



Beyond Symbolism: The procedural power of bio-cultural community protocols in Cameroon's environmental governance

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Abstract

Bio-Cultural Community Protocols (BCPs) have emerged as a promising tool, grounded in international norms like the Nagoya Protocol, for empowering local communities to govern their traditional lands and resources. However, within Cameroon's complex legal landscape, their practical impact remains fiercely debated. This article moves beyond assessing BCPs on their ability to deliver definitive substantive victories. Instead, it argues that the most significant legal implication of BCPs in Cameroon is their procedural power their capacity to reconfigure environmental governance processes in Favour of local communities. By compelling communities to codify their customary laws, resource rights, and decision-making structures, BCPs transform abstract rights into a tangible platform for engagement. This analysis demonstrates how BCPs legally fortify the principle of Free, Prior, and Informed Consent (FPIC), create a documented standard against which state and corporate consultations can be judged, and provide a critical evidence base for strategic litigation. Through this lens, the article reframes BCPs not as a panacea for community rights, but as a sophisticated procedural weapon that, even without formal statutory recognition, enhances community agency and challenges the top-down paradigms of resource governance in Cameroon.

Keywords: Bio-Cultural, community protocols, environmental governance

Introduction

The escalating environmental crises in Cameroon, from deforestation to resource conflict, have exposed the limitations of top-down conservation models. In response, Bio-Cultural Community Protocols (BCPs) have emerged as a novel, grassroots legal tool with the potential to recalibrate the balance of power in environmental governance. BCPs are community-developed instruments that articulate a community's values, customary laws, and procedures for managing their biological resources and traditional knowledge, as recognized under international law ^[1]. Bio-Cultural Community Protocols (BCPs) in Cameroon are powerful legal instruments for community empowerment, not just symbolic declarations. Their core function is to operationalize the procedural right of Free, Prior and Informed Consent (FPIC). Their legal authority stems from a synergistic integration with multi-level legal frameworks, transforming them into tools with enforceable leverage.

A primary legal foundation is international law, specifically the Nagoya Protocol (Article 12) to the Convention on Biological Diversity, which explicitly encourages the development of such community protocols ^[2]. This provision provides a clear international mandate for BCPs as vehicles for implementing the Protocol's core principles. Furthermore, the overarching principle of Free, Prior and Informed Consent (FPIC), while most prominently articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) ^[3], has become a cornerstone of international human rights law applicable to projects affecting the lands and resources of local communities.

In Cameroon, these international obligations are increasingly being domesticated into national law, creating a direct legal hook for BCPs. While the 1996 Constitution provides a general foundation for environmental protection

^[4], more specific regulations have recently come into force. Decree No. 2023/099 of 11 April 2023 to Institute the General Rules for the Management of the Environment is a landmark in this regard. Its Article 13 explicitly states that the execution of any project likely to affect the environment "shall be preceded by... the consultation of the populations concerned and the obtaining of their free, prior and informed consent ^[5]." This national codification of FPIC is pivotal. It means that the procedures a community outlines in its BCP for how consultation and consent must be obtained are no longer just internal rules; they become a community-specific interpretation of a national legal requirement. A company's failure to adhere to a community's BCP process can now be framed as a direct violation of Decree No. 2023/099.

The true power of BCPs, therefore, lies in their procedural nature. They shift the burden of engagement by allowing communities to proactively define the "who, how, and when" of consultation, rather than merely reacting to externally imposed processes. For instance, a BCP might specify that information must be provided in the local language, that consent must be granted by a council of elders and a women's association collectively, or that negotiations must be recorded. These are not mere suggestions but constitute the community's defined procedure for fulfilling the legal requirement of FPIC. This procedural power was illustrated in a non-Cameroonian but highly influential African case, *Alexkor Limited and The Government of the Republic of South Africa v. The Richtersveld Community*. In that case, the South African Constitutional Court recognized a community's customary law as a living system, and its findings were based on the community's own evidence of its laws and practices ^[6]. A BCP serves as precisely this type of self-contained, authoritative evidence of a community's governance and decision-making structures.

However, the legal force of BCPs is not absolute and faces significant challenges. A primary limitation is that a BCP itself is not a legally binding statute that directly imposes obligations on third parties. Its enforceability is contingent upon its alignment with and reinforcement of existing laws, such as the FPIC decree. Furthermore, the pervasive issue of power asymmetry remains. As seen in conflicts related to large-scale agro-industrial projects in the forested regions of Cameroon, even with legal recognition of their rights, communities often struggle against well-resourced corporate and state interests [7]. The development of a BCP does not automatically level this playing field, but it provides a crucial procedural tool for communities to assert their rights more effectively within the existing legal system.

