natural global environment to the extent that the earth is becoming warmer, causing climate change that has suddenly vaulted to the top of global agenda, traceable to global initiatives intended to address the phenomenon, its causes and adverse effects on common concerns of humankind.[1] One such leading global initiative is the United Nations Framework Convention on Climate Change (UNFCCC) signed in 1992 as one of the outcomes of the Rio Conference on Environment and Development according to which, climate change is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.[2] The UNFCCC identifies two policy responses to address climate change; to wit: climate change mitigation (CCM) by reducing greenhouse gases (GHGs) in the atmosphere and enhancing carbon sinks, and adaptation to the impacts of climate change.[3] CCM is thus any intervention strategy or action taken to reduce GHG concentrations in the atmosphere by avoiding further emissions from sources or by enhancing sinks of GHGs (principally atmospheric carbon dioxide (CO_2)). The UNFCCC has as an ultimate objective, the stabilisation of GHG concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system and such a level should be achieved within a period sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.[4]

To minimise potentially severe climate change impacts, the UNFCCC negotiations have set a goal of limiting global warming to 2°C above pre-industrial levels.[5] Likewise, the 2015 Paris Agreement has as a primary goal, to keep a global temperature rise this century below 2°C and to drive efforts to limit temperature increase even further to 1.5°C above pre-industrial levels.[6] Just like the UNFCCC, the Paris Agreement identifies forests as one of the significant sinks and reservoirs of GHGs and directs parties to take action to implement activities relating to reducing emissions from deforestation and forest degradation. It emphasises the role of conservation, sustainable management of forests and enhancement of forest carbon stocks under its Article 5. Since Cameroon is not an industrialised country, its various forest types will play a critical role in helping the government in achieving its 32% emissions reduction

1 Tamasang (2009: 172).
2 Article 1(2) of the UNFCCC.
3 Article 2 of the UNFCCC.
4 Article 2 of the UNFCCC.
5 Article 17 of Kyoto Protocol to the UNFCCC.
6 See Article 17 of the Paris Climate Change Agreement adopted on 15 December 2015, signed in New York on 22 April 2016 and entered into force on 4 November 2016.

pledged under its Nationally Determined Contributions (NDCs). Originally submitted as Intended Nationally Determined Contributions (INDCs), these become binding NDCs when a country ratifies the Paris Agreement.[7] For the country's forest to ait in achieving the above emission reduction, the various types of forests must be managed sustainably. This would, however, depend on the extent to which the various forests types classified, rights thereto attached and the benefit-sharing entitlements are implemented.

Forests play some vital economic, socio-cultural, ecological and environmental functions[8] and when sustainably managed, can play a central role in mitigating climate change. The intrinsic relationship between climate change and forests has brought renewed attention to forests and land use. The international climate change negotiations have provided an additional dimension to the value of forests in terms of their carbon sequestration[9] and carbon-storing potential, which have CCM relevance. This crucial role of forests in contributing to CCM has been broadly acknowledged and has become the central issue in the global forest-related dialogue and policy processes and their role in CCM is receiving increasing attention.[10] Forests play an important role in stabilising GHG concentrations in the atmosphere,[11] and as the most significant terrestrial carbon reservoir covering nearly one-third of the earth's land surface, they account for almost half of the earth's terrestrial carbon pool.[12] In their growth process, forests transform the gas to the solid carbon that makes up their bark, wood, leaves and roots. Globally, forests potentially provide abatement equivalent to about 25% of current

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7 Under the Paris Agreement, the INDC become the first NDCs when a country ratifies the Agreement, unless they decide to submit a new NDC at the same time. Thus, the NDC became the first greenhouse gas targets under the UNFCCC that applied equally to both developed and developing countries upon ratification of the Agreement. On 28 September 2015, Cameroon submitted its INDCs to the Secretariat of the UNFCCC. In its INDCs, Cameroon pledged a 32% reduction in emissions by 2035 compared to business-as-usual levels, taking 2010 as the reference year and conditional upon international support in the form of financing, capacity building and transfer of technology.

8 Forests have important functions including: in economic development; provide revenue for the state, basic needs for rural population; ecologically, socially and culturally; protection of the soil and watersheds or catchments, enhance agricultural activities especially agroforestry, provide opportunities for public education, research and recreation, a source of medicinal plants, provide habitats/home to the majority of terrestrial species, protect biodiversity. For more on such functions, see Tamasang (2007); IUCN (2017); COICA (2013); Desclée et al. (2013); FAO (2005); and Rautner et al. (2013).

9 In this context, carbon sequestration refers to the uptake and storage of carbon by forests. It is the process of removing carbon from the atmosphere and depositing it in a reservoir. Carbon sequestration is an ecosystem service that provides a vital contribution to CCM and this service can be enhanced by maintaining ecosystem resilience in space and time.

10 The Bali Action Plan (2008) under the auspices of the UNFCCC, sought to mobilise positive incentives for countries to reduce their forest-based GHG emissions. See Weaver (2011); Kadar (2011: 185); and UNEP (2014: vi).

11 Article 2 of the Kyoto Protocol to the UNFCCC.

12 CPF *Strategic framework for forests and climate change* (2008: iii).

CO_2 emissions from fossil fuels by 2030, through a combination of national strategies.[13] The total volume of carbon locked up in forests is currently greater than that held in the atmosphere according to the 2006 Stern Report.[14] Forests have a tremendous capacity to cause as well as avoid and remove carbon emissions. Preserving forests means that carbon is stored in them rather than emitted into the atmosphere, where it accelerates climate change.[15] When forests are cleared or degraded, their stored carbon is released into the atmosphere as CO_2. Forests thus play an important role in the global carbon cycle as both a sink (absorbing CO_2) and a source (emitting CO_2). What happens to forests, therefore, has crucial implications in the climate change saga. Although the largest share of GHG emissions is as a result of the combustion of fossil fuels; in 2005 about 18% of annual global GHG emissions were attributable to deforestation and other land use change.[16] In 2011, the FAO stated that an estimated 17.4% of GHG emissions are derived from the forest sector, in large part due to deforestation and that forests have considerable potential for carbon sequestration.[17] Other estimates indicate that tropical deforestation and forest degradation account for between 12 to 25% of global anthropogenic emissions resulting from land use change, depending on the year and the measurement methodology used.[18] Accordingly, forest-based CCM efforts must be balanced with other forest objectives. Forests can and must be part of the solution to keeping the climate within the globally accepted two-degree temperature increase limit.

