

FOR A LEGAL FRAMEWORK FOR WILDLIFE MANAGEMENT THAT BETTER PROTECTS THE RIGHTS AND INTERESTS OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

Civil society and communities' proposals



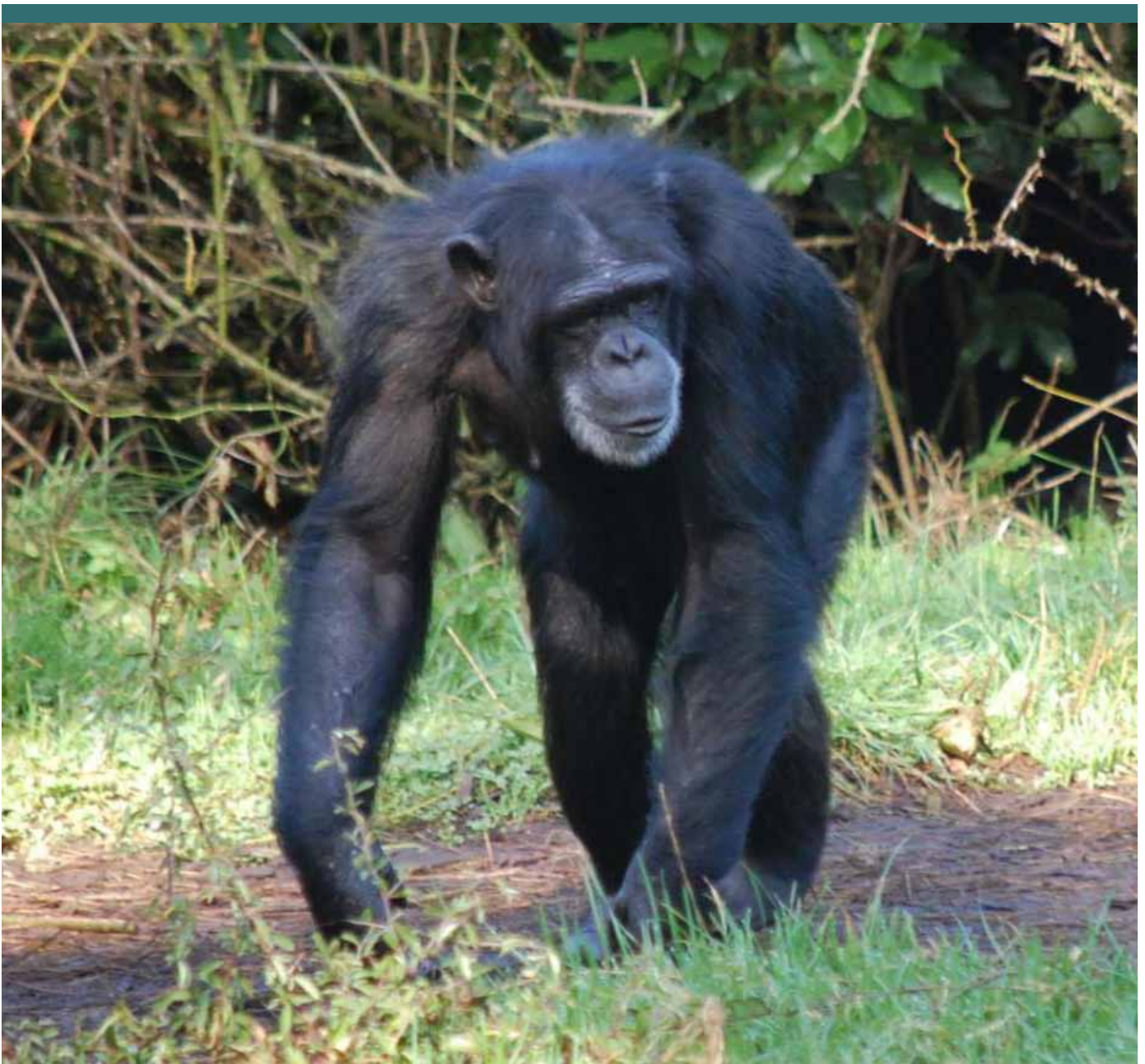
January 2023

This document was produced as part of the «**Support the Leading the Change project in achieving some key conservation objectives** », carried out by Green Development Advocates (GDA), with financial support from WWF Cameroon. However, the views expressed herein are those of the authors and can in no way be taken to reflect the views of WWF Cameroon.