The legal implication of BCPs in Cameroon is that they procedurally empower communities by giving concrete, community-defined form to abstract legal rights. By codifying FPIC and governance procedures, BCPs transform international instruments like the Nagoya Protocol [8] and national laws like Decree No. 2023/099 into actionable, community-owned processes. They move beyond symbolism by providing a justiciable benchmark against which the conduct of external actors can be measured. While not a panacea for the complex challenges of environmental governance, BCPs constitute a powerful new tool that enhances the legitimacy, agency, and legal standing of communities in the stewardship of their bio-cultural heritage.

The Legal Framework and Role of BCPs in Community-Based Environmental Governance

Bio-Cultural Community Protocols (BCPs) are designed to bridge the gap between Cameroon's progressive environmental laws and their disempowering implementation. They transform communities from passive subjects into proactive legal actors by translating the procedural right of Free, Prior and Informed Consent (FPIC) into concrete, community-defined rules for engagement, thereby creating enforceable procedures.

1. The 2024 Forest and wildlife Law [9]; A Foundational Shift in Environmental Governance

The 2024 Forest and Wildlife Law represents a foundational transformation in Cameroon's environmental law, shifting from a state-controlled, exploitative approach to a comprehensive framework based on sustainability, decentralization, and community involvement for managing forest and wildlife resources. A central pillar of the 2024 law was the imposition of a rigorous regulatory system for forest exploitation [10]. It moved away from a system of simple annual coupes to a model based on long-term management. The law introduced the Forest Management Unit (UFA - Unité Forestière d'Aménagement) as the primary territorial unit for industrial logging, requiring that any exploitation within a UFA be governed by a management plan approved by the administration. This plan must detail the inventory of resources, harvesting cycles (typically 25-30 years to allow for regeneration), and methods for minimizing environmental impact.

The law categorically stipulates that no forest exploitation can occur without a valid legal title. It created a hierarchy of permits, with the Forest Concession being the most significant, granting exclusive rights to a company for up to 15 years, renewable [11]. Furthermore, the law explicitly

prohibits illegal logging and encroachment into protected areas, including national parks like Takamanda and Bakossi [12]. To ensure compliance, it established a system of fines and penalties for violations, including the confiscation of illegally harvested timber [13].

The 2024 law equally provided a much-needed legal backbone for wildlife conservation. It classified animal species into three classes (A, B, C) based on their level of protection, with Class A comprising totally protected species like elephants, gorillas, and chimpanzees [14]. The law strictly prohibits the hunting, capture, or killing of these fully protected species [15]. For other classes, it regulates hunting through a licensing system, establishing closed seasons and restricting hunting methods to prevent overharvesting.

A critical component is its strong stance against poaching and the illegal wildlife trade. The law mandates severe penalties for poaching protected species, including substantial fines and imprisonment [16]. This legal provision is a key tool for eco-guards and law enforcement officials operating in protected areas. For instance, in the case of *People of Cameroon v. M.N.*, an individual was convicted under the 1994 law for the illegal possession of elephant ivory, underscoring the law's application in prosecuting wildlife crimes [17].

Perhaps the most innovative aspect of the 2024 law was its introduction of community-based management. Recognizing the vital role of local and indigenous communities, the law authorized the creation of Community Forests [18]. This provision allows for communities within the forest zone to request a forest space from the government to manage for their own benefit for a renewable period of 25 years, following a simple management plan [19]. This was a radical departure, aiming to align local economic incentives with conservation goals, thereby reducing pressures on protected areas by providing alternative livelihoods.

This was further reinforced by subsequent legislation, notably the 1996 Constitution, which enshrined the principle of decentralization [20]. The idea was that forest management could be more effective and equitable if devolved to local levels. The implementation of this provision, however, has been complex, with challenges including bureaucratic hurdles and limited community capacity, as noted in various reports from organizations like the Center for International Forestry Research (CIFOR) [21].

2. The 1996 Environmental Management Framework

The 1996 Environmental Management Framework (EMF) is a pivotal and overarching law in Cameroon's environmental governance. It introduced a holistic, cross-sectoral approach, mandating the integration of environmental considerations into all national planning and development activities. Its fundamental philosophy establishes environmental protection not as a standalone concern, but as a prerequisite for sustainable development. The EMF's primary innovation was establishing a mandatory Environmental Impact Assessment (EIA) process. It requires any major public or private project likely to cause significant environmental impact to undergo a detailed EIA beforehand, including predicting and mitigating consequences. This ensures economic progress doesn't come at an unacceptable ecological cost.

Furthermore, the EMF reinforced the legal basis for creating and managing protected areas. It empowers the state to

protect areas of high ecological value, underpinning the authority to establish national parks like Takamanda and Bakossi. This creates a legal tool to preserve biodiversity and challenge developments that threaten critical habitats.

The framework law established general principles and created the legal basis for specific regulations to combat pollution and the unsustainable depletion of resources. It articulates the Polluter-Pays Principle, making those responsible for environmental damage liable for the costs of remediation. Furthermore, it provides for the state to set norms and standards for the emission of pollutants into the air, water, and soil. This created a more comprehensive system for "monitoring and regulating pollution, forest depletion, and wildlife protection," moving beyond the specific focus of the 2024 law. For instance, the EMF's principles were instrumental in shaping later regulations, such as those governing the management of hazardous waste and industrial pollution.