Forest management usually involves the reconciliation of multiple and sometimes conflicting rights and the allocation and sharing of benefits derived from the same. That said, there is a nexus between forests, forest rights, BS and CCM. Climate Smart Forestry or Climate Friendly Forestry (forest management that does not cause climate change, but contributes to CCM) strongly depends on the nature of forest rights and BS scheme, which can act as an incentive or disincentive to sustainable forest management (SFM) and forest conservation with implications for CCM. In fact, the legal guarantee of adequate forest rights for all relevant stakeholders in forest management and a fair and equitable BS paradigm are incentives for forest protection that can greatly enhance their CCM role. Thus, strengthening forest rights and the BS scheme can serve as an incentive for forestry actions that contribute to CCM. However, ensuring adequate forest rights and a fair and equitable BS mechanism seem to be an undervalued and often-overlooked strategy for enhancing forests' CCM role in Cameroon.

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13 Reinhard (2011: 4).
14 Ibid.
15 OECD (2015).
16 Secretariat of the Convention on Biological Diversity (2009: 52); Boyd (2014: 470); Pittock (2009: 1570); and Costenbader (2011: 3).
17 FAO (2011).
18 See Van Asselt (2012: 1214); Norman & Smita (2014: 3); Alix-Garcia & Wolff (2014: 361-363); Brack (2012: 4); Emily & Hisham (2014: 13); and Corbera & Schroeder (2010: 1).

The legal guarantee of forest rights for relevant stakeholders in forest management especially communities tends to lower deforestation and forest carbon emissions as stakeholders with secured forest rights will be motivated to maintain or enhance their forests' carbon stocks.

The 1994 Cameroonian Forestry Law[19] and its enabling instruments (implementation Decree[20], the joint MINADT/MINFI/MINFOF Order on the annual forestry fees[21]) constitute the main legal instruments implementing the counties' forestry policy. The law and related enabling instruments lay down the forestry, wildlife and fisheries regulations within a framework of integrated management, sustainable conservation and usage.[22] The implementation of the aforementioned is thus also relevant to forest rights, BS and CCM in Cameroon.

1.2 Theoretical and conceptual frameworks

In recent years, the management of natural resources such as forests, the rights attached thereto and corresponding benefit entitlements have become a significant concern of legal theorists. Going by the public trust theory of natural resource management, it provides that the state has the duty to hold natural or environmental resources in trust for the benefit of the public and not to make them subject to private ownership.[23] In addition, the theory of decentralisation and participation in environmental and natural resource governance requires the state to achieve sustainability objectives through collective action by ensuring broader and inclusive stakeholder participation. In the same vein, any meaningful discussion on rights in any field of study and on forest rights and benefit entitlements as articulated in this chapter cannot proceed without invoking Hohfeld's theoretical considerations and analysis of 'legal rights'[24] which has often been extolled as a paradigm of conceptual clarity of legal rights. Hohfeld's theory of legal rights, in a nutshell, seeks to clarify juridical relationships between the relevant parties.

The concept of forest rights is used in this chapter to depict the property rights tied to the various types of forests and their resources. In other words, forest rights are utilised here to represent ownership, access, use and management rights associated with the different types of forests and their resources. In addition, the concept of BS is

19 Law No. 94/01 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations.
20 Decree No. 95/531/PM of 23 August 1995 setting the terms and conditions of application of the forest regime.
21 Joint Order No. 122/MINADT/MINFI/MINFOF of 29 April 1998 issued to lay down conditions for the use of revenue derived from forestry fees.
22 Section 1 of the 1994 Forestry Law.
23 For more on this theory, cf. Tamasang (2007: 4).
24 Hohfeld (1919).

employed in this chapter to connote the allocation and sharing of benefits derived from forest management.

Studies conducted on the classification of forests, forest rights and BS in Cameroon are instructive but not focused on the assessment of their implication for CCM. The research question guiding this chapter is whether the law on the classification of forests, the rights attached thereto and the BS paradigm favour Sustainable Forest Management (SFM) and forest conservation enhancing the role of forests in contributing to CCM in Cameroon? Thus, the thrust of the chapter is to demonstrate the role of forests in contributing to CCM in Cameroon can only be enhanced with the establishment of a system of adequate forest rights for all relevant stakeholders in forest management and a fair and equitable benefit allocation and sharing scheme, whose effective implementation can incentivise SFM and forest conservation. This is more so because the UNFCCC's REDD+[25] mechanism designed to mitigate climate change has added financial value to carbon stored in forests which is still considered to be a relatively new forest commodity.

1.3 Methodology

This chapter makes a content analysis of the forestry legal framework, including recent policy and legal developments on climate change and forest governance such as REDD+, the UNFCCC, its Kyoto Protocol, the Paris Agreement, and the NDCs. The author also makes use of desk research consisting of the reading and reviewing of records, with the aim of identifying policy and legislative changes that can be recommended with respect to forests, forest rights, BS and how they can enhance the role of forests in contributing to CCM in Cameroon.

2 Forest types, forest rights and their implications for climate change mitigation in Cameroon

Forest rights can be described as a bundle of rights that may include various combinations of ownership, access and use, management and alienation rights. In some cases, a single user may command all of the aforementioned rights, while in other cases, different users may claim some subset of these rights associated with the same area of forest.[26] For instance, it is possible for the state to claim ownership of forest lands

25 Reducing Emissions from Deforestation and Degradation, conservation of forest carbon stocks, enhancement of forest carbon stocks and sustainable forest management in developing countries.

26 UNEP (2015: 45); Springer & Larsen (2012: 4); and Climate Focus (2015).

giving a permit to a private entity to carry out other activities, while at the same time a community may have the right to live in and use the same forest. In Cameroon, these rights are poorly defined, weakly enforced, overlapping and - at times - generate tenure conflicts over these areas.[27] Of particular relevance to CCM, are ownership rights which are often exclusive; use or *usufruct* rights, which are more limited than ownership rights, and which can belong to other actors than the owner. They comprise individual and collective rights, tangible rights pertaining to physical land and resources such as trees and intangible rights, which cannot be physically acquired. That for instance applies to carbon credits derived from carbon stored in trees and biomass, which today constitute a new but controversial forest commodity. This is especially true when it comes to ownership and benefit due to a lack of existing legislation in Cameroon.

