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Research Article

Environmental Justice in the Light of Cameroonian Positive Law

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Abstract

Environmental justice in Cameroon is the recognition of fundamental environmental rights and the guarantee of their respect, while taking into account social and economic inequalities. It aims to protect the environment, particularly for the most vulnerable populations, and to combat the injustices caused by pollution, deforestation, and climate change. It aims to share the benefits and burdens of natural resources fairly among all members of a human community. However, to achieve this justice, it is obvious that the right of access to them must be one of the most important procedural rights because it allows for the protection of both human and nature rights. In Cameroon, it involves several aspects, namely: (1) Environmental protection for all. The right to a healthy environment is constitutionally recognized, and the state has the responsibility to protect it. (2) Guaranteeing access to resources. Environmental justice aims to ensure that local populations have access to, control over, and use of natural resources, taking into account their needs and traditional rights. (3) Combating injustice. It involves taking into account environmental impacts on the most vulnerable populations and combating social inequalities linked to pollution and environmental degradation. (4) Promoting sustainable development. Environmental justice is closely linked to sustainable development, which aims to balance economic, social, and environmental needs. Clearly, the objective of this article is to raise awareness among the public, public and political actors, legal professionals, civil society organizations, and the media about the consequences of environmental injustices for the protection of substantive human and nature rights.

Keywords

Justice, Environment, Law, Injustice, Cameroon

1. Introduction

According to Principle 10 of the Rio Declaration, adopted in 1992 by the United Nations Conference on Environment and Development: "Environmental issues are best addressed with the participation of all concerned citizens, at the appropriate level. At the national level, everyone should have appropriate access to information relating to the environment held by public authorities, including information on hazardous substances and activities in their communities, and the opportunity to participate in decision-making processes. States should facilitate and encourage public awareness and participation by making information available to the public. Effective access to judicial and administrative action, including redress and remedies, should be provided."

In this context, access to justice is closely linked to the right of access to information and the right to public participation in decision-making. Legal rules can therefore intervene to pre-

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vent or restore a situation considered unjust. Most of the arguments for access to justice are the same as those for promoting public participation in general.

However, environmental injustice can be considered as a policy that leads to aggravating an inequitable distribution of environmental goods and harms, particularly to the detriment of the most disadvantaged, and/or that excludes social groups from decision-making processes regarding the management of their community. This idea is present for the first time on the international scene, where it has been expressed, since 1972, through fundamental human rights, including equality, equity, and the right to live in a healthy environment, and the procedural rights of public participation.

It is expressed in Principle 1 of the Final Declaration of the United Nations Conference on the Environment (Stockholm) [1]. Then, in Principle 3 of the Rio Declaration on Environment and Development [2]. And, the first principle of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus) recalls the substantive and procedural dimensions of the right to live in a healthy environment [3].

At the national level, environmental law has not clearly integrated the concept of environmental justice. However, certain provisions allow this concept to be applied. These include Article 8, paragraph 2 of Law No. 96/12 of 5 August 1996, establishing a framework law on environmental management, which grants communities and approved associations whose purpose is environmental protection the right to exercise the rights granted to civil parties in relation to acts constituting an infringement of this law or its implementing regulations. In addition, Article 14 of this framework law obliges Cameroon to respect its environmental commitments made with the international community in reference to the principle of conventionality. In its procedural dimension, equality and equity are expressed through transparent decision-making processes, open to the participation of the public and those affected by the decisions so that they do not become an opportunity to unequally and inequitably authorize environmental risks depending on the different social groups involved. The issue that will drive our research is to question the provision of legal rules of Cameroonian positive law to combat environmental injustices. In short, how can the legal rules of Cameroonian positive law reinvent or transform the law in favor of the creation of institutions or jurisdictions to restore a situation considered as environmental injustice?

Echoing the words of lawyer Pierre Lambert, Pierre Lambert argues that the right of access to justice in environmental matters is a fundamental right, linked to human dignity and well-being, and essential for a healthy environment. This access to justice is crucial to ensuring environmental protection, which is intrinsically linked to human rights.

As such, the interest in reflecting on environmental justice lies in its originality and its ability to secure the rights of local and indigenous populations in environmental matters. Indeed, environmental justice aims to share the benefits and burdens of environmental resources fairly among all members of a human community [4]. It is therefore clear that the right of access to justice in environmental matters is one of the most important procedural rights (right to participation, right to information, right to consultation) because they organize the way in which people can assert their substantive rights (right to land and forest ownership, right to the sharing of benefits and advantages, customary user rights). In short, it allows for the protection of both human rights and that of nature.

In our research we have opted for a main method which is legal positivism and as complementary methods we have the comparative method and sociological method.

To better understand our concerns, the analysis will be structured around two points. The first will highlight the factors influencing the implementation of environmental justice. And the second will focus on suggesting proposals for better environmental justice.

2. The Factors Influencing the Implementation of Environmental Justice

Central to the provisions of Cameroonian positive environmental law, the Framework Law on Environmental Management and sectorial texts are key to effectively protecting our country's environment. This ambition is quite achievable given the wealth of Cameroonian legislation in this area. However, it is essential to find appropriate solutions to the perceptible weakening of procedures and the substantial problems of implementing environmental justice in Cameroon.

2.1. A Noticeable Weakening in the Implementation of Environmental Justice Procedures

This fragility is due to the limitations shared by both administrative and judicial procedures, through control mechanisms, the scarcity of criminal litigation, and insufficient human, material, and financial resources.

2.1.1. Limitations Shared by Both Procedures

Criminal proceedings relating to environmental matters are quite complex, both due to the nature of the rules governing the proceedings and the importance given to the various stakeholders. Despite the distinction made between administrative and judicial proceedings, upon reading the provisions of the Framework Law and the Practical Guide to Environmental Litigation Procedures, one realizes that, in reality, the two procedures are interrelated and complementary.

The natural affiliation of criminal law with public law is superimposed on a settlement between individuals that takes place within the realm of private law. Regarding the limita-

tions shared by both phases of environmental litigation, two observations can be made. The first is the heterogeneity of procedural rules in environmental litigation. The second arises from the absence of a clear definition of the relationships between certain actors involved in the two phases of the procedure.

