

Land Restitution/Surrender Saga in Fako Division: The Nefarious Role of Government Administrators and Fako Chiefs in the CDC Land Restitution/Surrender Policy

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ABSTRACT

In 2003, the government of Cameroon instituted the policy to reconstitute/surrender lands under the custody of the Cameroon Development Corporation (CDC) to Fako indigenous communities through Fako chiefs as a result of the Bakweri Land Claims Committee (BLCC) vs the government of Cameroon matter at the African Commission on Human and Peoples' Rights (ACHPR) in Banjul, Gambia. The CDC lands restitution/surrender policy was controlled and managed by government officials, most of whom high-jacked it for their personal interests, with the active complicity of some Fako chiefs at the detriment of the indigenous people of Fako Division. This paper therefore examines the role played by government administrators and Fako chiefs in the government's lands restitution/surrender saga in Fako Division.

KEYWORDS: Land Restitution/Surrender, Fako Division, Government Administrators, Chiefs

INTRODUCTION

The dispossession of the indigenous people of Fako Division of their lands started with the Germans in 1884, when they created plantations on lands seized from the indigenes. After the defeat of the Germans in the First World War, these lands were subsequently taken over by the British who created the Commonwealth Development Corporation in 1947, later renamed the Cameroon Development Corporation (CDC), to manage the former German plantations. Meanwhile, following the creation of the CDC, the Bakweri Land Committee (BLC) was created by Fako Elites to fight for the restitution of these lands to Fako communities. Following the independence and unification of the two Cameroons in the early 1960s, the government of the new state enacted the 1974 and 1976 land laws through which the Fako lands put to use by the CDC were incorporated into state lands. The Fako land problem was hence placed under the rug until the proposed privatization of CDC in the 1990s.

Agbor-Ndakaw (2013), argues that the BLC was dormant until the 15th of July, 1994, when President Paul Biya signed Decree No. 94/125 announcing the privatization of the Cameroon Development Corporation (CDC). There was an instant wave of anger across Anglophone Cameroon, particularly in Fako Division where the indigenous population had not been informed of the planned privatization. As soon as the decree was made public, Fako political, traditional and other leaders mobilized to revive the comatose BLC (now known as the Bakweri Lands Claim Committee – BLCC) to adopt a common platform with regards to the privatization, which had been planned without the slightest consideration to Fako lands rights (Agbor-Ndakaw, 2013). As a result of the above, the Bakweri Land Claims Committee (BLCC) seized the African Commission on Human and Peoples' Rights (ACHPR) in Banjul, Gambia, in a landmark case against the state of Cameroon.

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Thereafter, the Commission recognized the BLCC as the legal representative of the Bakweri (Fako) people, declared its competence to hear the matter and in order to avail its good offices to both parties, recommended an amicable settlement of the matter (Molua, 2016). However, following the recommendation of the ACHPR for an amicable settlement between the government of Cameroon and the BLCC, the government started restituting/surrendering portions of these lands to Fako communities through their chiefs in a land restitution/surrender process controlled and managed entirely by government administrators in 2003. The CDC lands restitution/surrender policy to Fako communities thus became high-jacked by government administrators and Fako chiefs to assuage their personal interests at the detriment of the indigenous people of Fako Division. This paper is therefore meant to examine the role played by some corrupt and unscrupulous government administrators and Fako chiefs in the land restitution/surrender saga in Fako Division.

Objectives

The specific objectives of this paper are:

1. To carry out an extensive review on relevant literature on the concept of land reforms with the main focus on land restitution;
2. To explicate the accumulation by dispossession theory propounded by David Harvey and show its

relevance to the Fako land restitution/surrender saga;

3. To examine the land tenure laws and the CDC land restitution/surrender policy in Cameroon and their implication in Fako Division;
4. To analyze the nefarious role played by government administrators and Fako chiefs in the CDC land restitution/surrender saga in Fako Division.

Methodology

This paper focuses on primary and secondary sources in the collection of data. Primary sources are made up of questionnaires and interviews from respondents. The paper administered a total of 20 questionnaires to 20 respondents with a return rate of 19 questionnaires and interviewed 5 selected persons using the purposive and random sampling techniques as sampling methods. The bio-data of the respondents administered with questionnaires is as follows: 12 men and 8 women living within communities in Fako Division, amongst them, were 3 government administrators and 3 Fako chiefs involved in the land restitution/surrender policy. In terms of interviews, 3 men and 2 women were also interviewed, amongst them were, 1 government administrator and 1 Fako chief. Data collected from primary sources, most especially from questionnaires, were subjected to critical scrutiny and analysis as shown in the table below.

Table 1: Land Restitution Saga in Fako Division

No.	Main Thematic Questions Posed to the Respondents	SA	A	SD	D	NO	TOTAL
1.	Do you agree or not that the land restitution/surrender policy in Fako Division is plagued by numerous problems?	10	7	1	1	0	19
2.	Do you agree or not that government administrators play a nefarious role in the land restitution policy in Fako Division?	8	5	2	3	1	19
3.	Do you agree or not that Fako chiefs play a nefarious role in the land restitution/surrender policy in Fako Division?	11	6	0	1	1	19
	Total	29	18	3	5	2	57
	Average percentage	50.88	31.58	5.26	8.78	3.50	100%

Source: Author 2022

SA= Strongly Agree; A= Agree; D= Disagree; SD= Strongly Disagree; NO= No Opinion.