2.1 Types of forests and related rights under Cameroonian law

The 1994 Forestry Law classifies national forest into permanent forest estates (PFE) and non-permanent forest estates (NPFE).[28] PFE comprise lands that are used solely for forestry and/or as wildlife habitat[29] and consists of state and council forests[30], covering at least 30% of the total area of the national territory, reflecting the country's ecological diversity.[31] NPFE or unclassified forests comprise forest lands that may be used for other purposes than forestry[32] and consist of communal forests, community forests and forests belonging to private individuals.[33] In classifying forests, the 1994 Forestry legislator established different rights attached to the different types of forests. The nature and exercise of such rights may also have implications for CCM in Cameroon.

2.1.1 State forests, rights attached thereto and climate change mitigation implications

Under Section 24(1) of the 1994 Forestry Law, state forests include (a) areas protected for wildlife, such as national parks, game reserves, hunting areas, game ranches belonging to the state, wildlife sanctuaries, buffer zones and zoological gardens belonging to the state. Section 24(1)(b) provides for forest reserves consisting of production

27 See Korwin (2016); Blomley (2013: 11); and Mboh et al. (2012: 25).
28 Section 20(1).
29 Section 20(2).
30 Section 21(2)(a) and (b).
31 Section 22 (1).
32 Section 20(3).
33 See Section 34(a), (b) and (c) respectively.

forests, protection forests, integral ecological reserves, recreation forests, teaching and research forests, plant life sanctuaries, botanical gardens and forest plantations.
Under Section 26(1), the instrument classifying a state forest is expected to take into account the social environment of the local population, who are entitled to maintain their logging rights in such forests. However, under Section 26(2), such rights may be limited if they are contrary to the purpose of the forest. In such a case, the local population is entitled to compensation. Article 26(1) of the Decree implementing the 1994 Forestry Law further provides that the population living around state forests is entitled to maintain their *usufruct* rights consisting in carrying out within these forests their traditional activities, such as collecting secondary forest products, notably raffia, palms, bamboo, cane or foodstuff and firewood.
Article 26(2) of the Decree further provides that in order to meet the domestic needs for poles and firewood, the neighbouring populations concerned can cut down a number of trees commensurate to such needs. They are, however, strictly forbidden to sell or exchange wood from such trees. The respect and effective implementation of these rights of the local population could constitute an incentive for improved SFM and conservation of state forests, both relevant for CCM. This can motivate local populations to adopt more sustainable exploitation methods that do not contribute to deforestation and forest degradation, thereby maintaining the carbon stocks of such forests. However, the forest rights recognised by the aforementioned legal provisions are inadequate for the local population since their implementation has not been effective. This inadequacy is captured in the discussion that follows.

2.1.2 Council forests, rights derived therefrom and climate change mitigation implications

Under Section 30(1) of the 1994 Forestry Law, a council forest is a forest that has been classified on behalf of a local council or has been planted by the local council. Section 32(3) provides that forest products stemming from the exploitation of council forests are the sole property of the council concerned. Under Section 67(2) councils, for the exploitation of their forests, receive the selling price of forest products and the annual royalty for the forest area. Section 30(2) determines the management objectives of council forests, as well as logging rights by the respective local population. These entitlements can motivate more SFM of council forests, contributing to CCM. Section 32(3) can also enfold positive implications for CCM then belonging to the council in question. In the same vein, Section 67(2), which gives the council the right to the entitlement of the selling price of forest products and the annual royalty is another incentive for SFM with potential CCM effects. Notwithstanding these promising legal provisions on council forests and rights attached thereto, the law remains inadequate with respect to the rights of the local population as critically examined below.

2.1.3 Community forest, rights related thereto and climate change mitigation implications

Cameroon's forestry legislation encourages the participation of local populations in the management of forests and their resources in order to contribute in improving their livelihoods, notably through community forests (CFs). CFs are defined by the Decree implementing the 1994 Forestry Law as a forest of the non-permanent forest estate, object of a management agreement between a village community and the service in charge of forestry. The management of such forest is the responsibility of the village community concerned, with the technical assistance of the service in charge of forestry.[34]

Under Cameroonian law, CFs comprise forest lands that may be used for other purposes than forestry[35] and under Section 37(1) of the 1994 Forestry Law. Village communities have the right to participate in the management of forest resources. Forests which may be subject to a CF management agreement are those situated in the outskirts of, or close to one or more communities in which the inhabitants carry out their activities.[36] The populations concerned are those that are authorised to carry out their activities therein not only as custodians of the forest, and within the framework of *usufruct* rights, but also as entities recognised under existing legislation.[37] Forest products of all kinds resulting from the management of CFs belong solely to the village communities concerned.[38] Like in the above forest types, CF and the rights flowing from its management under Cameroonian law are inadequate in enhancing such forests' CCM role. This inadequacy is given a critical assessment below.

2.1.4 Communal forests, rights emanating therefrom and climate change mitigation implications

According to Section 34(a) of the 1994 Forestry Law, communal forests comprise forest lands that may be used for other purposes than forestry. Under Section 35, communal forests include orchards, agricultural plantations, fallow land, wooded land adjoining an agricultural farm, pastoral and agro-forestry facilities. Citizens living around communal forests are granted logging rights. However, for purposes of conservation or protection, the minister in charge of forests may restrict such rights, particularly in

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34 Article 3(11) of the Decree.
35 Section 34(b) of the 1994 Forestry Law.
36 Article 27(2) of the Decree.
37 For more on this, cf. Tamasang (2007: 159).
38 Section 37(5) of the 1994 Forestry Law. See also the proviso to Section 67 of the 1994 Forestry Law which provides that village communities and individuals are only entitled to payment of the selling price of the products extracted from their forests.

relation to grazing, pasturing, felling, logging and mutilation of protected species.[39] Notwithstanding the aforementioned, for the development of neighbouring village communities of certain communal forests under exploitation, part of the proceeds from the sale of forest products are reserved for these communities.[40] The effective implementation of the rights attached to communal forests can produce positive CCM outcomes. For instance, their right to a share the proceeds from the sale of forest products can incentivise them to avoid unsustainable activities that lead to forest destruction which in turn contributes to climate change.

2.1.5 Private forests, rights thereto attached and climate change mitigation implications

According to Section 34(c) of the 1994 Forestry Law, private forest comprises forest lands that may be used for other purposes than forestry. Under Section 39(1) individual natural persons or corporate bodies may plant forests on land they acquire in accordance with the laws and regulations in force referred to as private forests. However, the 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[41]) belong to the state. The state's monopoly over such special products may stifle incentives to support SFM and forest conservation efforts with negative CCM outcomes. Within the framework of REDD+ implementation, such special products may be extended to include carbon stored in trees and under this legal construct, most carbon credits realised from REDD+ within private forests belongs to the state. This bears the significant risk of private forest owners being exempted from adequate financial rewards, thus de-incentivising SFM and conservation efforts as well as hindering positive CCM results. This insufficiency of the law will be elaborated further in the sub-section below.