(i). The Heterogeneity of Procedural Rules

Environmental criminal law is characterized by the disparity of its rules. This is a consequence of the very nature of the rules governing criminal proceedings in environmental matters. Indeed, the procedure for prosecuting offenses under Cameroonian environmental criminal law is dual. There is also duality in the rules applied in the procedure.

The heterogeneity, even complexity, of environmental procedural rules is manifested by the coexistence of general and special rules and the establishment of a procedure halfway between administrative and criminal law. These are therefore disparate procedural rules marked by a fragmented procedure.

1. Disparate procedural rules

In Cameroon, the procedural rules for prosecuting environmental offenses are not uniform. In reality, there are as many procedures as there are sectorial environmental laws. Not to mention that each ministerial department responsible for an environmental sector sets its own rules for prosecuting offenses falling within its jurisdiction. This is, moreover, the impression that seems to be reflected in these provisions of the practical guide to environmental litigation procedures of the Ministry of Environment, Environment, and Natural Resources (MINEPDED), considered the main structure responsible for environmental protection in Cameroon. It states that: "The environmental litigation procedure is provided for not only in Article 90 et seq. of Law No. 96/12 of August 5, 1996, establishing the Framework Law on Environmental Management, but also in other sectorial laws protecting the environment and natural resources, some of which are covered in this guide."

The interpretation of this provision allows us to note that not all the procedures provided for by sectorial environmental laws have been taken into account in this document. Cameroon does not yet have a single document harmonizing all the procedural rules relating to the prosecution of environmental offenses. Under these conditions, it is difficult for stakeholders, as well as the public, to know exactly how to punish or have environmental offenses punished. This constitutes a violation of the sacrosanct principle of criminal legality, which is dear to criminal law, or more broadly, of the legality of the procedure [5].

2. A partitioned procedure

While the distinction between the administrative and judicial phases of the trial is relevant, it must be recognized that it is, in certain respects, detrimental to the prosecution of environmental offenses. It should be noted that administrative proceedings have an influence on judicial proceedings, and that the reverse is not necessarily true in environmental matters. There is also a risk that we will see extremely lengthy procedures. And finally, the clash between administrative law and criminal law could also have a negative impact on the fight against environmental crime.

(ii). Mixed Collaboration Between the Various Stakeholders

The effective prosecution of environmental offenses depends on the participation of all stakeholders involved in the enforcement chain. Perfect synergy must exist between all stakeholders. The legal framework for their collaboration is established by texts that define the procedure to follow for the prosecution of offenses. While texts from common law, criminal procedure, and special law, and the practical guide to environmental litigation procedures, provide an overview of the collaboration between the various stakeholders, it must be recognized that, in some respects, the relationships between administrative and judicial authorities are not always clearly defined.

Indeed, the texts defining the criminal procedure to follow in environmental matters have not precisely determined the relationships between certain strategic stakeholders in environmental litigation. This is particularly true of the relationships between the various police forces and administrations and the Public Prosecutor with jurisdiction over environmental matters.

1. The relationships between the various police forces with environmental jurisdiction.

In Cameroon, the prosecution of environmental offenses is commonly handled by OPJs with general jurisdiction and those with special jurisdiction. They are responsible for the identification and investigation of environmental offenses. They exercise their powers under the authority of the Public Prosecutor. While the relationships between the various police forces and the Public Prosecutor are clearly defined in the Code of Criminal Procedure, the relationships between the various police forces remain enigmatic. Neither the practical guide to environmental litigation procedures, nor the MINEPDED's administrative procedures manual, nor the Cameroonian Code of Criminal Procedure, nor even the Framework Law on the Environment address the relationship between the conventional police and the environmental police. However, given that both police forces have a role to play in the prosecution of environmental offenses, it would have been agreed that the legislature should clearly define the relationships between the various police forces. This silence from the legislature on the issue is likely to create conflicts later on.

Nevertheless, an overview of their relationship can be found in Article 84 of the aforementioned Code of Criminal Procedure, which, in our opinion, is insufficient. It should have been better elaborated.

2. Relationships between the various government departments responsible for environmental issues.

The government department and the Public Prosecutor constitute two essential links in the fight against environmental crime. Each, at their own level, is vested with decision-making power capable of influencing the conduct of the trial. In the administrative phase, it is the minister or their representative who has the authority to initiate criminal proceedings against the offender. For their part, the Public Prosecutor is the one who takes public action arising from the offense. It is therefore important that their relationships be clearly defined in legal texts.

Upon reading the Framework Law, the implementing texts, and the practical guide to environmental litigation procedures, one realizes that the legislature has not sufficiently defined the relationship between the administration and the Public Prosecutor's Office, in particular, the Public Prosecutor, much less with the investigating judge. Sometimes a link is made between the administration and the Public Prosecutor, as in the practical guide to environmental litigation procedures.

The rules that determine the procedure to follow for the prosecution of environmental offenses in Cameroon are obscure because they are shared between several texts; the procedure for the prosecution of environmental offenses constitutes a veritable labyrinth whose outcome is sometimes uncertain.

2.1.2. The Limits of Offense Control Mechanisms

Legal rules do not apply themselves. Certain actors must translate the requirements set out in the texts into action. Their effectiveness most often depends on the control measures implemented by public authorities to ensure compliance. [6] In environmental matters, for an offense to be discovered, the judicial police have been given the authority to investigate and record offenses. Judicial police officers (OPJ), whatever their nature, play a decisive role in the prosecution of environmental offenses. Guy Canivet already noted in his speech before the Court of Justice of the European Communities (ECJ) on April 26, 2004, that the effectiveness of environmental law depends on the dynamism of judicial actors, namely the magistrates and officers responsible for investigating and recording environmental offenses. However, the situation is quite alarming in Cameroonian environmental law with a low rate of infractions and litigation confined to certain environmental sectors.

(i). Few Offenses

The number of environmental offenses recorded annually by the Cameroonian Ministry of the Environment is quite low compared to offenses against property or persons, traffic violations, and drug use (…). Some statistical data provided by the Cameroonian Ministry of Justice are already quite revealing. Only the statistical data made public during the years 2013, 2014, 2015, and 2016 [7] are taken into account here.