Analysis of Findings

Table 1 shows that a total of 20 questionnaires with 3 questions each, making a total of 60 questions, were distributed to 20 respondents with a return rate of 19 questionnaires, scoring a return percentage rate of 95%. A number of 29 respondents answered strongly agreed, making a total of 50.88%, while 18 respondents answered agreed, making a percentage rate of 31.58%. a number of 3 respondents answered

strongly disagreed, scoring a percentage rate of 5.26%, while 5 respondents answered disagreed with a percentage rate of 8.78%. Finally, 2 respondents gave no opinion, making a total percentage rate of 3.50%. As per the interviews, 4 interviewees agreed, while 1 interviewee disagreed with the questions posed, making a percentage rate of 80% and 20% respectively.

Literature Review

Griffin et al. (2002), asserts that there is a surfeit of literature on land reforms in various developing countries. Whilst most of the existing literature has principally concentrated on the analysis of examples of land reforms in recent years, there is a paucity of literature detailing what entails as land reform. Most scholars and development agencies are concentrating on the success or lack therefore of land reforms without interrogating the concept of land reform. An analysis of what constitutes a land reform facilitates any analysis of the success of examples of land reforms around the world. Land reform as a concept has been subjected to a scholarly microscope by scholars, economists, development practitioners, as well as development agencies, in the past half century. While there might seem to be a consensus on the definition of land reform, the approach and justification of land reform have proven to be a highly contested arena. According to the conventional definition, redistributive land reform is a public policy that transfers property rights and ownership.

Therefore, land reform can be viewed as the transfer of land ownership rights from the minority to the majority who were previously marginalized due to various reasons. The bequest of settler colonialism in many countries contributed to the unequal distribution of land, which can be argued to have necessitated and justified calls for land reform. Several decades after political independence in Africa, access to land is largely still the product of settler colonial policies. Policies that were designed to alienate the land from the majority indigenous population and thereby weakening their control over their resources. This alienation was further buttressed by deliberate colonial policies that subsidized white settler farming through preferential marketing and financing at the expense of the already marginalized and often crowded communal farmers. Thus, most land reforms have been pushed for and justified by the need to try and redress these imbalances, which can be attributed to the long-term effects of the colonial policies in most developing countries (Tarisayi, 2013). In this light, Tarisayi (2013), identifies four types of land reforms, which are as follows:

Redistributive Land Reform: This form of land reform consists of the redistribution of land rights from one sector to another, for example by privatizing state land or taking from large landholders, and giving it to people who have no land (UN/ECE, 1996). This entails the change in land rights from basically the 'haves', who own large tracts of land to the 'have-nots' – people without land, usually referred to as the landless (Tarisayi, 2013);

Tenurial Reform: This arrangement of land reform aims to improve the ownership type over the land which is already in the people's possession but lack secure property rights. It can be argued that it addresses the issue of title deeds to the ownership of the land. Land registration and titling can also be regarded as tenurial reform, as it entitles the occupier with ownership with enhanced tenure security and rights (Tarisayi, 2013);

Restitution: Land restitution is rarely discussed as it is also rarely implemented in most countries and can be argued to be the most difficult to implement. It involves returning the land to people or descendants of people who were removed from the land; these are previous landowners who were dispossessed of their land. However, the process is usually slow as there is need to ascertain which people occupied a certain area and due to movements, that have occurred during more than a century of colonial rule, it is difficult to implement. This scenario is further compounded by the absence of records or evidence from the dispossessed to validate their land rights claims as typified by the evident slow and frustrating land restitution in South Africa (Tarisayi, 2013);

Land Consolidation: Land consolidation is a method of land reform in which all landowners within an area capitulate their land and are allocated new parcels of comparable value but in pattern that encourages the more efficient and productive use of the land (UN/ECE, 1996). Hence, land consolidation can be viewed as the reallocation of farms to make bigger farm units, such as in Japan and Western Europe. The other main objective of this type of land reform is to reduce fragmentation of land, such as in Vietnam (Tarisayi, 2013). However, the focus of this paper is on land restitution.

Land restitution is an inherently complex process as it needs to resolve vexed historical injustices in a manner that entrenches property rights and the rule of law, while also respecting budgetary limits (Genesis Analytics, 2014). The movement for decolonization is not complete without land restitution to indigenous people. There is need to repair the harm colonialism has done and continues to inflict on indigenous people by returning control over ancestral territories back to its stewards, allowing them to begin restoring their connection to ancestral lands in meaningful ways. By transferring power and wealth back to indigenous people, land restitution – which includes the water, natural resources, and infrastructure on the land – supports indigenous sovereignty. The movement is ultimately a manner of securing an indigenous futurity that includes self-determination, environmental sustainability, and economic justice.

One way to understand decolonization is through the return of currently unceded, occupied land. Decolonization, first and foremost, necessitates the restitution of all land to indigenous communities – returning what was stolen to its rightful caretakers. This act is a step-in unsettling, which works to reverse some of the damages of settler colonialism. Land restitution focuses on the redistribution of power back to indigenous communities (Belfi and Sandiford, 2021).

According to the land restitution legislation, the government has an option to award the successful claimants either alternative land or cash compensation in a case where it is not possible to award them their ancestral land. The structure of the land restitution process was influenced by the international context in which the transition to democracy took place during a time when socialism in Eastern Europe collapsed and the ascendancy of neoliberal approaches to economic development. Land restitution can potentially result in more access to natural resources and increase average household income. It is on this basis that land restitution is expected to contribute towards relieving rural poverty and in promoting broad-based sustainable development. It should be noted that the question of whether the income of the beneficiaries increases is different from the question of whether land restitution leads to efficiency gains or greater equality (where what is lost must also be accounted for) (Dikgang and Muchapondwa, 2015). Many countries have used land restitution policies to reconstitute land to indigenous people.