2.2 Discussion on forest types, rights thereto attached and climate change mitigation implications under Cameroonian law

Cameroonian forestry legislation provides different stakeholders in forest management with a bundle of rights attached to the various forest types. The adequate implementation of such rights may be favourable or disfavourable to CCM. The law makes it

39 Section 36(1) of the 1994 Forestry Law.
40 Section 68(2) of the 1994 Forestry Law.
41 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.

obligatory to consider these rights especially in light of the social interests of local populations. In this respect, the right to benefit belongs to the various forest owners, managers and users, with an additional use right (rights to harvest and use forest products) accorded to the local population under basically all forest types in Cameroon. In the same spirit, the UN-REDD Programme standards under Criterion 7 requires national REDD+ programmes to respect and promote the recognition and exercise of the rights of indigenous peoples (IPs), local communities and other vulnerable and marginalised groups to land, territories and resources, including carbon.[42] Despite the promising legal provisions guaranteeing the enjoyment of forest rights by relevant stakeholders in forest management under Cameroonian law, especially the rights of local populations are considered inadequate as their implementation has not been effective. This reality is stifling incentives to support SFM, forest conservation efforts and CCM.

Although Section 8(1) of the 1994 Forestry Law recognises the rights of the local population to harvest all forest products freely for their personal use, except the protected species, it precludes any sale of such products. In the same manner, Article 26(2) of the Decree implementing the 1994 Forestry Law strictly forbid neighbouring populations from selling or exchanging wood from trees harvested in order to meet the domestic needs for poles and firewood. Also, under Section 26(2) of the 1994 Forestry Law, logging rights of the local population guaranteed under Section 26(1) may be limited if they are contrary to the purpose of the forest. Such legal restrictions are harsh on communities living in close proximity to such forest resources as their subsistence entirely depends on them. Furthermore, forests are subject to multiple and conflicting usages. Stakeholders in forest management have different and often opposing rights and mandates over forest areas. Often numerous plans exist in the same forests targeting different priorities. Such priorities deal for instance with timber harvesting, biodiversity conservation, the collection of non-timber forest products, agriculture etc. Conflicting natural resource policies do not create a sound forestry policy and legislative base to promote CCM. The fact that Cameroon does not have a comprehensive land use plan leads to problems of overlapping usage titles. Conflicts have been noted between and among conservation priorities, mining and logging concessions and the livelihoods of local populations.[43] These conflicts also carry the potential for large-scale forest destruction lacking a favourable legal environment for CCM.

Moreover, a critical assessment of relevant laws reveals that the bundle of rights available for local communities tend to be more limited to use and management rights (and often) for a limited period of time (e.g. 25 years for CF[44]) despite the long-term

42 See UN-REDD Programme (2011: criterion 7).
43 See Megevand et al. (2013: 127).
44 See Articles 37, 38 & 39 of the 1994 Forestry Law.

investment needed in many forest areas for sustainable management. The forestry law also limits forest tenure and management rights of local communities by for instance:

- providing maximum limits for CF areas (5,000 hectares);
- non-recognition of existing customary forest tenure claims; and
- restricting CF to selected forest areas on the outskirt.

The forestry law further contains legal clauses that allow the state to repossess forests if management is not deemed acceptable, leaving communities vulnerable. The CF model is seen as a weak response to customary claims, providing only temporary and easily revoked use and management rights to small and degraded forest areas.[45] This creates insecurity which is a potential driver for unsustainable activities which do not favour CCM.

Moreover, the acquisition and management of CF are slow due to stringent legal requirements, cumbersome and costly procedures.[46] Some CFs in Cameroon have also resulted in negative experiences such as confiscation by elites in complicity with business interests with the low involvement of communities, resulting in mismanagement and embezzlement of revenues.[47] In fact, CF is perceived negatively because of the failure to deliver broad-based positive community benefits compounded by corruption and administrative inconveniences that decrease the motivation of communities to acquire and manage CF.

In addition, forest tenure rights take a weaker form with implications for effective forest stewardship as vulnerable forest-dependent people are granted limited *usufruct* rights while economically valuable resources are claimed by the state and its business allies. In fact, customary ownership of forests and its valuable resources are at times "hijacked" from local populations, making them tenants of the state and subject to state regulation. Forest-dependent people consider forest resource management under state control as unfair and merely beneficial to industrial forestry companies.[48]

Cameroon's land and forest tenure laws create a degree of uncertainty regarding tenure rights. In particular, customary tenure is generally not recognised under the Land Tenure Ordinance as all land without a registered land title is treated as state land[49] implying that customary landholdings are also treated as state-owned land

45 Carodenuto et al. (2014: 121).

46 The 1994 Forestry Law allows local communities to apply for and obtain CF under stringent conditions such as the need to create a legal management entity which is not necessary, developing management plan, annual report writing, and recording inventories; which are cumbersome and hard for local communities to comply.

47 Fobissie et al. (2012: 15).

48 Chia et al. (2013: 499). See also Awung & Marchant (2016: 20).

49 Cameroon land tenure is governed by Ordinance No. 74/1 of 6 July 1974 to establish rules governing land tenure, the 1995 Indicative Land Use Framework, and other pieces of legislation including 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 claim ownership and places all unregistered lands under state control. Land

including their forests. Most forests in Cameroon are classified as national and state-owned despite century-old claims by forest-dependent communities and their contributions to SFM and limited contributions of state-controlled forests to local livelihoods and development. Indeed, there is a general conception that IPs' forest tenure rights were established even before the state came into existence. It is thus critical that forest-dependent communities be given more forest ownership and management rights. Otherwise, they may resist such forest management projects as for example in the case of the local population against the Kilum-Ijum Mountain Biodiversity Conservation project.[50] If the state continues with the exclusionary policy and if the rights of vulnerable communities are not strengthened, they have little incentive to protect forests. In fact, it has been suggested that effective decentralisation of forest management rights and responsibilities, especially with the involvement of local communities, can provide for more effective management of forest resources compared to state-managed forests.[51]

Without secure tenure, local forest users have few incentives and lack the legal mandate to invest in protecting forests.[52] The importance of strengthening forest tenure rights, especially for IPs and local communities is well recognised under the REDD+ initiative. At the 16th Conference of Parties to the UNFCCC in Cancun in 2010, social and environmental safeguards were developed to avoid the negative impacts of REDD+ actions[53] including "respect for the knowledge and rights of indigenous peoples and members of local communities",[54] and "the full and effective participation of relevant stakeholders, in particular, indigenous peoples and local communities".[55] Legal certainty of forest tenure rights is a prerequisite for reducing environmental and social risks. [56] In the absence of a comprehensive policy to address the rights of forest-dependent communities in Cameroon, certain ad hoc policies have been established for individual programmes in response to pressure from international organisations. For instance, to meet the World Bank Operational Policies on IPs, the Pygmy Peoples Development Plan was established as part of the Forest and Environment Sector Programme to facilitate access to CF by the Pygmies such as the Baka people and to ensure fair distribution of the annual forestry fees (referred to herein by its French acronym

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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.