(ii). Litigation Confined to Certain Environmental Sectors

The environment is a vast field. It is made up of several elements, each of which represents a sector where offenses can be committed. While this is true, it is nevertheless clear that some environmental sectors are much more represented than others in terms of environmental criminal litigation. As BISSECK points out, "if from time to time the courts are seized in matters of infringement of legislation relating to wildlife, other areas do not seem to be the subject of prosecution, perhaps because of the primacy of the transactional procedure, but certainly because of the lack of research into the establishment of environmental infringements" [8].

In the same vein, it should be noted that "in criminal matters, environmental litigation is dominated by cases relating to flora and fauna […]" [9]. However, many environmental offenses therefore remain hidden, and cannot be discovered by OPJs. Despite the OPJs' inaction, there are also other factors beyond their control. These are the lack of various resources.

2.1.3. Insufficient Human, Material, and Financial Resources

The effective repression of environmental offenses is conditioned by certain factors, including texts that define the legal framework, personnel responsible for their implementation, and the material and financial resources made available to them.

(i). Inadequate Judicial Personnel

This refers to judicial police officers with special jurisdiction and lawyers specializing in environmental matters. While the former are responsible for uncovering the majority of environmental offenses, the latter serve as advisors, agents, and advocates for litigants. [10] These actors play a key role in the implementation of environmental laws. However, their numbers are not always sufficient to ensure optimal coverage across the entire national territory. For Professor Maurice Kamto, this situation necessarily leads to inevitable consequences, as he believes that it is: "a concrete illustration of the consequences of this inadequacy of both human and human resources is the increase in poaching of various endangered species such as elephants in Central and Southern Africa, which has led us to observe the helplessness of the countries affected by this phenomenon." [11].

More importantly, while the number of lawyers is low, it is their expertise in environmental law that is called into question here. They are rare, 'environmental lawyers' [12] in Cameroon. Although its experts express opinions, write reports, and deliver testimonies [13], in addition to the problem of staffing, there is a lack of financial and material resources.

(ii). Lack of Financial and Material Resources

The difficulties in implementing environmental justice are

not only linked to the quantity and quality of staff, but also to insufficient financial and material resources.

1. Insufficient Financial Resources

According to Professor Maurice Kamto, "the weakness of the effective implementation of environmental law is due to the following three factors: [...] insufficient financial resources" [14]. In Cameroon, the financial resources mobilized internally and those coming from outside are insufficient for this purpose.

Regarding domestic financing, it comes from the State, decentralized local authorities (CTD), the private sector, and national non-governmental organizations (NGOs). For external financing, the situation is not very encouraging because, despite the diversity of financing mechanisms that appear in most international environmental law texts, the problem of environmental financing persists. However, it should be noted that alongside the problem of limited financial resources, there is the problem of access to them. This is also highlighted by BALANA OLAGA [15], as he believes that: "despite the fact that international environmental law texts include the aspect of the transfer of financial resources for environmental protection, we note that they are limited to stating the financing mechanisms without, however, devoting their procedural aspect to facilitate access to them." However, it is essential for any country aspiring to benefit from funding to protect the environment to be familiar with and master all the required procedures, so that it is not faced, under any circumstances, with any rejection of its funding request due to a procedural defect." In addition to the lack of financial resources, which does not always allow for the implementation of environmental law, there is also a lack of material and logistical resources.

2. A lack of material and logistical resources

Conducting checks and inspections to detect environmental violations is not always easy for sworn environmental officers. This work requires adequate equipment, which is not always available. The MINEPDED's practical guide for inspectors and controllers lists a number of items of equipment that these officers must use during their field missions. These include inspection kits, cameras, GPS, inspector cards, personal equipment, etc.

Sworn officers of MINEPDED and those of other government agencies encounter many difficulties in their mission to monitor and report environmental violations. Financial, material, and human resources problems largely contribute to the low rate of violations recorded annually. "It is therefore very alarming to note that this law, due to insufficient financial and human resources, is ineffective in many regions of the planet such as Africa [...]" [16].

The direct consequence is that, if there are not enough violations noted, environmental litigation is reduced.

2.1.4. A Sparse Body of Environmental Law Litigation

The procedure for prosecuting environmental offenses takes place in two phases, as already mentioned. The particularity is that when the administration is unable to resolve the dispute, it will then undertake to prosecute the offender by referring the matter to the Public Prosecutor's Office. The central role played by the administration in the procedure for prosecuting environmental offenses will thus have an influence on the volume of criminal environmental litigation. Indeed, as FOKA TAFFO [17] has so aptly noted, "the sparse body of environmental criminal litigation in Cameroon is symptomatic of a lack of awareness of or distrust of this body of law, which is clearly very dense."

Thus, environmental litigation in Cameroon is characterized by a large body of litigation before the administration, but that before the courts remains low.

(i). Abundant Administrative Litigation

While it is recognized in legislation around the world that the administration plays a leading role in the repression of environmental offenses, this is also the case in Cameroon. This is because a large proportion of environmental offenses are resolved by the administration. Indeed, most environmental offenses are reported to the administration by sworn agents.

The law recognizes the administration's role in sanctioning environmental offenses. To this end, it can take a number of measures against offenders. However, it has been observed that the administration often misuses these measures. This is the case with the transaction, although it is a recommended procedure due to the socio-economic impact of trials on the offenders' commercial activities [18]. It nevertheless remains that it reduces the density of litigation before the courts, particularly judicial courts.

As an illustration, MINFOF's interventions have enabled it to note and warn companies of criminal acts. These include acts that could constitute fraud on documents issued by the forestry administrations (Horizon Bois and Bubinga), unauthorized logging in a national forest (Soci ét éCamerounaise de D éveloppement Social Sarl), and failure to comply with forestry intervention standards (Soci ét é Camerounaise d'Industrie et d'Exploitation du Bois). For example, on April 28, 2010, the company CAM IRON was ordered to pay the sum of 13,417,633 FCFA for logging in the national domain without holding an logging permit duly issued by the forestry administration.

This was the case, for example, with the litigation brought against the company HYSACAM for non-compliance with the framework law on environmental management. It was accused of having installed, in violation of the law, a waste dump in the town of Konveu, located in the western region, having modified the ecosystem and thus caused serious damage to the environment. It was ordered to pay the sum of 8,000,000 FCFA for the damage caused to the environment and its failure to carry out an impact study.