Land restitution has recently re-entered the political arena and regained global scholarly attention. Land restitution processes have been instigated in a variety of regional and country contexts. In settler states, such as Canada, Australia, New Zealand, and South Africa, new, but controversial land legislation has paved the way for corrective justice and land claims by Indigenous and Aboriginal populations that were dispossessed under colonial rule (Huizenga, 2018; Kearney, 2018). In post-conflict countries, internally displaced people have attempted to reclaim land they had to leave behind when fleeing from violence and persecution. In Colombia, for instance, nearly six million people were forcibly displaced from an estimated 14% of the country's territory between 1985 and 2013, with recent land restitution efforts under the "Victims and Land Restitution Law" marked by structural inequalities and unfulfilled promises (McKay, 2018). Post-socialist countries in Eastern Europe and Central Asia have also undergone highly contested land restitution processes (Triantis, 2018). Land reclamation and restitution also occurs in

places where large-scale land acquisitions and leases ('land grabbing') by multinational corporations have failed or have been revoked as a result of successful resistance by dispossessed communities (Neef, 2021).

The Land Matrix (2018), a global and independent land monitoring initiative that promotes transparency and accountability in decisions over land and investment, has recorded more than 100 failed transnational land deals that have affected about 8.3 million hectares globally (Neef, 2021). The Cameroonian government's land restitution/surrender policy in Fako Division was meant to reconstitute all the lands forcefully seized by the German and British colonialists back to Fako indigenous people, which turned out to be another dispossession scheme orchestrated by some corrupt and unscrupulous government administrators and Fako chiefs.

Theoretical Framework

This paper is theoretically framed and focused principally in accordance with the accumulation by dispossession theory used to provide a theoretical explanation to the phenomenon of land restitution in general and in particular the current CDC land restitution/surrender policy in Fako Division that has turned out to be another dispossession scheme masterminded and executed by some corrupt and unscrupulous government officials and Fako chiefs.

According to Harvey (2004), Accumulation by Dispossession (ABD) is a concept presented by the Marxist geographer David Harvey. It defines neoliberal capitalist policies that result in a centralization of wealth and power in the hands of a few by dispossessing the public and private entities of their wealth or land. Such policies are visible in many Western nations from the 1970s and to the present day. Harvey argues that these policies are guided mainly by four practices: privatization, financialization, management and manipulation of crises, and state redistributions (Harvey, 2004). While accumulation by dispossession is exclusive to the periphery, it is certainly the case that some of its most vicious and inhumane manifestations are in the most vulnerable and degraded regions within uneven geographical development (Harvey, 2003).

Harvey's theory of accumulation by dispossession is part of his overall theory of neoliberalism (Harvey, 2005; 2007). According to him, "the main effect of neoliberalism has been redistributive" of existing wealth rather than "generative" of new wealth so "ways had to be found to transfer (existing) assets and channel wealth and income either from the mass of the population toward the upper classes or from vulnerable to richer countries". Such processes of transfer of wealth and income can be described

“under the rubric of accumulation by dispossession”. Akin to what Marx had included under primitive accumulation, the accumulation by dispossession processes includes, according to Harvey (2007), the followings:

- The commodification and privatization of land and the forceful expulsion of peasant populations (as in Mexico and India in recent times); (2) conversion of various forms of property rights (common, collective, state, etc.), into exclusively private property rights; (3) suppression of rights to the commons; (4) commodification of labor power and the suppression of alternative (indigenous) forms of production and consumption; (5) colonial, neocolonial, and imperial processes of appropriation of assets (including natural resources); (6) monetization of exchange and taxation, particularly of land; (7) the slave trade (which continues, particularly in the sex industry); and (8) usury, the national debt, and . . . the use of the credit system.
- To this list of mechanisms, we may now add a raft of additional techniques: the extraction of rents from patents and intellectual property rights; and the diminution or erasure of various forms of communal property rights – such as state pensions, paid vacations, access to education, and healthcare – won through a generation or more of social democratic struggles (Harvey, 2007).

Privatization and commodification of public assets have been among the most criticized and disputed aspects of neoliberalism. Summed up, they could be characterized by the process of transferring property from public ownership to private ownership. According to Marxist theory, this serves the interests of the capitalist class, or bourgeoisie, as it moves power from the nation’s governments to private parties. At the same time, privatization generates a means of profit for the capitalist class; after a transaction, they can then sell or rent to the public what used to be commonly owned, or use it as capital through the capitalist mode of production to generate more capital (Harvey, 2003). The state, with its monopoly of violence and definitions of legality, plays a crucial role in both backing and promoting these processes and there is considerable evidence, which Marx suggests and Braudel confirms, that the transition to capitalist development was vitally contingent upon the stance of the state – broadly supportive in Britain, weakly so in France and highly negative, until very recently, in China (Raju, 2017).