Preamble

Since 2008, Cameroon has been engaged in the process of revising the law governing forests, wildlife and fisheries. In the draft law in circulation, it is noticed that more recommendations have been focused on improving the rights of communities in forest management with little consideration of the wildlife component. For this reason, this note has been prepa-

red to reinforce the recommendations aimed at improving respect for the rights of communities in the legal framework for wildlife management and to reiterate the imperative need to complete the legal reform of the forestry and wildlife sector that was started many years ago.



Introduction

Wildlife conservation and management issues have become significant challenges worldwide. Wildlife plays an important role in the lives of local and indigenous communities as it is essential to their diet, and it is the primary source of protein and part of income for them. Wildlife species are also used for their medicinal, traditional and even cultural practices. However, the current conservation model is less inclusive, and accentuates among other things the problems of poaching and illegal trade.

Wildlife management in Cameroon is governed by Law No. 94/01 of 20 January 1994 and Decree No. 95/531/PM of 23 August 1995, laying down modalities for the management of wildlife. These two texts came in to enforce the participation and involvement of indigenous peoples and local communities (IPLCs) in the management of wildlife resources in Cameroon as contained in the 1993 forestry policy which provides certain number of mechanisms for its implementation. Similarly, the considerations of some international instruments¹, led Cameroon to adapt its forest code to address a number of concerns. After more than 25 years of implementation of these legal instruments, the progress observed in terms of the involvement and participation of local and indigenous communities has revealed limitations that must be reviewed and improved. In this regard, Cameroon has since 2008² initiated the revision of the Forestry, Wildlife and fisheries Law, but its adoption is still pending. Nevertheless, for the civil society and the communities, it is necessary to elaborate and implement policies, laws and regulations specifically for wildlife management that implicates and integrates concerns of IPLCs related to the respect of their rights and needs. To this effect, some proposals from civil society and IPLCs are highlighted in this note.



¹ These include: the COMIFAC Convergence Plan, the Convention on Biological Diversity, the Convention on the Protection of the World's Cultural and Natural Heritage, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the UN Declaration on the Rights of Indigenous Peoples, the International Labour Organisation Convention No. 169 on the Rights of Indigenous and Tribal Peoples in Independent Countries, etc.

² Buttoud G. and J.C. Nguinguiri (eds). 2016. Inclusive Forest management in Central Africa: moving from participation to power sharing. FAO-CIFOR: Libreville-Bogor

Methodology

The approach used for the elaboration of this document was participatory. It focused on a literature review where several documents³ were analysed. Also, there were consultations with some CSOs⁴ with expertise and work experience in wildlife and community rights advocacy as well as with communities living around Protected Areas⁵ (PAs). These

consultations made it possible to identify the problems encountered by communities in wildlife management and to analyse the extent to which they are addressed in the legal frameworks and the practical application of the law, while formulating recommendations. These proposals are presented as follows:

1. Improving access to wildlife resources and the benefits derived from their exploitation

Progress has been made in wildlife management in Cameroon regarding community access to wildlife resources and benefits. With regard to access to wildlife resources, there is the recognition of the user rights⁶ of riparian communities to exploit wildlife products for food purposes, with the exception of protected species of classes A and B⁷. In the same context, with the exception of state-owned and private forests⁸, the State recognizes the right of communities to carry out traditional hunting that does not compromise the conservation strategy throughout the national territory. With regards to benefit sharing accrued from wildlife exploitation, the state pays 10% of royalties to the communities bordering the hunting areas⁹ through their councils in the form of projects. Furthermore, the creation of hunting zones or protected areas has led to the employment of communities as tourist guides, monitoring assistants and maintenance staff. Moreover, there is the creation of social infrastructures such as the construction of community huts, support for education, potable water supply, etc. in certain communities bordering protected areas or those with Community-Managed Hunting Areas (ZICGCs).

The forestry law in general and its provisions relating to wildlife in particular, however, do not offer sufficient flexibility to facilitate access to wildlife resources by adjacent communities. The main shortcomings observed are, on the one

hand, that the products resulting from traditional hunting which are exclusively destined for consumption and cannot in any case be subjected to commercialization¹⁰ and transport¹¹.