While administrative bodies handle almost all environmental offenses, a tiny fraction of cases reach the judicial

authorities.

(ii). Limited Legal Proceedings

Very few environmental cases reach the judicial system (Public Prosecutor's Office and trial judge). This is because the administration handles the majority of litigation. This is why Professor Jean Claude TCHEUWA rightly noted that: "environmental protection remains [...] the poor relation of Cameroonian legal practice because legal actions remain limited and judges, in some cases, lack boldness, aided in this by the nervousness of the actors."

To this end, we realize that the problem of limiting the number of legal proceedings in environmental matters stems from the nature of the judicial police officer who first observes the offense and, to a certain extent, influences the outcome of the trial. In short, what happens is that when a traditional judicial police officer observes an environmental offense, they will likely first refer the matter to the Public Prosecutor because that is their direct superior, to whom they must report for all their activities. However, in the case of judicial police officers with special jurisdiction, although the law stipulates that they are under the direction of the Public Prosecutor, it must not be forgotten that they are, first and foremost, civil servants reporting to a specific administration.

However, the weakening of the implementation of environmental justice is not only due to obstacles, but also to substantial problems.

2.2. A Perceptible Weakening of the Implementation of Environmental Justice Due to Substantial Problems

While it is true that environmental justice itself carries the seeds of its ineffectiveness, not everything can always be attributed to the quality of the standards or the role played by the various actors. Other factors, independent of the environmental criminal standard, darken the already rather bleak picture of the implementation of this justice.

These are essentially exogenous causes that we have preferred to label as substantial problems. Indeed, the effectiveness of a standard is inevitably dependent on the psychological, economic, and cultural state of its recipients. However, it appears that, on the one hand, the current Cameroonian socio-economic context and, on the other, cultural constraints, constitute real obstacles to the implementation of this justice in Cameroon.

2.2.1. Cameroon's Unfavorable Socioeconomic Context

Cameroon, like other African countries, is experiencing a difficult economic situation, characterized by pervasive poverty. It is therefore clear that in such a context, citizens are not complying with the laws, as it is said, 'poverty is the mother of all evils.' We highlight the poverty of some people subject to justice, as well as their illiteracy and ignorance, as causes of ineffective environmental justice.

(i). The Poverty of the Population

Poverty and the environment are inseparable. Indeed, poverty contributes significantly to the problems of environmental degradation and is one of the key factors in environmental problems in poor countries. Ms. Harlem Brundland rightly argues in her report [19] that poverty is a major consequence linked to environmental degradation. Faced with these sometimes embarrassing situations, the judicial system itself often tends to sympathize with the plight of offenders. However, the leniency of the criminal justice system results in environmental degradation intensifying even more, due to the failure to enforce the sanctions provided for by current regulations.

Also, once the environment is degraded, it often requires restoration measures to restore the disrupted ecological balance. The vast majority of African countries have adopted modern texts and adhered to most international instruments, but the fundamental question that must be asked is whether they have the means to meet this ecological bill [20].

Poverty is the root cause of many ills, such as illiteracy, which also hinders the implementation of environmental justice in Cameroon.

(ii). Illiteracy Coupled with Ignorance

To say that illiteracy is a cause of ineffective environmental justice in Cameroon could be misleading. Recent figures on school enrollment rates show that much effort has been made in this area to date. But given the complexity of the language used in environmental criminal law, we believe that understanding environmental law requires more than just reading and writing. It goes without saying that the effectiveness of a legal rule depends, among other things, on its knowledge by its citizens, who are its primary target audience.

It is clear that a standard cannot be respected if one is unaware of its existence or unable to grasp its meaning. Despite the Roman adage that 'ignorance of the law is no excuse,' the State has an obligation to enable citizens to not only know but also understand the rules it enacts. It is one thing to impose a model of behavior to which the public must submit; it is another to be aware of its existence. DEGNI-SEGUI was able to write in this sense that: "one of the major obstacles to access to the courtroom in Africa is the ignorance of the law in general and of their rights in particular by citizens who are nevertheless supposed not to ignore them by virtue of the adage nemo legem ignorare censitur" [21].

If citizens are therefore ignorant of their own rights, will they be able to know the rights recognized to the environment? Moreover, culture, understood as "the set of acquired forms of behavior in human societies" [22] also plays a leading role in the ineffectiveness of environmental justice in Cameroon.

2.2.2. Cultic Burdens

In sociology, culture is considered as the set of ways of thinking, feeling, and acting that characterize a particular community. [23] It is also a 'system of beliefs and values'. [24] Indeed, African societies in general possess a culture that profoundly distinguishes them from other types of societies, particularly Western ones. The African perception of the environment has not always been the same as the Western one.

This is what GARAUD seems to emphasize when he states that "while Western Man has only been able to establish, since the Renaissance, between Man and nature, relationships of conquerors, relationships of masters and slaves, Africans, beyond the diversity of their cultures, testify, on the contrary, that Man and the world are one, that all of nature is a body, and that I belong to the universal interaction of the forces of life, the total life of Men, other Men and things" [25].

However, environmental law as it exists today in Africa is a Western emanation. Africans therefore do not recognize themselves in it, which probably makes this law somewhat illegitimate. To this must be added the fact that litigants do not always appeal to modern justice to have their rights recognized, which is characterized by judicial enculturation.

(i). A Lack of Legitimacy of Environmental Law

Modern law, in certain areas, suffers from a lack of legitimacy in Africa, and more specifically in Cameroon. This is evident in environmental law.

It remains largely perceived as a 'white man's business, " […] an external constraint to which one is obliged to comply out of necessity (…)" [26]. It therefore remains largely illegitimate, despite its popularity. However, as Adolph MINKOA SHE [27] points out, "it is not enough for the law to be stated and pronounced: it must, above all, be accepted, not only because this is the only condition on which it has any chance of being effective, but also because its very essence is to be a social regulation and, consequently, can only exist to the extent that it is accepted, even reluctantly." That said, it should be emphasized that the illegitimacy of environmental law in Africa is fueled by two factors: on the one hand, that environmental law is imported; on the other hand, that it is an imposed law.