Accumulation by dispossession theory states that neoliberal capitalist policies result in a centralization of wealth and power in the hands of a few by

dispossessing the public and private entities of their wealth or land. This clearly depicts the situation of the CDC land restitution/surrender policy that was triggered by the International Monetary Fund (IMF) and the World Bank’s (WB) imposed Structural Adjustment Program on Cameroon in the late 1980s, which led to the privatization of part of the CDC and ignited the Fako land crisis. Rather than restituting lands to Fako indigenous communities, the government’s land restitution/surrender policy has instead been used by some administrators and Fako chiefs to dispossess Fako indigenous people of their lands and has helped to accumulate wealth acquired from the Fako land restitution/surrender scheme by some unscrupulous and corrupt government administrators and Fako chiefs who have enriched themselves at the detriment of the indigenous people of Fako Division, thus becoming the new capitalist or bourgeoisie class.

The main beneficiaries of the controversial CDC land restitution/restitution policy in Fako Division, notably government administrators and Fako chiefs, have accumulated outstanding wealth from the land restitution/surrender scheme and have become the new bourgeoisie class at the detriment of the indigenous people of Fako Division. Ultimately, the CDC land restitution/surrender matter has been transformed into a class struggle between the new bourgeoisie (the accumulators of wealth through CDC land restitution/surrender) and the indigenous people of Fako (the dispossessed owners of the lands under the custody of CDC) under the guise of the CDC land restitution/surrender policy.

Land Tenure Laws in Cameroon

The notion of land tenure relates to more than the land itself; it relates to the way the land is used and to the resources and produce it provides a habitat for. Land tenure is central to the development strategies of the communities and to the organizational structures of political societies. The stability and prosperity of political societies depend on how well land issues are regulated. Each of the traditional societies in precolonial Cameroon had a framework of customary norms to govern the relationships between humans, the land and its resources. Despite the rich cultural diversity of Cameroon, common traits were clearly visible, such as the importance of collective rights in customary land laws. With a view to unifying the law, the German protectorate attempted to abolish customary rights and replace them with various solutions based on imperial law, which applied to the country as a whole. Intense opposition from the country’s populations led to the co-existence of written and customary laws, and while this hybrid system set up by the successive colonial

administrations continued until independence, it was heavily imbalanced in favour of the written law (Nguiffo et al., 2009).

Following its authorization by the League of Nations as the mandatory power over most of Cameroon, the French administration retained but refined the procedure for recognizing native occupancy. This comprised a system for affirming native rights (*constatation des droits des indigènes*) based upon customary rules. After World War I, Britain was granted mandatory responsibility for two small sections of Cameroon at the North-West border with Nigeria. The situation was ultimately similar in British Cameroon (Wily, 2010). Thus, given its unique colonial history in Africa, Cameroon inherited a plethora of colonial land laws that have contributed to shaping the current legal regime governing landownership. Soon after French Cameroon achieved independence in 1960 and the reunification of the French-speaking and English-speaking parts in 1961, two land tenure systems inherited from the colonial masters were established. The first attempt to harmonize the two inherited land tenure systems was on the 9th of January, 1963, by decree, with the aim of laying down rules governing land tenure in Cameroon. The intention of the government was to replace the colonial concept of vacant land without owners with a national land law consisting of classical public and private land (Tamasang and Tassah, 2021).

The post-colonial era witnessed the establishment of modern statutory regulations in 1974 by the government of the newly formed state in an attempt to boost economic growth, enabling investors to buy and develop land (Tamasang and Tassah, 2021). As such, in 1974, Cameroon enacted national legislation governing land and other natural resources, with an eye toward encouraging commercial investment in its land, water, forest and mineral sectors. The laws support private property rights but require privately owned land to be titled and registered. All untitled and unregistered land that is not designated as public land (i.e., managed by the state on behalf of the public) is considered to be – national land. Most of the land in Cameroon is classified as national land, including farmland and communal land held under customary law. The government can convert national land into state land and allocate use rights to it (e.g., forest concessions) or convert it to private ownership (e.g., for urban development). Land tenure for most people in Cameroon is therefore insecure (USAID, 2014). Cameroon is a bi-jural country, with two different legal systems operating in different parts of the country. French-oriented Civil Law applies in

eight Eastern provinces, while English Common Law applies in the remaining two Western provinces. The 1974 Land Law apply nationally (Fombad, 2009).

Land in Cameroon is therefore governed by three ordinances passed in 1974, followed by three subsequent decrees in 1976. These ordinances converted all lands, except state and private titled lands, into national land as per Sections 14 and 15 of Ordinance No. 74-1 of the 6th July, 1974. Section 1(1) of Decree No. 76/165/76 makes the land certificate the only evidence of ownership. The 1974 and 1976 land reforms have had little impact on land ownership in the country as less than 20% of land is titled. Consequently, most land today that are untitled are national land held under customary tenancy without security (Fonjong et al., 2017). Cameroon's primary land law, Ordinance No. 74-1 of the 6th of July, 1974, established land tenure rules following the 1972 unification of the country. A companion law, Ordinance No. 74-2 of the 6th of July, 1974, addressed the governance of state land. These laws created a tenure system based on land registration: all privately-owned land must be registered and titled to retain its character as private land. All unregistered land is deemed to be either public land, which is held by the state on behalf of the public, or – national land, which includes unoccupied land and land held under customary law (Egbe, 1997).