³ Law No. 94/01 of 20 January 1994 on the regime of forests, wildlife and fisheries; Decree No. 95/531/PM of 23 August 1995 to lay down the modalities for the application of the forest regime; Draft proposal for a law on the regime of forests and wildlife currently being circulated; Memorandum N° 0012 of 26 April 2019 between MINFOF and the ASBABUK association relating to access to the resources of the Baka riparian communities grouped within the ASBABUK association around the Lobeke, Nki (North and South sectors) and Boumba Bek National Parks; Cameroon's National Anti-Poaching Strategy, Joint MINATD/MINFI/MINFOF Order of 26 June 2012, laying down the modalities for planning, using and monitoring the management of revenues from the exploitation of forest and wildlife resources intended for the riparian communes and village communities

⁴ GDA, AAFEBEN, CEFAID, EGI, FORUDEF, CAD, FLAG, SAILD, BACUDA, FCTV, RACOPY, CERAD, AJESH, WOAC, ASE, APED

⁵ 10 Baka and Bantou communities (men & women) in the South-east precisely PK-14, Kika Jerusalem, Dissasoue, Yenga, Mboli, Koumela, Salapoumbe, Dioula, Mambele, Long trait

⁶ The situation differs according to whether one is in the permanent or non-permanent domain

⁷ Article 8 (1) of the Forestry Law N° 94/01 of 20 January 1994

⁸ Article 86 (1) of Law No. 94/01 of 20 January 1994 on the regime of forests, wildlife and fisheries

⁹ Art 8 of the joint MINATD/MINFI/MINFOF decree of 26 June 2012, setting the modalities for planning, using and monitoring the management of revenues from the exploitation of forest and wildlife resources intended for the riparian communes and village communities

¹⁰ Article 24 (3) of Decree No. 95/466/PM of 20 July 1995 - fixing the modalities of application of the wildlife regime

¹¹ Need for a certificate of origin

There are also restrictions on the access of communities to their cultural and sacred sites in the protected areas. When communities are encountered inside protected areas, they are often subjected to physical and moral violence¹² inflicted by protected area agents. On the other hand, it has been observed that the royalties from the collection of revenue for killing, capturing and collecting wildlife products is not paid back directly to the communities concerned, but rather 70% is paid directly to the public treasury and 30% to the special fund for the development of protected areas¹³ and this hampers community-led development initiatives. Also, there is a recurrence of embezzlement and corruption in the payment of revenues from ecotourism and

the unequal distribution of funds from the management of the Committees for the Valorisation of Wildlife Resources (COVAREF) among the communities.

Reflecting on the above, we recommend that the legal framework currently being revised should inclusively;

- Provide modalities for the recognition and access of IPLCs to their traditional, cultural and spiritual zones within protected areas;
- Decentralise the payment of wildlife royalties;
- Redefine community user-rights;
- Propose a transparent and applicable mechanism for access to and benefits sharing of wildlife resources to communities.

2. Strengthen community involvement in the creation and management of protected areas

Of late in Cameroon, with regards to the involvement of communities in the creation and management of protected areas (PAs), it is noted that communities in the localities targeted by the creation or extension of protected areas are supposed to be informed by a public notice published in the official gazette by the written or audio-visual press and posted in the chief towns of the administrative units, the town halls and the traditional chieftaincies concerned for a period of thirty days¹⁴. Likewise, it is noticed that within 30 days after publication of the notice¹⁵, communities have the possibility of laying claims or oppositions during a process of creation, extension or delimitation of protected areas. There has equally been in recent years the dynamic of signing co-management agreements between the Ministry of Forestry and Wildlife (MINFOF) and the riparian communities of protected areas. This is the case of the signing of a Memorandum of Understanding (MoU) N° 0012 of 26th April 2019 between MINFOF and the Association of Sanguia Baka Buma'a Kpodé (ASBABUK) relating to resources access in the Baka riparian communities grouped within the ASBABUK association around the Lobeke, Nki (North and South sectors) and Boumba Bek Na-

tional Parks.

However, despite these commendable advances, the process of creating and managing protected areas has many practical weaknesses. These weaknesses include: the lack of information and participation of communities in the processes of creating, degazetting or expanding a protected area, and the posting of notices within communities and their deadlines, which are often not respected. During information meetings, if they are organised, there is a massive presence of elites or traditional chiefs to the detriment of the populations who will suffer the impacts.