1. An imported environmental law

In Cameroon, the environment has long been managed according to the customs and traditions of the people, but at a certain point, the legislature wanted to put an end to this customary management of the environment and subject it to written law. But BOKALI believes that: "Unfortunately, this imposed law has encountered indifference, even hostility, from the people, so much so that today, we are witnessing a gap between the applicable written law and the customary law actually applied, at least in certain matters considered to be very personal." [28].

The State of Cameroon has made the right to a healthy environment a fundamental right, which is the subject of constitutional enshrinement. The legislature will subsequently adopt several texts relating to the environment. Given the potential conflicts that may arise in the application of written law and customary law, the Supreme Court established from the outset the principle of the supremacy of written law over customary law. It decides in fact in one of its judgments that "in matters where it has been legislated, the law prevails over custom" [29].

However, in practice, the populations do not receive this right, they continue to use their own modes of regulation, to the detriment of state rules. Mr. NKOU MVONDO has pertinently analyzed this phenomenon concerning modern law in general because he emphasizes to this effect that " […] we can read it on the paper where it is written. But this right is ignored in Cameroonian neighborhoods and villages. A good part of society lives outside the law of the State. The state courts where this law of the State is applied are deserted at the same time by Cameroonian litigants. For the latter, the justice of the State lacks credibility. For some, it is a justice made for the 'Whites', the 'intellectuals' [...] ".

As an illustration, the case of industrial logging in Meyo-Centre (Ntem Valley department, southern Cameroon) [30] is a perfect illustration of the difficulties encountered by the Cameroonian administration when it comes to ensuring compliance with environmental legislation.

In this case, a forestry exploitation license had been granted to the Universal Timber Company (UTC) for which a specification had been signed concerning the exploitation of 55,620 hectares of forest in the districts of Ambam and Ma'an, extending a single obligation: to build in Meyo-Centre, 24 months before the start of exploitation, a sawmill, the description of which was found in the duly registered specification.

However, the owner of the UTC company, who lacked sufficient knowledge of forestry operations, leased his license to the Polywood company. The latter abandoned its project after logging 7,500 hectares of forest, and the license was again sublet to another operator who also failed to comply with the specifications, including the construction of a sawmill in Meyo-Centre. Faced with these facts, the elites of the Meyo-Centre district contacted the relevant administrative authorities to demand explanations for the violations of environmental regulations in their region. But their requests remained unanswered, as the administration chose to ignore the numerous requests made to it.

Despite efforts, there has still been no real change in mentalities. They seem to be like sword thrusts in the ocean, without any real effect. Environmental law is therefore difficult to apply because, imported into Africa by the West, it is, moreover, a law that is sometimes imposed.

2. An Imposed environmental Law

The importance of environmental protection in Africa, and more particularly in Cameroon, is well established. It has become an absolute necessity that requires collective and individual awareness. This awareness, which is already quite

advanced in the West, seems to be taking hold of the African continent. This is due to a rather specific method employed by Western countries: the practice of financing based on environmental conditionality's [31].

Indeed, very often, the environmental dimension is present in the financing conditions of development projects by financial institutions and donors [32]. Access to financing is thus conditional on the satisfaction of certain conditions relating to the environment, called eco-conditionality. It "consists of subordinating the payment of public aid to compliance with environmental standards in the implementation of the projects to which this aid is allocated" [33].

This is a binding mechanism that has aroused indignation in the countries of the South. Jean Claude TCHEUWA, in the context of a symposium held in Yaoundéfrom July 20 to 22, 2004, spoke on the issue. It emerges from his communication that the dispute arises at the level of conditionality as a principle of environmental management in the interest of all humanity. Conditionality clashes with the permanent sovereignty of the State over natural resources with regard to principle 2 of the Rio Declaration.

While MBIDA ELONO [34] approaches the question from a particular angle. He underlines that "by subjecting the benefit of financial aid to the condition of environmental protection, international financial organizations have forced the hand of States'.

(ii). The Judicial Inculturation of Populations

In reality, judicial inculturation, in a broader sense, can be defined as the process of integrating and respecting local cultures into the judicial system. This means that the judicial system must take into account the values, customs, social norms, and traditional legal practices of the population in order to render fair and effective decisions. It (judicial inculturation of the population) is simply the consequence of the illegitimacy of the aforementioned environmental law. There are many reasons why litigants do not always resort to the judicial system to defend their environmental rights. We will analyze two of them: the influence of custom and prejudices against justice.

1. The use of custom in the resolution of environmental disputes

Historically, custom is the oldest source of law in Africa, particularly in Cameroon. It is deeply rooted in tradition and established situations. As the most archaic form of law, it is often diametrically opposed to modern conceptions of economic and social organization. Indeed, since traditional chiefdoms are part of the administration in Cameroon, their role in environmental matters should not be overlooked. They are governed by a 1977 decree on the organization of traditional chiefdoms, which specifies that traditional chiefs have the role of supporting the administrative authorities in their mission of supervising the populations.

In environmental matters, the Framework Law on Environmental Management grants them the power to 'sanction' disputes related to the use of certain natural resources, such as water and grazing, based on local customs and traditions, but without prejudice to the parties to the dispute from bringing matters before the competent courts. However, while the amicable settlement of environmental disputes [35] can be considered an exception, we note that it is tending to become the rule in rural areas of the country. The authority exercised by the chief and the remoteness of the courts certainly contribute to this almost systematic recourse to traditional authority.

As a result, many cases are resolved in the chief's court, to the detriment of modern justice. It is in this perspective that BORNECQUE [36] notes that " [in Cameroon], many litigants begin by reporting to the police the individual who has committed an offense against them solely to have the latter recognized as guilty. But later, once it is admitted, especially if it concerns a member of their family, they will do everything necessary to have their complaint removed from the hands of the police so that the guilty party escapes the courts of written law and goes before the district or village court, which will judge him according to the rules of custom.

2. Unfavorable Prejudices

Cameroonian litigants hold serious unfavorable prejudices toward the justice system. Here, we will discuss the problem of corruption and the high cost of justice.

Citing corruption or the cost of justice as obstacles to access to justice, including the implementation of the law, is not new, but remains a reality. As Emmanuel BOKALLI rightly noted, isn't the cost of justice high, even prohibitive, in Cameroon? However, the Constitutional Law of January 18, 1996, enshrines the principle of free justice in its preamble, paragraph 10, to ensure equality for all before the law.