Land is classified into three categories: private property, national land and public land guaranteeing free ownership and issuing of land to all naturalized persons and corporate bodies. Procedures and conditions for obtaining land certificates were put in place. The regulations also empowered the government to act as guardian of all land, thus allowing intervention to ensure the use of land. Regulations confiscated land under the control of native authorities. However, the 1974 land reform regulations appeared ineffective and inefficient, leading to a litany of subsequent legislation to facilitate the acquisition and development of land. While customary ownership rights were severely reduced under the 1974 land tenure ordinances, some use rights remained for the native populations (Tamasang and Tassah, 2021). The laws were intended to encourage foreign investment in Cameroon as they effectively clarified private property rights and made all unregistered land available for investment. Article 16 of Ordinance No. 74-1 established Prefect-level Land Consultation Boards, and Decree No. 78/263 of 1978 established Prefect-level Commissions for Resolving Agro-Pastoral Conflicts. Decree No. 2005/481 governs land titling and registration (Egbe, 1997).

It should be noted that the 1974 Land Tenure law takes great pains to distinguish between “national lands” and private land. The former are lands which “are not classed into the public or private property of the state and other public bodies ..., which the state can administer in such a way as to ensure rational use and development”, and can be “allocated by grant, lease or assignment on conditions to be pursued by decree”. Private lands, on the other hand, guarantee their owners the right to freely enjoy and dispose of them. Part II, Article 2 of the Land Tenure Act identifies five categories of land subject to the right of private property. These are: “(a) registered lands; (b) freehold lands; (c) lands acquired under the transcription system; (d) lands covered by a final concession; (e) land entered in the *Grundbuch* or Ground Book”. It should be noted that before land could be entered in the Ground Book, it had to be mapped and demarcated. The CDC-occupied lands were surveyed before being registered in official records as private property, and all this took place prior to the entry into force of the 1974 Land Tenure Law. Since these lands were only leased to the CDC, only the true owners, i.e., the Bakweri, reserve the right under the Land Tenure Act to dispose of these lands (Kofele-Kale, 2007).

The legal and political origins of this egregious situation are found in the persistent retention of colonial norms. Under colonialism, it was convenient for the purposes of mass resource capture to deny that Africans owned the land that they and their ancestors had controlled, lived upon and used. Land was generally declared to be the dominion of the state, and traditional owners held in law to be no more than permissive occupants and users. Over time, this dispossessory paradigm was reinforced by the land-grabbing interests of emerging African economic and political elites. For similar reasons, most independent governments sustained the colonial norms, in practice cementing the state’s role as landlord. At the same time, national law extended opportunities for individuals to convert their customary interest into the private property system originally introduced to serve white settlers (Wily, 2010). This has been the cause of disagreement between the government of Cameroon and the indigenous people of Fako over the ownership of the land put to use by the CDC and the subsequent land restitution/surrender policy in Fako Division.

The CDC Land Restitution/Surrender Policy in Fako Division

The decision to set up a procedure to reconstitute CDC leased land was as a result of the decision of the African Commission on Human and People’s Rights

(ACHPR). The case before the commission registered Bakweri Land Claims Comm. v Cameroon, Comm. 260/02, 18th ACHPR AAR Annex III (2004-2005), was heard during the Thirty-Sixth Ordinary Session holding from the 23rd of November to the 7th of December, 2004, under the Chairmanship of Salamata Sawadogo. The final resolution called for an ‘amicable settlement’ of the matter under its auspices. The African Commission did not outrightly state who was the winner or loser in the matter. While acknowledging the strong case of the Bakweri Land Claims Committee (BLCC) and the need for a peaceful settlement of the matter, the Commission also avoided to act as a court of first instance, substituting national courts. The BLCC openly welcomed the decision and were ready to enter into negotiation with the government. They believed it was time for the government of Cameroon to prove to the African Union that it is willing to make a good faith attempt at an “amicable settlement”, as recommended by the Commission, which availed its good offices to both parties (ACHPR, 2002).

However, on the 3rd of March, 2003, the then Minister of Town Planning and Housing, Adj. Abdoulaye Haman, signed an Order No. 000097/2.5/MINUH/D200 du 3 Mars 2003 *fixant la procedure d’examen des demandes d’attribution formulées par des tiers et portant sur les terrains domaniaux loués par la Cameroon Development Corporation (CDC) auprès de l’état du Cameroun*. This *Arrêté* or Order was signed while the case between the BLCC and the government of Cameroon was at the ACHPR. The Order contains nine (9) articles; the first article outlined that every person (physical or moral) who wishes to benefit from the restitution of state land held by CDC should send a written application to the minister of state property. This written request should be accompanied with the complete project to be realized and should be deposited at the Divisional Office (DO) where the land is solicited. In return, the Divisional Officer delivers an acknowledgement of receipt that the documents have been deposited and then transmits the documents to the Senior Divisional Officer (SDO) within fifteen (15) days, after giving an opinion on the file requesting for the restitution of a piece of state land held by CDC (Monono et al., 2020).

Article Two (2) prescribes that to study the request for land, the Senior Divisional Officer (SDO) forms a commission and requests them to meet within fifteen (15) days. The commission comprises of the SDO or his/her representative (President), the Divisional Chief of Service for Land (Rapporteur), the members of the commission are the Divisional Delegate of

Housing and Urban Development, the Divisional Chief of Survey, the Divisional Chief of Service of Housing and Urban Development, the Divisional Delegate of Agriculture, the Head of the Ministry or Directorate concerned with the project, the Mayor where the land is situated, three representatives of CDC, the traditional ruler and one notable where the land is situated and the applicant who is an invitee with no deliberation rights. The mandate of the commission is spelled out in Article 3, by which the commission is charged with the following:

- Identify the solicited piece of land;
- Evaluate the value of the piece of land vis á vis CDC usefulness of the land;
- Identify the families concerned if the file concerns the extension of a village;
- Gather all useful information on the compatibility of the project with the land requested;
- Write an affidavit (process-verbal) of the working session comprising the opinion of the commission and signature of its members (Monono et al., 2020).

