

3. Mechanisms for settling customary land disputes



The management of customary land can lead to disputes; thus, it is important to provide equitable customary land dispute resolution mechanisms that do not discriminate against women and youth.

Traditional rulers are key players in the resolution of disputes arising from customary land management. This function, which is not only based on established customs, is assigned to them by Decree No. 77/245 of 15 July 1977 on the Organization of Traditional Chiefdoms which confers to them an important role in preserving peace.

Through the traditional dispute resolution bodies, traditional rulers must ensure respect for equity, a fundamental customary principle to facilitate access to land justice to

women and young people to justice in land matters.

Traditional rulers must ensure family heads and other administrators of family land fully respect the principles of equality.

The classification of conflicts by category (youth land disputes with youth involvement, women's land disputes with greater women's participation) is an important asset in protecting the customary land rights of youth and women.

Traditional courts can issue a range of customary land titles including, among others: minutes of granting of customary rights, certificates of customary ownership or tenure, etc.

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WHO ARE WE?

NES is a multi-stakeholder process initiated by the International Land Coalition (ILC) to promote its 10 Commitments for People-Centred Land Governance at the national level. It supports the implementation of the Voluntary Guidelines for Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security. In Cameroon, the platform is composed of 25 institutions that aim at contributing to the improvement of land and natural resource governance through the adoption and implementation of texts and practices that allow for equitable and sustainable management that can ensure the well-being of all. NES's strategy is based on three main objectives: Connecting the actors, Mobilizing the actors through knowledge production and capacity building, and Influencing policies and texts on land tenure and related areas.

OUR APPROACH

The strategy and objectives of the platform are the outcomes of the individual and collective actions of its members. The members are in charge of implementing the platform's activities, which are coordinated by a secretariat in charge of facilitation and member support. Empowerment of members based on their competence, capacity-building of members, experience sharing, and division of labor following the joint development of objectives constitute a means to achieve results as well as to ensure the members' full participation.

TARGET

The code is intended for all social actors and, in particular, for those involved in customary land management. It aims to inform the parties about accepted customary norms that can reduce the marginalisation of women and young people in customary land management and thereby contribute to changing practices. Developed in a context of reforms in Cameroon, the code also aims to inform policymakers on specific aspects related to customary tenure for better integration of the latter within the framework of land reform.

OUR SLOGAN

#Together, we can effect change#

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A guideline for equitable customary land management for youth and women in Cameroon

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Preamble

- Considering that recognition of the inherent dignity and equal rights of all members of the human family is the foundation of justice.
 - Considering that the lack of consideration for women and young people remains a real challenge in the context of customary land tenure in Cameroon.
 - Considering that transitioning customs from oral to written is a means of limiting gaps and outdated practices in customary land governance.
 - Considering the irrevocable place of customs and customary authorities in land management in Cameroon.
 - Considering that the constitutional recognition of customary land rights is a fundamental guarantee against their violation.
 - Convinced that the customary land rights of women and young people cannot be exercised without the obligations that flow from them.
 - Convinced that legal documents such as customary certificates: minutes of allocation of customary rights, certificates of customary possession or acquisition, etc., are instruments of customary land management.
- Convinced that the use of quotas for women and young people would enable equitable customary land management.
 - Convinced that awareness raising and ongoing education of all traditional land actors (women, men, youth, traditional chiefs) in traditional land tenure would allow for a better application of customary rules.
 - Aware that most of the land is managed under customary and community tenure.
 - Aware that more than 80% of the land in the territory is unregistered.
 - Aware that women are the primary users of land and have limited customary rights.
 - Aware that restrictions on the type of use of or investment in individual customary land are an obstacle to the development of women and youth and to fighting against climate change.
 - Aware that young people represent the future and have limited customary land rights.
 - Aware that a gradual adaptation of customary rules to align with societal changes is a necessity,
- The members of the National Engagement Strategy (NES) for Land Governance in Cameroon and its allies prescribe on the following:

1. Rights



1.1. Youth rights in customary land management

There are provisions, even though marginal, for young people's access to customary land, ranging from legacy inheritance, rights based on the 'right of the axe,'¹ temporary or definitive acquisition, etc. However, these measures sometimes vary based on the customs or the actors who use them, hence the need to clearly define customary land rights that support young people. These are:

- *the right of real access to the collective or individual customary property;*
- *the involvement of young people in decision-making bodies in the field of land management;*
- *the establishment of land certificates by the head of the family for all children before his death and their validation by the traditional ruler;*
- *the right to engage in economic transactions on land provided such transactions serve the interests of the community and are carried out in consultation with the family members.*

¹ Whoever burns or cuts the natural vegetation first has the right of occupancy

1.2. Women's rights in customary land management

The situation of women is not homogeneous and depending on their characteristics and status, they face specific problems.

For example, these categories and status may include the young girl, the single woman who stayed in her family with or without children, the married woman, the divorced woman, the repudiated woman, and the widowed woman.

All these women have problems to access land rights in the customary governance system, hence the need to grant them a place in customary arrangements. These include:

- *the enshrinement of equal inheritance rights for girls and boys;*
- *the recognition of equal rights to family land ownership;*
- *the establishment of land certificates for women by the head of the family before his death and their validation by the traditional ruler;*
- *the recognition of customary property for women even after the death of the husband;*
- *the involvement of women in decision-making bodies in matters of customary land tenure;*
- *the right to engage in economic transactions on land, provided such transactions serve the interests of the community and are carried out in consultation with family members.*

2. Obligations



Going from the recognition of the existence of individual and collective customary land rights, it is necessary to specify the obligations that rest on the parties with regard to the management of collective customary land on the one hand and of individual customary land on the other.

2.1. Obligations arising from women's management of collective customary land

- *Women must refrain from engaging in economic transactions that transfer the collective customary land ownership granted to them;*
- *Women must develop the customary property granted to them in the interests of the family and in accordance with custom;*
- *Women must ensure the preservation and perpetuation of the customary land heritage for future generations.*

2.2. Obligations resulting from the management of collective customary land by young people

- *Young people need to manage customary lands in a rational and sustainable way;*
- *Young people must conserve the customary land heritage for future generations;*
- *Young people must refrain from economic transactions that transfer the collective customary land ownership granted to them;*
- *Young people must develop and use land in line with the community's interests.*

2.3. Obligations arising from individual customary land management

To avoid transfers that may improperly plunder customary property:

- *Women and young people should refrain from economic transactions on individual customary land, provided that such transactions are carried out in the presence of family members.*
- *The validity of property transfers on individual customary land is contingent upon the issuance of certificates of customary acquisition in the presence of the customary authorities and the approval of family members.*