Similarly, Law No. 2006/015 of December 29, 2006, on the organization of the judiciary, followed in the footsteps of the Constitution and enshrines this principle. It provides that "justice is free, subject only to the tax provisions relating in particular to stamp duty and registration and those concerning the multiplication of appeal and appeal files." But in all likelihood, this principle would be nothing more than a 'chimera and illusions' [37]. It would simply mean that magistrates and clerks are not the responsibility of the litigant.

To ensure equality between litigants before the courts, the Cameroonian legislature adopted a law to assist disadvantaged litigants. This is Law No. 2009/004 of April 14, 2009, on the organization of legal aid. The adoption of this law by the authorities itself reveals the problem of the high cost of justice. Moreover, it is clear that this law contains limitations that call into question the principle of free justice. Similarly, the required documents and the lengthy procedure for obtaining aid are likely to discourage litigants.

Concisely, we can state that the implementation of environmental justice in Cameroon is weakened by several factors. These are both inherent to environmental criminal law itself and external. This fragility of environmental justice in Cameroon has the consequence of fueling the perpetration of at-

tacks on the environment.

3. Proposals for Better Environmental Justice

The weaknesses of environmental justice in Cameroon, as identified theoretically and practically, lead us to propose some solutions to ensure its effectiveness in this area.

To this end, it is imperative that a genuine environmental awareness be fostered among all stakeholders in order to legitimize environmental law. This legitimization must be achieved through the strengthening of environmental democracy [38] and the effective appropriation of environmental law by all stakeholders.

3.1. Strengthening Environmental Democracy

Cameroon makes use of democratic principles in environmental matters, although it must be recognized that the construction of the legal framework on access to information, public participation in decision-making, and access to justice in this area is still imperfect, as legal gaps still exist. This is why we believe that the public's awareness of environmental law cannot be achieved without the establishment of a legal framework conducive to environmental democracy. Once established, this legal framework will strengthen the promotion of said democracy.

3.1.1. Establishing a Legal Framework Conducive to the Emergence of Environmental Democracy

According to Maurice Kamto, information is "the surest way to inform choices and persuade people of the merits of the decisions to be made," while participation "is essential as a method for seeking acceptability of decisions taken in a matter that most often directly affects the lives and livelihoods of populations." [39]. It is therefore clear that information, participation, and access to justice constitute the three key principles of environmental democracy.

Given their importance, these principles must clearly be enshrined in States. If necessary, this will allow for the adoption of specific laws. Unfortunately, as this report points out, "the exercise of the right of access to information in Cameroon takes place in a context marked, on the one hand, by the absence of an overall framework for participation in public policy processes; and on the other hand, access to public information is not a reality because the country has not yet ratified the eponymous Aarhus Convention and does not have a specific text on access to information."

In light of these shortcomings, it is imperative to address these deficiencies by supplementing the relevant national legislation. This is why it is urgent for Cameroon to adopt a law on information, public participation in decision-making, and access to environmental justice, as well as its implementing decree. This law must take into account the requirements contained in the Aarhus Convention. A truly binding law that will revolutionize public participation in environmental management.

Once a legal framework is in place, consideration should be given to promoting these legal instruments so that no one is unaware of their content.

3.1.2. Strengthening the Promotion of Environmental Democracy for Better Implementation of the Legal Framework

The principles of environmental democracy are not self-executing; they must be accompanied by concrete actions. Certain actors are responsible for implementing the proclaimed rights, first and foremost the State. The 1996 Constitution already stipulates in its preamble that "the State shall ensure the protection and promotion of the environment." It is assisted in this mission by civil society actors and the public.

The Cameroonian legislator, in the framework law on environmental management, particularly in Article 9, had set certain obligations for public and private entities to promote the principles of environmental democracy. It enshrines among the fundamental principles of the environment the principle of participation, according to which: "Every citizen must have access to information relating to the environment, including information relating to hazardous substances and activities. Every citizen has the duty to ensure the safeguarding of the environment and to contribute to its protection. Public and private entities must, in all their activities, comply with the same requirements. Decisions concerning the environment must be taken after consultation with the sectors of activity or groups concerned, or after public debate when they are of general scope."

The promotion of environmental democracy therefore aims to involve citizens in environmental management. And to achieve this, it is necessary to guarantee the right to information and public participation in environmental matters, while ensuring public access to environmental justice.

(i). Guaranteeing Access to Information and Public Participation in Environmental Matters

In everyday language, the "public" refers to the people as a whole. [40] The Aarhus Convention distinguishes between the "public" and the "public concerned." [41] Whether it is the "public" or the "public concerned," the rights to information and participation must be guaranteed. They are the primary recipients of legal instruments adopted in the environmental field. More than any other discipline, environmental law is both close and distant from the public. Close to the extent that the elements it governs are in permanent contact with the public. remote in that the public remains largely ignorant of this right. Few are aware that the environment benefits from rights just as humans do. And that these are protected by law with the possibility of legal action being taken in the event of their violation.

To reverse this trend, access to information and public participation in environmental matters must become a reality in Cameroon. This requires optimizing public access to environmental information while strengthening the public's role in participating in environmental decision-making.

(ii). Guaranteeing Public Access to Environmental Justice

The right to information and participation would be meaningless if the public were not given the opportunity to seek legal recourse in the event of a breach of these rights. The right of access to justice in environmental matters is one of the most important procedural rights, namely the right to participation, information, and consultation. They govern how individuals can assert their substantive rights, namely the right to land and forest ownership, to the sharing of benefits and advantages, and to customary use. [42].

The advent of environmental justice has not been a smooth ride. It has been built throughout the world under the influence of the power struggle between political power and social movements defending the environment. [43] Access to environmental justice allows any natural or legal person to obtain recognition and enforcement of their environmental rights. To better implement the right of access to environmental justice in Cameroon, it is necessary not only to facilitate access to the courts for litigants but also to ensure the smooth running of the procedure.

1. Facilitating Access to Court

Guaranteed access to a court is one of the expressions of the right to a remedy, that is, the right of any person to be able to challenge a measure taken against them before a body vested with the power to reform this measure and/or to repair its harmful consequences [44].

This is a right of capital importance. Because, "without access to a judge, the trial cannot take place and, as a consequence, justice cannot be served. The same applies to any trial involving the application of environmental rules" . This right is enshrined in certain international legal instruments to which Cameroon has acceded, as well as in national legislation [45].