This process ends with a working session for the Senior Divisional Officer to transmit all the documents to the Board of Directors of the Cameroon Development Corporation (CDC) for their opinion. After the opinion of the CDC Board, the Senior Divisional Officer forwards the documents to the minister in charge of state land for a decision. In a case where the final decision of the minister is favourable, Article Six (6) states that the minister will instruct the Regional Chief of Lands to prepare a “Deed of Surrender” of the selected site. The deed will be signed by CDC and the minister in charge of lands, passing the rights of the parcel of land from state private land to the applicant in conformity with Decree No. 76/167 of the 27th of April, 1976. In the case of rejection of the application, Article Eight (8) states that the minister will notify the parties concerned (Monono et al., 2020). It should be noted that unfortunately this process was not always diligently followed by those charged with the administration of the CDC land restitution/surrender policy.

Eleven (11) years after the signature of Order No. 000097/2.5/MINUH/D200 of the 3rd of March, 2003, another guideline was signed with the aim of reinforcing the latter and preventing conflicts, which had been noticed or likely to arise from the process. Circular Letter No. 00008/MINDCAF/A100 of the 8th of August, 2014, to bear on specific provisions underlying procedures to surrender state lands exploited by the CDC was signed by Minister

Jacqueline Koung á Bessiike, Minister of State Property, Surveys and Land Tenure. The circular was signed by the minister because her attention was drawn to the malfunctioning plaguing the procedure to surrender state lands exploited by the CDC to customary communities in connection with the drafting of deeds of surrender and their implementations (Monono et al., 2020). The minister’s Circular Letter, which was highly welcomed by the people of Fako, exposed a myriad of problems and malpractices realized in the application of the CDC land restitution/surrender process in Fako Division.

These problems, according to the minister, were caused by the non-respect of Order No. 000097/2.5/MINUH/D200 of the 3rd of March, 2003, especially with regard to the composition of the Site Board Commission, whose working sessions were often attended by incompetent persons, who were not the original members designed by their representatives. There was also the problem of systematically disregarding the opinion of the CDC Board of Directors. The minister also decried the fact that applications from traditional rulers are generally motivated by the need for public interest amenities but in the actual fact, the surrendered lands were mainly used for private interest and the real beneficiaries were left out in the process. Another issue raised in the circular was the exorbitant cost levied, which did not comply with the regulation in force (Monono et al., 2020). From all indications, the abovementioned problems and many more were a serious cause of concern to the minister, as they had dire consequences on the allocation of CDC land restituted/surrendered to the people of Fako.

Problems that often arise from this are poor sharing, land grabbing, uncompleted procedures because at times CDC gives the permission and the village go ahead to occupy the land just to find out that another village has been given the same land or maybe the decision is to reduce the number of hectares. The action of going ahead exploiting the land before the ministerial decision has also been a major problem. This overlapping of decision or approval over pieces of land is because sometimes the procedure is being bypassed by the stakeholders. The land surrender policy, which could have been a blessing to the local people, has rather turned out to be a source of conflict. This is because there has been an illegal acquisition of native land by some high-profile personalities, this act is often facilitated regrettably by the custodians of the cultures and traditions of these same people. Many press reports have agreed to the fact that it is with the complicity of the chiefs and

officials of the Divisional Delegation of State Property, Surveys and Land Tenure that huge portions of native land are 'indiscriminately' being grabbed by chiefs and administrative officials (Monono et al., 2020).

The Role Played by Government Administrators in the CDC Land Restitution/Surrender Policy in Fako Division

Section 1 of Ordinance No. 74-1 of the 5th July, 1974, stipulates that the state is the guardian of all lands in Cameroon. Land deals are considered legitimate by government if they are in line with its development strategies or political goals. When government categorizes part of national land as vacant and idle, it gives the state opportunity to acquire land through executive powers; (Scott, 1998) and lease to whosoever it pleases without being held accountable (Schneider, 2011; and Mope, 2011). As a major player, the activities of the central government are executed by local government officials who ensure that the directives are strictly implemented at local levels. In the case of the CDC land surrender, there was a well-defined procedure to be followed by the communities intending to benefit from the land surrender scheme (Nana, 2014). However, in total disregard of the procedure, some government administrators have hijacked the CDC land restitution/surrender policy and transformed it into a massive land grabbing scheme.

Several hectares of the CDC land surrendered through Fako chiefs ends up in the hands of some corrupt local administrators like the Governors, the Senior Divisional Officers, the Divisional Officers, the Regional and Divisional Delegates of State Property, Surveys and Land Tenure and the Registrars of Lands etc.... This is exemplified by the number of hectares of land they shamelessly own in Fako Division as a result of the government's CDC land surrender policy. The massive land grabbing of these administrators and others is in total violation of Presidential Fiat No. 003/CAB/PR of the 8th of February, 1982, which prohibits administrators, Mayors or Government Delegates from acquiring community, municipal or national land in their area of command. It is therefore as a result of the excessive land grabbing in Fako by local government administrators and chiefs that the Minister of State Property, Surveys and Land Tenure temporarily suspended the surrender of the CDC land in Fako Division in Circular No. 000001/MINDAF/A100 of the 18th of July, 2014, due to "observed dysfunctions in the land surrender process" (Molua, 2016).