50 The government of Cameroon, in its effort to maintain the natural biodiversity of the Kilum-Ijim mountain forest, entered into a contract with the NGO BirdLife International to conserve the mountain's forest. This decision was taken without involving the inhabitants who were all asked to quit the forest. As a result, the decision was never implemented due to resistance from the local population.

51 Viana et al. (2012: 12); Tassa et al. (2010); and Lastarria-Cornhiel et al. (2012: 102).

52 Sam & Shepherd (2011).

53 UNFCCC Decision 1/CP.16 ("Cancun Agreement"), Appendix I.

54 Paragraph 2(c).

55 Paragraph 2(d).

56 Day & Naughton-Treves (2012: 1); and Moore et al. (2012: 83).

as RFA[57]) and the Wildlife Tax. The Voluntary Guidelines on Responsible Governance of Tenure further stresses the need for national laws and processes to protect communities with customary tenure systems from encroachment or displacement, helping communities document and publicly make available information about the forests and lands they control and to register documented customary systems in order to secure customary rights.[58] Be that as it may, a complete bundle of rights under CF could also promote better protection of standing forest and restoration of degraded forest.[59] There is a growing body of literature linking community forest rights with healthier forests and lower CO_2 emissions. Legal recognition and government support of community forest rights can thus help maintain and protect healthy forests, ensuring their role as carbon sinks.[60]

Forest communities already have a genuine interest in protecting forests, as they depend on them for their livelihoods and culture. In line with this opportunity to sustainably manage forests, Cameroon under the REDD+ readiness process has engaged forest-dependent communities as a key stakeholder though with very limited representation of only one member out of the 19 members constituting the National REDD+ Steering Committee.[61] It has been suggested that the government can meet its climate goals while also improving citizens' livelihoods by protecting and expanding the amount of officially recognised CFs.[62] These can sequester considerable amounts of carbon. Important carbon stocks in many forests around the world have been maintained and enhanced thanks to the management practices of local communities, which range from conservation to reforestation to community fire management.[63] Hence, enhancing forest rights of forest communities presents an enormous opportunity to fight climate change. This would, of course, require the need to simplify the conditions and procedures for the acquisition and management of CFs. Strengthening community forest rights is not just question pertaining to land and resources. It is also a cost-effective CCM solution. In fact, community forest rights should be part of the national CCM Policy. However, it's not sufficient to legally recognise their forest rights. The government must also protect these rights by supporting communities in the sustainable management of their forests.

Customary rules should prescribe clear and acceptable claims to lands for forest-dependent communities while such claims should not be contradicted or nullified by

57 *Redevance forestière annuelle.*
58 See UNEP (2015: 49).
59 Bond (2009: 99).
60 See <http://www.wri.org/blog/2014/12/why-community-forest-rights-should-be-part-national-climate-change-policies> (accessed 22-3-2018).
61 See Order No. 103/CAB/PM of 13 June 2012 pertaining to the creation, the organisation, and the operation of the REDD+ Steering Committee.
62 See <http://www.wri.org/blog/2014/07/community-forests-undervalued-approach-climate-change-mitigation> (accessed 22-3-2018).
63 FAO (2010: 4).

state regulation. This insufficiency of the law in recognising such claim rights leaves communities vulnerable to losing their land, making forests vulnerable to being cut down. Thus, strengthening customary tenure rights over forest lands can guarantee legitimacy and local support for SFM and forest conservation which are good for CCM. Strengthening customary tenure rights has to be understood as the process by which the government legally and unequivocally cedes claims of forest ownership and management rights to local communities that have historically used and occupied such forests. However, the strengthening of such rights for forest-dependent communities should go in tandem with the enforcement and monitoring of related legal reforms.

2.2.1 Clarification of carbon rights as a new forest resource under Cameroonian law

International legal instruments[64] envisage a new forest product known as carbon, which could emerge as a tradable commodity in the process of mitigating climate change. While this has been commended as a laudable initiative, the instruments, unfortunately, do not clearly define the rights relating to this transaction. This probably explains why such initiative had never really been successful within the SFM conversation. REDD+ negotiations which are an upshot of the UNFCCC and its numerous Conference of Parties' decisions have not made the situation any better in terms of clarifying carbon BS under this new forest management paradigm. The majority of the countries, including Cameroon, are therefore at odds as to crafting domestic legislation relating to the subject. Another explanation for the silence is that it is a relatively new development in the forest management paradigm requiring ample time to monitor its operation in national settings. The legal clarification of carbon rights could be challenging, as multiple stakeholders may claim rights over forest carbon, including communities, governments and carbon project implementers. Ownership of carbon rights is a contentious issue[65] as most of the REDD+ participating countries, including Cameroon, do not have explicit laws regarding the carbon rights. In addition to forest tenure clarification, the question as to who should own the carbon embodied in both old and new forests requires legal clarity in Cameroon. This would create an incentive for engagement in forest carbon sequestration projects which could become favourable for CCM.