However, exercising the right of access to justice in environmental matters remains rare in Cameroon, as the number of cases brought before the courts to enforce environmental rights is very low. Nevertheless, civil society activism, particularly environmental protection associations, is remarkably active in exercising this right. As a human right, environmental justice aims to equitably share the benefits and burdens of environmental resources among all members of a human community. [46].

The contribution of individuals to the exercise of this right is virtually absent in Cameroonian environmental jurisprudence. The few actions brought before the courts are initiated either by the administrations responsible for environmental protection or through environmental protection associations. The public should not only have the right to bring a case before a court, but also the right to a fair trial.

2. Guaranteeing the Right to a Fair Trial in Environmental Matters

The conduct of a trial, regardless of its nature, is conditional on compliance with the requirements of a fair trial. In environmental matters, some are the subject of particular attention. This concerns the right to a speedy and inexpensive trial. The Aarhus Convention insists on respect for these two principles in environmental litigation.

These principles should be integrated into criminal environmental litigation in Cameroon, along with the requirement for a speedy trial, which refers to the principle of 'celerity' or 'reasonable time'. However, the two concepts deserve to be distinguished. They are generally considered by case law [47] and legal doctrine [48] as two equivalent notions.

For PRADEL [49] "reasonable time and speed of justice must nevertheless be distinguished in the sense that the former concerns the accused and the victim alone and appear as rights granted to the parties, as a respect for human rights; on the other hand, speed is a broader concept that encompasses both the interest of the parties and that of justice in general."

The author clearly distinguishes between reasonable time and speed. For him, speed concerns the general interest, that is to say the entire judicial system; while reasonable time aims to protect litigants. However, whether it is the principle of speed or the right to a reasonable time, there is no preference for one or the other, since both concepts contribute to protecting environmental values.

The concept of access to justice presupposes that every individual has the right to bring a case before the competent national courts in the event of harm suffered. It also presupposes the right to be represented and the right to be tried within a reasonable time. To give effect to Articles 5, 6, 7, and 26 of the Charter, which relate to the right to a fair trial, the African Commission on Human and Peoples' Rights has developed Guidelines and Principles on the Right to a Fair Trial and Legal Assistance in Africa.

Through its resolution on the right to a fair trial, the Commission reaffirmed the right to redress in the event of rights violations and the right to equality of individuals before the law. [50] Environmental litigation should also be inexpensive so as not to discourage litigants, most of whom are already unable to meet their basic needs. It is therefore essential that the principle of free justice be effective and at the same time, combat the scourge of corruption in the judicial system which is one of the causes of the crisis between the judicial system and the population [51] In any case, the decision rendered by the court must be executed to put an end to the infringement or so that the injured party effectively recovers his rights.

In short, it is necessary to intensify efforts to establish environmental democracy in Cameroon so that not only laypeople, but also environmental law professionals, can take ownership of this law.

3.2. Effective Ownership of Environmental Law by All Stakeholders

Environmental damage is a palpable reality, and we feel and experience its effects daily. Environmental degradation has become a global phenomenon; no one is immune. The first step toward effective environmental protection requires all stakeholders to take ownership of the subject.

There are multiple means to achieve this goal. We will examine, on the one hand, the need to train those responsible for punishing violations of environmental law. On the other, the need to educate and raise awareness among those affected by this law about the challenges it presents.

3.2.1. Training of Those Responsible for Enforcing Violations

Judicial and administrative officials are responsible for enforcing environmental regulations. However, they face a major obstacle: their ignorance of environmental law, especially among traditional judicial officials. This observation was made during a symposium . Participants noted that "those responsible for its application [of environmental law], namely the judiciary, are not aware of issues relating to environmental protection and have little knowledge of environmental law."

Given that environmental law is an evolving discipline, it is absolutely essential that administrative staff receive occasional refresher courses in environmental law to update their knowledge. Traditional judicial officials, however, being novices in environmental law, must receive intensive training.

(i). Retraining of Administrative Staff

Administrative staff play a decisive role in the prosecution of environmental offenses, as they receive training in this area. However, it is necessary to strengthen their environmental skills from time to time to make their actions more effective. Administrative officials are involved at two levels in environmental proceedings: the reporting of offenses and the prosecution of offenders. Capacity building for administrative officials must include those responsible for reporting offenses as well as those responsible for prosecution.

1. Capacity building for environmental police officers

The environmental police force is made up of both sworn and non-sworn officers.

The former perform the functions of judicial police officers, while the latter are ordinary administrative officials. In the case of sworn officers, they are by nature civil servants of the environmental administration or any other administration. It is their function which gives them the status of OPJ with regard to their skills in environmental matters.

Sworn and non-sworn government officials belong to the category of actors whose knowledge of environmental law is proven. However, this knowledge needs to be constantly updated to make them more effective in the field. It is not only sworn and non-sworn government officials who should be retrained in environmental law. Training must extend to government officials responsible for prosecuting offenders.

2. Capacity building for those responsible for prosecution

After an offense is identified, the environmental administration can initiate proceedings against the offender. A number of stakeholders will then be involved. Their knowledge of environmental law also deserves to be refreshed. This knowledge is found in the central, decentralized, and decentralized administrations.

The effective transfer of powers to the CTDs in Cameroon will give more responsibilities to the heads of decentralized local authorities in the environmental field. They are called upon to independently manage the natural resources that abound in their localities.

They will thus have to make important decisions regarding the management of these resources with a view to their exploitation. However, how can the Mayor consider the interests of the environment if he or she is not already familiar with environmental issues? This is why it is important that they also receive training in this area. If administrative staff who are deemed to have a good grasp of environmental law need to be trained, a fortiori, traditional judicial staff who are totally ignorant of environmental law.

(ii). Intensifying Training for Traditional Judicial Actors

Unlike administrative staff, who are expected to be proficient in environmental law, traditional judicial actors know little about this law. It is therefore necessary for everyone to be trained in environmental law in order to provide them with the appropriate tools for effectively prosecuting offenses. This training applies to both court officials and judges.