In light of the above, Ngongi (2014), argues that and so, here we are, again, 100 years later, fighting to

hold on to the same land our ancestors spilled their blood for and for which they suffered all kinds of degrading and horrible humiliation. We are simply witnessing the substitution of one colonial master from Europe with another, this time, from Africa, of Cameroonian descent, called SDOs and DOs (*Prefets* and *Sous Prefets*) working with some civil servants in privileged positions, who make claims, spurious, bogus claims, of being our brothers and sisters because Cameroon has now become "one and indivisible" (Ngongi, 2014). The SDO and his subordinates have a central role in the land surrender scheme to the extent that some overzealous ones among them for pecuniary reasons, have attempted with varying degrees of success, to influence the choice of chiefs in some villages in anticipation of sharing the booty from land surrender (Agbor-Ndakaw, 2013). However, those government administrators involved in the spoliation of Fako lands through massive land grabbing unfortunately find complicity with some Fako traditional rulers who enable and abet their misdeeds.

The Role Played by Fako Chiefs in the CDC Land Restitution/Surrender Policy in Fako Division

Although the constitution of Cameroon does not expressly articulate on the role of traditional entities with regard to customary law, Article 1(2) stipulates that the Republic of Cameroon recognizes and protects traditional values that conform with democratic principles, human rights and the law. Traditional values here can be interpreted to mean customary law, which is guarded and enforced by traditional entities. The role of traditional entities is also recognized in laws relating to Judicial Organization Ordinances of 2011 and the Law on Traditional Chieftaincies of 1977 (Tamasang and Tassah, 2021). Chiefs in Cameroon are seen as custodians of the land and auxiliaries of the administration in the communities they rule as traditional rulers. Prior to European colonization, chiefs served as the custodians and guardians of the rural communities and the bastions of native laws and customs. This provided a historically dominant role of the chiefs in customary land ownership (Meek, 2000). It was partly in recognition of the powers of the chiefs over customary land that the former British colonial administration adopted the indirect rule through the chiefs in this part of Cameroon that it governed at that time as part of Eastern Nigeria. This power to manage customary lands was however handed to the Divisional Officers (DOs) at the sub-divisional level with the nationalization of land by the 1974 Land Ordinance (Fonjong et al., 2017).

However, with the incorporation of traditional chieftaincy into the administration as auxiliaries, the state often tolerates or gives a blind eye to the involvement of traditional chiefs in land matters, most often for their own interests, especially in community land matters. Fonjong et al. (2017), argues that field investigations reveals that most chiefs and elites represent mostly their selfish interests in the process. They are intimidated, coerced, lobbied or bribed by investors to mortgage the future of whole communities. The involvement of chiefs in active party politics with the reintroduction of multi-party politics in the 1990s in Cameroon has significantly destroyed their hitherto sacred role as guarantors of community interest. They function as part of the administration, forfeiting community interests for political appointments, power, and financial favours in exchange for partisan support (Fonjong et al., 2017). This system of political support and clientelism has fueled Large Scale Land Acquisitions (LSLAs) as the state and investors use elites to bring pressure to bear on chiefs to cooperate in the sale of national land. The interchange of favours and support between the government and chiefs has created a new type of chiefs whose pursuit of wealth and political power has relegated the respect of customs and community interest to third place. The chiefs thus condone the dispossession of villagers of their ancestral land without due process of consultation and accountability (Mope, 2009).

This leads us to the substance of the question, namely the problem of the commoditization/alienation of once tribal land, which started in the colonial period but has reached dramatic proportions as this is promoted and actively championed by local clan/family heads and tribal chiefs. While the majority of the local peoples and the younger elites are clamouring for the return of once tribal land, the chiefs or clan heads are busy either negotiating for compensation to be paid to them by the state, continue to sell whatever land is left or land returned to local communities by the CDC. The case is reported in the Muea (Lysoka) neighbourhood of a chief of Buea Sub-Division who was selling out land returned to the community by the CDC. Moreover, the role of the chiefs in the privatization of the plantation (corporation) has been far from desirable and, at worst, ambiguous. There is a failure on the part of the chiefs to represent the tribal landed interest to the extent that one would not be wrong in talking of a crisis of representation (Yenshu, 2006). This nefarious practice has spread in all the nooks and crannies of Fako Division where chiefs indulge in the dubious stock-in-trade business of auctioning CDC

restituted/surrendered community land to live a life of abject opulence.

Many Fako chiefs have been accused of hijacking and mismanaging the CDC lands that were restituted to their communities by the government. Moreover, the CDC land restitution has had a nefarious impact on the Fako chieftaincy institution itself. Molua (2016), states that the surrender of land to some villages in Fako Division has far been considered by many people as the main source of the contemporary chieftaincy disputes in the division today. Since the Cameroonian government started surrendering thousands of hectares of land in Fako Division; chieftaincy has become very attractive and juicy to many individuals of doubtful origin, morality and character. Common criminals, ex-convicts, notorious thieves, foreigners, non-indigenous people and illiterates have been made chiefs in many villages in Fako Division with the complicity of some corrupt local administrators. Villages have been created in areas where there were no villages, and some villages have been relocated and resettled in areas that are not historically connected to their original locations, and where land is very lucrative. The majority of the villages where these land surrenders have taken place are the theatre of serious chieftaincy strives. Because of land, unscrupulous individuals who have no connection with chieftaincy thrones buy their way to become chiefs and, in the process, auction land allocated to Fako communities to support their extravagant lifestyles at the detriment of the future Fako generations.