Following the classification of forests under Cameroonian law, rights over carbon may belong to the state, councils, a group such as a community or an individual. On the strength of forest classification, the right to carbon would belong to the state where it is a state forest while the right to carbon on community and private forests would

64 Cf. Kyoto Protocol to the UNFCCC.
65 Sherpa & Brower (2015: 27); and Loft et al. (2015: 1036).

belong to the owners of these forests,[66] and the carbon on council forests and national land would respectively belong to councils[67] and to the nation managed by the state. Thus, carbon can be made a publicly owned resource, a communal resource or a private resource. However, certain forest products are classified as special, and the list of special products is fixed when necessary, by the competent ministry.[68] The discretionary power of the minister may also allow the inclusion of carbon into the special products list. Under this legal construct, most carbon credits realised will go to the state with significant risk that communities will not reap adequate financial rewards, stifling incentives to support forest conservation efforts. In fact, in Cameroon, most forests storing carbon are mostly owned by the state who will by implication be the main beneficiary of any carbon benefit. Options for the clarification of carbon rights have been suggested by Costenbader as follows:[69]

- The carbon is privately owned expressed in a contract or a covenant that runs with the land, binding anyone who owns the property in the future; or the carbon is the object of a separate, alienable property right, such as a *usufruct right*[70] or *profit à prendre*[71], which the owner can sell without conveying land ownership.
- The carbon is a publicly owned asset where the government holds it as trustee for the benefit of forest owners or of the public, with the power to sell it.

Where carbon projects are planned and implemented in a centralised manner, payment for carbon benefits can be allocated and distributed through the existing RFA BS mechanisms. From the foregoing, one may conclude that carbon rights are rights over an 'intangible asset' referred to as carbon, a new form of resource which may or may not be separate from trees / biomass in which it resides, and which may be transferred or commercialised separately.

Generally, one of the major factors driving forest destruction in Cameroon is due to inadequate and insecure rights over forests and its resources. Consequently, enhancing and securing such rights is fundamental when ensuring the long-term permanence of the CCM role of forests. The participatory approach adopted under the REDD+

66 Natural resources found within a private forest are owned by the individual as defined by Section 39(1) of the 1994 Forestry Law.

67 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.

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

69 Costenbader (2011: 27).

70 *Usufruct* is "the right of enjoying a thing, the property of which is vested in another, and to draw from the same all the profit, utility and advantage which it may produce, without altering the substance of the thing".

71 *Profit à prendre* is "the right to share in the land owned by another. In particular, *profit à prendre* enables a person to take part of the soil or produce of land that someone else owns".

readiness process could build genuine support, especially from forest-dependent communities if there is strong political will to initiate reforms that enhance and protect their rights thereby making these communities active stakeholders in forest management - especially in the context of CCM.

3 Benefit-sharing in the context of forest management and implications for climate change mitigation under Cameroonian law

BS may be defined as the distribution of monetary and non-monetary benefits derived from forest management to relevant stakeholders within a country's legal architecture. With the advent of carbon as a forest commodity, it is important to highlight carbon in the context of BS, which has been defined as an –[72]

> agreement between stakeholders, such as private sector, local communities, government and non-profit organisations, about the equitable distribution of benefits related to the commercialisation of forest carbon.

Carbon BS may therefore be understood as the distribution of benefits derived from the sale of carbon credits. BS considerations are important determinants of forest-based efforts to mitigate climate change. Yet, an appropriate mechanism for fair and equitable BS is challenging. A well-functioning BS scheme provides incentives for actions that protect forests, which is essential for CCM. There are existing BS mechanisms under Cameroonian law, but just like carbon rights, there is a limited appetite to establish a legislative carbon BS scheme in Cameroon to date. However, there are existing formulae for BS on which carbon BS may hinge.

3.1 Current benefit-sharing schemes under Cameroonian law and implications for climate change mitigation

BS constitutes a key aspect of CCM because it helps to create necessary incentives to engage in SFM, forest conservation and carbon projects. When designed and implemented appropriately, a BS mechanism can encourage climate-smart forestry. An effective, fair and equitable paradigm for BS can secure the positive outcome of SFM, forest conservation and carbon projects while unfair and inequitable distribution is a threat to participation in such efforts. In fact, a fair and equitable BS mechanism that is well implemented can incentivise SFM and forest conservation by forest rights holders and can lead to decreased pressure on forest ecosystems, and by extension enhance the role of the forest in contributing to CCM while, unfair and inequitable BS mechanism is a disincentive to SFM and forest conservation and can lead to increased

72 Lindhjem et al. (2010: 25).

pressure on forest ecosystems, and by extension limit forests' CCM role. In the case of carbon BS, one of the challenges is the task of receiving funds from international sources and distributing them fairly and equitably to relevant national actors. National and foreign investors and other supporting actors most relevant to national forest governance will require fair and equitable BS arrangements to compensate them for their participation in SFM, forest conservation and carbon projects. Thus, a BS scheme needs to target different actors across various levels. A BS formula is complex to establish, due to the range of stakeholders involved, their interests and scales at which they intervene in SFM, forest conservation and carbon projects. The establishment of a BS mechanism across levels that is accepted by relevant stakeholders is challenging but critical. Such a mechanism should not only look at rules and modalities for distribution, but also at how conflicts arising in the process can be resolved so that incentives do not generate countervailing reactions.[73] A generic approach to BS is not appropriate because every country is likely to have unique circumstances, preferences and needs that inevitably influence BS arrangements.

In the case of carbon, there are no specific legal provisions in Cameroon on how carbon benefits will be shared among relevant actors. In the absence of such legal specificity, Cameroon's approach to national carbon BS can be derived from Cameroon's REDD+ Readiness Preparation Proposal (R-PP). This approach is based on the experience of other revenue sharing mechanisms currently in place, such as the redistribution mechanism of annual forestry fees (RFA).[74] Under relevant legislations, royalties or revenues from the exploitation of forest resources are paid to the state.[75] In fact, any economic and financial benefits resulting from the exploitation of forest resources are subject to the payment of royalties (RFA) to the state.[76] In turn, the state distributes royalties collected in the following proportions: 50% to the state, 20% to municipalities adjacent to the forest concessions, 20% to FEICOM (Special Equipment and Inter-municipality Intervention Fund) and 10% to the local population affected by the project.[77] In addition to this scheme, the 1994 Forestry Law requires the project owner to undertake to carry out industrial installations, developmental works and to

73 Minang et al. (2014).
74 Forest Carbon Partnership Facility Cameroon (2013: 72).
75 Cf. Sections 66, 67 and 68 of the 1994 Forestry Law. These provisions are supplemented by those of Section 14(2) of Law No. 98/9 of 1 July 1998 Finance Law of the Republic of Cameroon, which fixed the annual forestry fee at CFAF 1,500/ha for forest concessions and CFAF 2,500/ha for the exploitation of sales of standing volume. The same provisions provide for the distribution of the said annual forestry fee as follows: 50% for the state, 40% for local councils and 10% for bordering villages. See also Decree No. 96/642/PM of 17 September 1996, fixing the amount and the modalities of tax recovery and the rights of royalties relating to forestry activities.
76 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.
77 Decree No. 96/237/PM of 10 April 1996 defining the conditions for the functioning of special funds provided in the 1994 Forestry Law.