1. Training court officials in environmental law

By court officials, we mean legal professionals whose mission is to facilitate the progress of proceedings and the proper administration of justice by assisting the judge or the parties. Those who assist the judge include clerks, experts, and bailiffs (…). Counsel to the parties include notaries and lawyers (…).Their role in prosecuting offenses is well established. Unfortunately, they are not well versed in environmental law. Whether they are judicial police officers with traditional jurisdiction, bailiffs, clerks, lawyers, or notaries, environmental law eludes them. This is because they do not receive any environmental law courses during their training. Yet, their role in the suppression of environmental offenses is not insignificant.

It is therefore necessary that modules on environmental criminal law be introduced into their training for future promotions, or that continuing training be organized for those already in service [52]. This will allow them to be immersed in this law in order to give them the skills necessary to punish environmental offenses. Their hierarchical superiors, the magistrates, are gradually beginning to receive training in environmental law, but this training must be intensified.

2. Intensifying training for judges in environmental law

Judges are judicial auditors responsible for judging cases when they are in court and for requesting enforcement of the law when they are in the prosecution service. Since the 2011/2012 academic year, an environmental litigation module has been introduced at ENAM. This is a core course for both judicial and administrative judges. Since environmental law training is recent, the majority of judges serving in Cameroon have not received training in environmental law. Therefore, it is in the public authorities' interest to provide continuing education for judges who have not received this training at ENAM. This training should be intensified, especially for judges already in service. If legal professionals need to be trained in environmental law, even more so do the populations who are considered to be laypeople in the field.

3.2.2. Intensify the Education of the Population

Environmental education is certainly the most important and effective action to implement to ensure the effectiveness of environmental justice. It is an extension of citizen participation in environmental protection, as provided for in Article 72 of the Framework Law. The Tbilisi Conference [53] defined environmental education as an intermediary, or even a method, for transmitting the civic values of our society, which allows individuals to perceive the complex nature of the environment. This education must also facilitate awareness of the economic, political, and ecological interdependence of the modern world, so as to stimulate a sense of responsibility and solidarity between nations. [54] They contribute to the effectiveness of environmental justice on two levels: the prevention and punishment of offenses.

Generally speaking, environmental education helps to involve citizens in environmental management. But "this involvement of grassroots populations seems to be lacking at present in Cameroon" [55]. However, the receptiveness of environmental law is conditioned by the level of education and awareness of citizens on environmental issues. It is therefore necessary to optimize environmental education among certain actors, which will produce certain effects.

(i). Optimizing Environmental Education

The contribution of environmental education to the effectiveness of environmental law is well established. It helps change citizens' irresponsible behavior to make them more respectful of the environment. Some authors also consider that "there will be no ecological transition possible without education for change." Environmental education, we can further read, " […] must make a renewed and strengthened contribution to ensuring that all citizens and stakeholders are more widely aware of contemporary ecological, economic, and social issues and their effects, whether they directly affect citizens' quality of life (access to energy, water, etc.) or relate to climate change, resource depletion, biodiversity loss, health impacts, etc., with a view to sustainable development." [56].

Based on this observation, the Cameroonian government has established a National Environmental Awareness and Education Program (PNSEE). This document contains the action plan for environmental awareness, education, and information. By publishing this document, the MINEPDED aims to raise environmental awareness among the Cameroonian population. It is therefore necessary to "rely on a well-informed public", its success "depends on a vast education campaign" [57].

Certain components of society deserve special attention because they are capable of bringing about a revolution in environmental protection in Cameroon if they were to take ownership of this right. Among these are the school and business sectors, where environmental education must be strengthened.

1. Strengthening environmental education in schools

Cameroon's population is currently estimated at over twenty million inhabitants. This population is extremely young, with more than half of the population between the ages of 15 and 35 [58]. It is within this population that environmental education and awareness should be strengthened. This is, in fact, one of the requirements of the Framework Law. It stipulates that "environmental education must be introduced into the curricula of primary and secondary schools, as well as those of higher education institutions."

2. Intensifying environmental education in the business community

The relationship between 'environmental crime and the economy' is well established. Indeed, as Faure [59] points out, "we cannot lose sight of the fact that, for the most part, environmental crime is committed by businesses […]." Fouchard and Neyret [60] then add that " […] environmental crimes that harm the environment, individuals, or even the safety of the planet are essentially corporate crime […]." These businesses are the lifeblood of economies, but are also major polluters. As major players contributing to environmental degradation, businesses, both large and small, also have an important role to play in protecting the environment.

To this end, businesses should be encouraged to protect the environment by complying with environmental standards. [61] The implementation of corporate social responsibility (CSR) should also be strengthened. The appropriation of environmental law by administrative, judicial and civil society actors could produce certain effects in the long term.

(ii). The Effects of Optimizing Education

Environmental information, participation, training, education, and awareness-raising initiatives pursue diverse objectives depending on the individuals involved. For those responsible for the prosecution of environmental offenses, the appropriation of environmental law aims to equip them to combat environmental crime. Indeed, prosecuting environmental offenses requires solid skills in environmental law and criminal environmental law. The training they receive or should receive helps familiarize them with this discipline, which they are unfamiliar with. Thus, during training, these

stakeholders are informed of their responsibilities and the scope of their powers in the prosecution of offenses.

Regarding the recipients of environmental law, their appropriation of the subject matter will certainly allow them to naturally comply with environmental legislation. The use of environmental democracy and the appropriation of environmental law contribute to making the public's behavior towards the environment more responsible.

Abbreviations

CTDs	Decentralized Territorial Communities
DTAs	Decentralized Territorial Authorities
ENAM	National School of Administration and Magistracy
HYSACAM	Hygiene and Sanitation Company of Cameroon
LDCs	Local Decentralize Communities
MINFOF	Ministry of Forests and Wildlife
OPJ	Judicial Police Officers
PNSEE	National Environmental Awareness and Education Program
UTC	Universal Timber Company

Author Contributions

Christian Daniel Beyeme is the sole author. The author read and approved the final manuscript.

Conflicts of Interest

The author declares no conflicts of interest.

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[60] This is one of the conditions set out in Article 54 (e) of Decree No. 2018/366 of June 20, 2018, establishing the Public Procurement Code in Cameroon. Available at: http://kalieu-elongo.com/wpcontent/uploads/2018/07/code-des-march%C3%A9s-publics-cameroun-2018.pdf accessed 12/09/2024.

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