¹² Beating, destruction of traditional hunting or fishing equipment

¹³ Article 105 of Law No. 94/01 of 20 January 1994 on the regime of forests, wildlife and fisheries

¹⁴ Article 6 (2) of Decree No. 95/466/PM of 20 July 1995 - laying down the modalities of application of the wildlife regime

¹⁵ Article 7 (1) of Decree No. 95/466/PM of 20 July 1995 - laying down the modalities of application of the wildlife regime

During these meetings, the negative impacts of the project are not often identified and/or discussed in a participatory manner with the populations, most often because of the influence of the powerful elites present in the meetings. Also, the commission in charge of examining the communities' complaints during the process of creating or expanding the protected area does not often include any community member and is essentially composed of sectorial administrators¹⁶.

Within the legal framework currently under review, we recommend provisions to:

- Consult and incorporate the FPIC from local and indigenous communities in the process of

creating, managing, expanding and degazetting a PA;

- Use culturally appropriate information methods to inform communities about the creation, management, extension and degazetting processes of a protected area;

- Include IPLCs (leaders) in the commission responsible for examining claims;

- Formalise co-management as a way of managing PAs in the legal and regulatory framework;

- All consultations involving IPLCs should have a translation into local languages.

- Recognition and creation of community conserved areas and territories of life.

3. Strengthen human-wildlife conflict management

There has been an increase in Human-Wildlife Conflict (HWC) in Cameroon in recent years, the main causes of which are, among others: the increase in demography; the loss of wildlife habitat; and the proximity of human activities to protected areas. These conflicts have led to numerous consequences such as; the destruction of crops by large mammals (such as elephants, great apes), herbivores, rodents and birds, attacks on humans and domestic animals and the destruction of property. The current legal framework indicates that there are many limitations to the measures for preventing and addressing HWC.

Under section 12 of Decree No. 95/466, which lays down the modalities of application of the wildlife regulations, administrative killing of an animal is followed by an investigation which is regarded as a means of preventing human-wildlife conflicts. On analysis, the preconditions to be fulfilled and the practical constraints of its implementation mean that it is very often applied after the damage has been caused. This is due to the fact that the time limits for the investigation and the issuing of the killing permit are not defined. On the other hand, when the decision to kill is taken, the administration does not always have the logistical means to organize the hunt. The other means of managing human-wildlife

conflicts provided for by the law is self-defence (Article 83 of Law 94/01). Proof of self-defence can only be provided when the destruction of crops or other property, attacks on humans and/or domestic animals have already occurred. This usually causes damage for which there are insufficient legal provisions for reparation and compensation. In practice, the administration deals with situations on a case-by-case basis. In some cases, it kills elephants and distributes the meat as compensation to the victims of the damage (Tchamba, 1995), in violation of the provisions on the management of trophies resulting from drives. In other cases, food items are distributed to the victims.

¹⁶ Article 10 (2) of Decree No. 95/466/PM of 20 July 1995 - laying down detailed rules for the application of the wildlife regime

Within the legal framework currently under review, we recommend provisions for:

- Simplifying and specifying the compensation procedure for victims of human-wildlife conflicts;
- Avoiding/reducing activities such as agro-industries that exerts pressure on animal habitats especially around the periphery of protected areas;
- Integrating traditional knowledge of communities in the prevention of HWC, notably the barriers of bell ropes, back wire fence, trap barriers or pepper belts around the fields;
- Equip local administrative officials with appropriate equipment to kill destructive animals but

more importantly, to fight against wildlife crimes in general;

- Enacting a specific regulation on the management of HWC that incorporates effective preventive and corrective measures, particularly a mechanism for redress and compensation of victims. This legal act would give priority to:
 - o The creation within MINFOF of a support fund for victims of HWC damages;
 - o The setting of clear deadlines, not only for the time of the investigation, but also for the time of the issuing of the hunting permit;
 - o Setting up a simplified procedure for compensating victims of HWC.

4. Integrating local communities in the fight against poaching and wildlife crime

Poaching is one of the major problems faced by wildlife and efforts are being made by the authorities to limit poaching and wildlife crime. The authorities regularly participate in the fight by seizing the poached products and bringing the perpetrators to justice. To this end, MINFOF publishes a quarterly report entitled 'Summary of wildlife litigation', to provide the public with information on natural or legal persons guilty of violations of wildlife legislation for the sake of transparency¹⁷. Acts of poaching or wildlife crime are judged in the courts and fines are paid by the offenders and collected by the forestry administration. Again, sanctions are imposed on people who violate the regulations in force in Cameroon in terms of wildlife management, notably the violation of the user rights, unauthorised movement of wildlife protected species and possession of a hunting tool inside a protected area prohibited to hunting¹⁸. It should be noted that these sanctions or even fines vary according to the offence committed¹⁹.