provide social amenities for the benefit of the local population.[78] Joint Order No. 122/MINADT/MINFI/MINFOF of 29 April 1998 issued to lay down conditions for the use of revenue derived from forestry fees was found to be ineffective and was replaced by another joint order issued on 3 June 2010, which because of implementation difficulties, was subsequently repealed by 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.[79]

BS revolves around different kinds of benefits to be shared, how stakeholders are entitled to receive the benefits and the rules governing the allocation and sharing of those benefits. With respect to the different kinds of benefits, they can be grouped as either being monetary or non-monetary in nature. This is in line with the prescription of Article 5(4) of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.[80] From a monetary point of view, benefits are allocated and shared under the RFA system in Cameroon as seen above. Apart from direct cash flows, non-monetary benefits could also be made by building social infrastructures promoting community development and poverty reduction activities. In this respect, Sections 50 and 61(3) & (4) of the 1994 Forestry Law require the project participant to undertake to carry out industrial installations, developmental works and to provide social amenities for the benefit of the local population. From another perspective, there are three main types of benefits:

The first type comprises the (net) benefits from the implementation of a carbon project under which those implementing it may derive gains from the sale of carbon credits with the direct costs consisting of transaction and implementation costs, such as for guarding forests against illegal logging and forest clearing. The second type consists of (net) benefits from changes in forest use such as the foregone agricultural and timber rent (profit), or the opportunity costs of forest conservation. That is, lost opportunities because some uses are stopped or downscaled. The third type of benefits consists of indirect (net) benefits from the implementation of carbon projects, including improved governance, such as strengthening of tenure rights and law enforcement, technology transfer, enhanced participation in decision-making, preservation of biodiversity and/or other ecosystem services and infrastructure provisions.[81]

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78 This includes construction of roads, bridges, schools, hospitals, and recreational facilities. See Sections 50(3) and 61(3) and (4) of the 1994 Forestry Law.

79 Assembe-Mvondo et al. (2015: 1).

80 See the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity which aims at sharing the benefits arising from the utilisation of genetic resources in a fair and equitable way. It entered into force on 12 October 2014, 90 days after the date of deposit of the fiftieth instrument of ratification.

81 See generally Luttrell et al. (2013); Denier et al. (2014); Lindhjem et al. (2010); and Loft et al. (2014).

With respect to the stakeholders entitled to receive the benefits, the RFA has clearly identified the various stakeholders to include the state, councils in case of council forests and the municipalities adjacent to the forest concessions. Individuals are eligible in the case of private forests, FEICOM, the local population affected by the project and local communities in the case of CFs. However, the beneficiaries of benefits increase with the multiplicity of stakeholders with divergent interests involved in carbon projects implementation such as project developers and implementers, wider communities, intermediaries and relevant government departments. If a programme is too narrowly targeted and focuses on just a few key actors, it risks not being sufficiently broad enough to align incentives, cultivate support, build legitimacy and prevent leakage.[82]

The rules governing the allocation and sharing of benefits are those found under the existing RFA in Cameroon, which are held not be fair and equitable with respect to the meagre percentage allocated to the local population and the unfair procedures for the transmission of the revenue to the local communities, which must pass through unaccountable local councils and under the management of corrupt elites.

3.2 Discussion on benefit-sharing under Cameroonian law and implications for climate change mitigation

The long-term success of forest-based CCM efforts depends upon ensuring that BS under any scheme is perceived as fair and equitable by relevant stakeholders especially forest-dependent communities. The BS mechanism as provided by the RFA in Cameroon leaves much to be desired in terms of value, fairness, equality and transparency. In fact, the scheme is plagued with a number of flaws. The materialisation of BS has been weak. The Ministries of Forestry and Finance negotiate the terms of BS with no consultation process with the local community before fixing the amount to be paid contrary to the requirement to hold a briefing meeting during which the community through the traditional authorities is notified of the envisaged amount.[83] The 10% share seems insignificant compared to what companies extract from the forest and compared to what they pay into the Public Treasury. The BS scheme allocating only 10% of revenue to local communities is likely to trigger negative responses from community members. This is so because they may contend that this proportion is inadequate and cannot provide the infrastructure required for sustainable societal development.[84] The meagre 10% share allocated to local communities is managed by local governments with a widespread report by communities on the insufficient investment of the revenue

82 Kelley et al. (2012: 4).
83 See Decree No. 96/237/PM of 10 April 1996, fixing the modalities of the functioning of the special fund for Forestry, Wildlife and Fisheries.
84 Alemagi (2011: 70).

in concerned villages. The 10% often end up in private pockets of elites as a result of the top-down preferences of central and local governments on communities. The management of the RFA at the community level has been very controversial because of large-scale misappropriation. BS, which is often thought to be pro-poor is not necessarily pro-poor in nature as in some forest communities, more powerful actors tend to be given priority in benefits sharing.[85]Elite capture and diversion of benefits can lead to perverse incentives with a tendency to degrade forests or to result in the exclusion of vulnerable right holders from benefits, compromising forests' CCM role.

The RFA BS mechanism, which is also proposed in the R-PP for the sharing of carbon benefits is inappropriate as it has been plagued by problems since its inception, evident by insufficient transparency over the use of funds, which is prone to misappropriation, both within MINFI and at the municipal and village levels with limited mechanism for independent actors to hold them accountable. In this respect, benefits could be captured at higher levels, without reaching those who matter most and who have less power to influence such processes. This could undermine local populations' participation and support for SFM, forest conservation and carbon projects and potentially endanger the permanence of any carbon being sequestered over the long term. The weaknesses in Cameroon's BS system require numerous adjustments in terms of necessary legal reforms.