The Role Played by other Stakeholders of the CDC Land Restitution/Surrender Policy in Fako Division

The government CDC land restitution/surrender policy in Fako Division has created a new group of beneficiaries who are referred in this paper as “sponsors”, “middle-men” or “*démarcheurs*”, “land speculators”, “land merchants”, “caterpillar owners”, “car dealers”, and lawyer etc. These individuals, with the complicity of government administrators and Fako traditional rulers, are allocated several hectares of land from every CDC land restituted/surrendered to Fako communities for questionable services rendered, which they sell to ready buyers, most of who are non-indigenes, at exorbitant prices. The activities of these people are explained below.

- **Sponsors:** these are individuals who finance the CDC land restitution/surrender process with a lot of money and in return they are allocated large expanse of land by the traditional rulers. Most often, they put in far more money than what is required and the traditional rulers use the excess

money to buy expensive cars, build big palaces, keep many mistresses and live a life of opulence. In fact, they literally finance the excessive life styles of Fako traditional rulers;

- **Middle-Men or “Démarcheurs”:** these are individuals whose job is to scout for rich “sponsors” and buyers of the CDC land restituted/surrendered to Fako communities in return for plots or an agreed percentage from the sales of land by the parties. In fact, “middle-men” or “démarcheurs” has become a very lucrative business in Fako Division;
- **Land Speculator:** these are individuals who buy land restituted/surrendered to Fako communities from government administrators, Fako traditional rulers and from the “sponsors” for the sole purpose of preserving the land and to sell it only when the prices have skyrocketed exponentially. These individuals seldom develop the land themselves as their sole interest is to make more money from land sales;
- **Land Merchants:** these are very rich land buyers who, through the “middle-men” or “démarcheurs”, buy land from government administrators and Fako traditional rulers at very cheap prices, which they sell to rich buyers at exorbitant prices. They also often act as “land speculators” and sometimes even develop some of the land by building expensive houses that are unaffordable for the poor;
- **Caterpillar Owners:** these are individuals who own caterpillars and hire their caterpillars to excavate roads in the restituted/surrendered land. Since the beneficiary communities cannot afford to pay for the services of these caterpillars, large expanse of land is often allocated to the caterpillar owners as remuneration by the traditional rulers. The land is often disposed of and sold to rich “land merchants” at cutthroat prices;
- **Car Dealers:** these are individuals who import and sell cars. Since it is an open secret that Fako traditional rulers love expensive cars, these car dealers trade their cars against hectares of land obtained from the traditional rulers, who are only willing to oblige;
- **Lawyers:** land is the most lucrative business in Fako Division and lawyers are in the middle of almost every land deal in the division. As remuneration for legal services rendered to the traditional rulers, lawyers are often paid with land from the CDC land restituted/surrendered to Fako communities. They defend the traditional rulers in court and are remunerated through community

land. They also draw up and sign almost all deeds of conveyance and land agreements on most of the land transactions taking place in Fako Division.

Unfortunately, all of the above is taking place under the watch of the government, whose *laissez-faire* and lackluster attitude has so far become questionable and a cause for concern. Ngange (2014), argues that from 2003 to 2014, the government of Cameroon, through the intermediary of some state agents at the regional and divisional levels of ministerial departments like Territorial Administration, State Property, Surveys and Land Tenure, working in tandem with CDC officials restituted some parcels of plantation land to Bakweri villages that expressed the need. This exercise whose initial intention was to appease the people instead boomeranged and created a slew of malpractices like excessive grabbing of communal land by non-indigenous senior administrators; indiscriminate sale of ancestral land by some insatiable Fako chiefs and elites leading to the transfer of native lands to more than 90 % of non-natives; the creation of fake new layouts by dishonest administrators with the intention of acquiring and eventually selling Fako communal land; the sharing of land sale booty by an oligarchy and the emergence of a non-indigenous bourgeoisie class (Ngange, 2014). Nonetheless, due to the numerous cases of massive land grabbing in Fako Division, the government has suspended the CDC land restitution/surrender policy on several occasions in order to bring sanity in the process, unfortunately with little or no success.

Conclusion and Recommendations

This paper was meant to examine the role of government administrators and Fako chiefs in the CDC land restitution/surrender scheme in Fako Division. The paper undertook thorough analyses of the different legal frameworks governing land tenure in Cameroon and the legal instruments organizing the process of the CDC land restitution/surrender in Fako Division. The fact of the matter is that since the enactment of the government’s CDC land restitution/surrender policy in 2003, it has unfortunately created a lot of problems in Fako Division. Government administrators and Fako traditional rulers who are key players in the CDC land restitution/surrender process share a great responsibility for all the problems in the process. It is very evident that the current CDC land restitution/surrender policy is not working to the advantage of the people of Fako Division because it has been high-jacked by some government administrators and Fako traditional rulers. Thus, the

need for the government to change course and reform the process before it leads to serious strife in Fako Division.

The paper therefore recommends the temporal suspension of the CDC land restitution/surrender policy and the removal of government administrators and Fako traditional rulers from the land restitution/surrender process; the creation of a commission of inquiry to look into the numerous scandalous cases of CDC land grabbing by government administrators, Fako traditional rulers and their agents; the total overhaul of the CDC land restitution/surrender policy and the creation of an inclusive Fako Land Trust Committee comprising of government officials, CDC representatives, Fako political elites and traditional rulers, members of Fako civil society and socio-cultural groups, charged with the duty and responsibility to manage the CDC land restitution/surrender process in Fako Division.

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