In Cameroon, however, there are limits to the management of wildlife litigation, such as the difficulty for communities to act as civil parties or to file lawsuits to denounce acts of poaching or wildlife crime observed in their respective localities. Moreover, there is no mechanism for

redistributing the benefits in kind or in cash from fines imposed on poachers, when it is known that communities are harmed by the killing of an animal in their locality. Referral to the courts for wildlife litigation is a prerogative that falls primarily to the wildlife administration or to judicial police officers and prosecutors²⁰. There is a lack of information on the follow-up of wildlife litigation, as the 'Summary of offences' does not always provide essential information on this subject to the registries of the courts²¹. In addition, MINFOF officials are criticised for not respecting the procedural rules for settling disputes established by the legislator in terms of wildlife litigation in Cameroon²².

¹⁷ Summary of forest and wildlife offences in Cameroon: a reflection of the management of forest and wildlife litigation, FLAG, 2021

¹⁸ Article 154 of forestry law N° 94/01 of 20 January 1994

¹⁹ Article 155, 156, 157, 158 of Forestry Law N° 94/01 of 20 January 1994

²⁰ Guide: wildlife law enforcement, Cameroon, TRAFFIC, November 2016

²¹ Summary of forest and wildlife offences in Cameroon: a reflection of the management of forest and wildlife litigation, FLAG, 2021

²² Summary of forest and wildlife offences in Cameroon: a reflection of the management of forest and wildlife litigation, FLAG, 2021

In order to strengthen the participation of local and indigenous communities in the fight against poaching and illegal wildlife trade, we recommend that the legal framework currently being revised should include provisions allowing for:

- Communities and CSOs to act as a civil party in the litigation of poaching and other wildlife crimes which concerns them;
- The safety of those who report poaching and other wildlife crimes;

- Provide for compensation in kind or in cash for the damage (material or moral) suffered by communities as a result of poaching and wildlife crime;

- Pay back to the communities that have denounced an act of poaching a part of the revenue from fines sold at auction;

- Reinforce anti-poaching measures that respect IPLC's rights and needs.

5. Promote community-led conservation initiatives

The community-based management of wildlife resources and areas figures prominently among the objectives of the State's forestry policy, drawn up in 1993 policy and translated into the Forestry and Wildlife Law of 1994 and enforced in its 1995 decree of application laying down the modalities of forestry and wildlife management in Cameroon. These texts promote community hunting territories, which are areas in which the administration delegates wildlife management activities to a riparian community on the basis of a management agreement. This model, although innovative, has shown its limitations because the area provided for, which must be of a maximum of 5,000 hectares, is insufficient for a genuine community wildlife management.

Consequently, community hunting areas are usually located in non-permanent forest areas, where the fauna is not always very abundant. Proposals made for the better management of wildlife resources in Cameroon therefore led to the development of Community-Managed Hunting Areas. However, the centralisation and high cost of the procedures means a strong techni-

cal and financial dependence of the communities on third parties (elites, economic operators, NGOs, etc.), who take over the management of the area and this can be very detrimental to communities who often or not receive very minimal income from the exploitation. Moreover, the ZICGCs have been set up according to the symbolic and recreational conception of wildlife in the countries of the North rather than the economic and cultural conception of the community. ZICGCs are therefore more subjected to private management than to community management. To this effect, we are proposing that the legal framework currently being revised should include provisions for the;

- Recognition and creation of community conserved areas and territories of life in order to manage and conserve natural resources according to their traditions and customs;

- Decentralisation and simplification of the procedures for allocating ZICGCs.



**Green
Development
Advocates**

For a Green Congo Basin

P.O Box: 2969 Yaounde - Cameroon
Tel.: (+237) 222 20 80 59 / 679 65 85 15
E-mail: greendevadvocates@gmail.com
Web: www.gdacameroon.org
Twitter : @advocatesgreen1
Facebook : @gda.greendevdevelopmentadvocates/

Green Development Advocates (GDA) is a civil society organisation under Cameroonian law, created in 2009 and legalised on 30 June 2011. It works for a development respectful of social and environmental requirements. Its mission is to contribute to the sustainable development of African tropical forests while respecting the culture, rights, interests and needs of African people. Particular attention is paid to the special situation of the indigenous forest peoples known as «pygmies».