Indonesia's July 2009 REDD Revenue-Sharing Regulation was the first of its kind in providing that national, municipal, and provincial governments would receive 10-50% of carbon credit funds from forest projects, while local forest communities would receive 20-70%, depending on the type of forest. For instance, in 'customary' forests, government would receive 10%, communities 70% and developers 20%.[86]

A key concern is that of giving large sums of money to governments with poor track records, low institutional and governance capacities and weak commitments to transparency, accountability and participation, a weak rule of law and inadequate public financial management capacity.[87] In the case of carbon benefits, there is genuine concern that governments or brokers will appropriate carbon revenue.[88] The RFA BS mechanism in Cameroon suggests that IPs and local communities may be at risk of not receiving adequate shares of carbon benefits, especially in light of the high potential for corruption. In fact, IPs in Cameroon continue to be concerned about accountability and embezzlement by local and national elites at the expense of local economic development and welfare. Not only will they receive little or no payment under the RFA BS scheme. They are deemed to even lose their traditional rights to forests and associated resources. Poverty remains endemic in most forest communities that accommodate

85 Sam & Shepherd (2011).
86 Costenbader (2009: 78).
87 Ibid: 57.
88 Katerere et al. (2009: 19).

logging concessions with the two main beneficiaries of revenues being the government and the forest products firms. Carbon benefits may not go beyond these categories of stakeholders, which may cause local communities to embark on more unsustainable forest activities out of frustration. Explicit controls are therefore required to prevent the capture of benefits. This requires the establishment of a system that is fair, equitable and transparent, which instils confidence and must be given a legal base through legislation. If stakeholders do not perceive the BS scheme as fair and equitable, the legitimacy of SFM, forest conservation, carbon projects and buy-ins from dissatisfied stakeholders will be weakened.

In general, such a system must strive to ensure that payments are allocated and shared in a manner that is both fair and equitable (adequately compensate relevant stakeholders especially forest-dependent communities) as well as effective (leading to forest-based carbon emissions reductions and carbon stocks enhancement). The BS paradigm established by the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits is worth mentioning here. In accordance with Article 15(3) and (7) of the Convention on Biological Diversity, benefits should be shared in a fair and equitable way and that such sharing shall be upon mutually agreed terms.[89] Article 5(2) and (3) of the Protocol directs that each Party takes legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilisation of genetic resources that are held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources are shared in a fair and equitable way with the communities concerned and based on mutually agreed terms. Although not designed for forest and carbon BS, the Nagoya Protocol's BS mechanism can be adopted by the government in designing an appropriate BS mechanism.

Fundamental issues in the design of a BS mechanism include criteria for allocating benefits, eligibility to benefit, transparency in the process, the timing of payment and the responsibilities of actors in the BS process at all levels. In designing such a scheme, special attention must be given to the marginalised and vulnerable forest-dependent communities, who have limited voices and influence. Their special involvement in the design of a BS mechanism in Cameroon will provide incentives for actions that are relevant for forest protection, as well as building trust and legitimacy, strengthen local governance and aligning BS with pro-poor and local development strategies, which are all essential for CCM. In the light of this reasoning, the UN-REDD Programme standards under Criterion 12 requires that the design, planning and implementation of national REDD+ programmes among others, should ensure equitable, non-

89 See Article 5(1) of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity.

discriminatory and transparent BS among relevant stakeholders, with special attention to the most vulnerable and marginalised groups.[90] It is therefore imperative to consider paying benefits to communities' accounts without going through local governments. One option being tested in Brazil under the REDD+ initiative is to use commercial banks to transfer payments from the voluntary carbon market to farmers and community organisations.[91] Appropriate BS arrangement can induce cooperation,[92] SFM and forest conservation that enhance the role of the forest in contributing to CCM.

If the proposed BS framework is not considered by policymakers, revenue will continue to be distributed based on the existing flawed RFA BS mechanism, where revenue accrues to the state, local councils and elites at the detriment of local communities, undermining SFM which is not healthy for CCM. An appropriate BS mechanism also requires that a conducive institutional set-up is established to deliver and manage such benefits.

4 Conclusions and recommendations

4.1 Conclusions

This chapter has established that Cameroonian law has classified forests into various types, giving different categories of stakeholders including the state, councils, local communities and private individuals or corporate entities the enjoyment of a bundle of rights attached to the various forest types. These categories of forest right holders are also entitled to benefits derived from forest management. The development of the carbon concept has also increased the number of stakeholders in forest management, who enjoy some rights with corresponding carbon benefits entitlements. However, some stakeholders involved in forest management such as forest-dependent communities enjoy limited and weaker rights with inadequate benefits compared to the councils, the state, its well-positioned elites and its economic business allies under the RFA on which carbon BS will hinge. The forest rights and the RFA BS mechanism have not been effectively implemented. More often, vulnerable groups face implementation challenges, mostly related to poor governance, posing as a major constraint to forest's contribution to CCM. Thus, although the forestry legal framework classifies forests and puts in place a bundle of forest rights enjoyed by different categories of stakeholders with corresponding BS scheme, inherent weaknesses exist in the law. The prevailing forest rights arrangements and BS frameworks in Cameroon are inadequate to incentivise forest-dependent communities to practice SFM, forest conservation and

90 See UN-REDD Programme (2011: criterion 12).
91 Bond (2009: 103).
92 See IUCN (2009: 5).

engage in carbon projects which is not healthy for CCM. Government actions that weaken the exercise of limited and weak forest rights and the unfair and inequitable BS mechanism could contribute to forest destruction and carbon emissions that can compromise forest-based CCM efforts. Despite a theoretical decentralisation and transfer of powers and rights with corresponding benefits to different forest stakeholders, the practical forestry management reinforces a central stakeholders' power with strong political and economic incentives for elites and central bureaucracies to consolidate their control over forests. In fact, the poor enforcement of the forestry legislation with respect to forest rights and BS owing to weak governance, an absence of the rule of law, vested interests and insufficient political will, has led to a wide gap between policy rhetoric and on-the-ground practice. Under the existing legal and governance reality, the role of the forest in contributing to CCM is greatly hindered, underscoring the urgent need for legislative reforms, which seem critical if the government of Cameroon wishes to deliver its promise under the NDCs in achieving the goals of the Paris Agreement.[93]

4.2 Recommendations

A key recommendation calls for an enhancement of the role of forests in contributing to CCM under Cameroonian law. Relevant laws need to be revised to effectively decentralise and promote participatory forest management that gives adequate forest rights to the relevant stakeholders. An appropriate forest management and a corresponding fair and equitable BS paradigm need to be supported by a genuine political commitment that allows and fosters on-the-ground implementation. This is premised on the reasoning that adequate rights over forest management with an associated fair and equitable BS paradigm encourage more SFM, forest conservation and carbon projects for a better forest-based CCM outcome. In order to enhance forests' contribution to CCM in Cameroon, there is a need for forest management to operate in a legal context of adequate and secure forest rights for relevant stakeholders. Moreover, the BS formula needs to be harnessed to overcome the inherent flaws plaguing the RFA BS scheme.

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