To operationalize its ambitious goals, the EMF led to the creation of key institutions. Most notably, it provided for the establishment of the National Council for Sustainable Development (NCSA), an inter-ministerial body tasked with advising the government on all environmental policy matters and ensuring the integration of sustainability across different ministries. While the implementation and effectiveness of the NCSA have faced challenges, its creation signified a high-level commitment to the cross-sectoral approach mandated by the law.

The 1996 Environmental Management Framework did not replace sector-specific laws like the 1994 Forest Law but provided them with a unifying philosophical and legal foundation. By institutionalizing the EIA process, reinforcing the protected area system, establishing anti-pollution principles, and creating coordinating bodies, the EMF sought to create the "sustainable balance between development and conservation" that its preamble envisions. Its effectiveness, however, is often tested by the tension between powerful economic interests and the capacity of regulatory bodies to enforce its provisions.

3. The National Biodiversity Strategy and Action Plan (NBSAP)

Developed under Cameroon's obligations as a Party to the Convention on Biological Diversity (CBD), the National Biodiversity Strategy and Action Plan (NBSAP) serves as the principal policy instrument for translating international commitments into national action. The NBSAP outlines the country's comprehensive strategy for conserving its rich biodiversity, promoting its sustainable use, and ensuring the fair and equitable sharing of benefits arising from genetic resources. A critical and progressive feature of the current NBSAP is its explicit recognition of the importance of involving local and indigenous communities and of integrating their traditional knowledge into conservation practices^[22].

This strategic focus aligns Cameroon's national policy with the global biodiversity agenda's participatory ethos. This principle, first embodied in the Aichi Targets (e.g., Target 18) and now strongly reaffirmed in the Kunming-Montreal Global Biodiversity Framework's Target 21, calls for respecting and integrating the traditional knowledge of local communities^[23]. This approach moves beyond state-centric conservation, acknowledging that long-term success depends on the participation of those who live in and

depend on ecosystems. The NBSAP's recognition of communities and traditional knowledge creates a vital policy bridge for tools like Bio-Cultural Community Protocols (BCPs).

BCPs provide the practical, ground-level method for implementation. They offer a structured process for communities to document their traditional knowledge and governance systems, making this information actionable for integration into national conservation planning^[24]. In this sense, BCPs can be seen as operational instruments that give concrete meaning to the NBSAP's participatory ambitions, empowering communities to engage as genuine partners in achieving Cameroon's biodiversity goals.

4. Convention on Biological Diversity (CBD)

Ratified by Cameroon in 1994, the Convention on Biological Diversity (CBD) is a cornerstone of the country's international environmental commitments. As a legally binding treaty, it establishes three primary objectives: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from genetic resources^[25].

The CBD's influence on Cameroon's national policy is profound. Article 8, on In-situ Conservation, is particularly central. It obliges contracting parties, to the extent possible and appropriate, to "establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity."^[46] This provision provided a direct international legal mandate for the creation and management of Cameroon's network of national parks and protected areas. Furthermore, Article 8(c) requires parties to "regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use,"^[27] which aligns directly with the sustainable management principles of Cameroon's 1994 Forest Law.

The Convention on Biological Diversity (CBD) compelled Cameroon to develop strategic instruments. In line with Article 6, Cameroon formulated its first National Biodiversity Strategy and Action Plan (NBSAP). This document translates the CBD's broad obligations into specific national targets and actions, guiding the work of ministries and agencies.

5. Convention on International Trade in Endangered Species (CITES)

Cameroon's accession to CITES in 1981 embedded the country within a global regulatory framework designed to ensure that international trade in wild animals and plants does not threaten their survival. CITES operates by subjecting international trade in listed species to strict controls through a system of permits and certificates^[28]. The convention's practical impact is most visible in the protection of specific, high-profile species found in Cameroonian protected areas. For instance, the Cross River gorilla (*Gorilla gorilla diehli*) is listed in CITES Appendix I, which includes species threatened with extinction. Trade in these species for primarily commercial purposes is prohibited^[29]. Similarly, the African forest elephant (*Loxodonta cyclotis*) is listed in Appendix I, banning international commercial trade in ivory and other derivatives^[30].

As a party to CITES, Cameroon has a legal obligation to enact domestic enforcement legislation. This includes establishing a Management Authority to issue permits and a Scientific Authority for sustainability advice. Cameroon's 1994 Forest Law, with its strict penalties for poaching and illegal trade, is the primary domestic vehicle for fulfilling these obligations. Enforcement actions, such as the prosecution for illegal ivory possession in *People of Cameroon v. M.N.*, directly demonstrate this commitment [31].

6. The Nagoya Protocol

The Nagoya Protocol, a supplementary agreement to the Convention on Biological Diversity (CBD), is a pivotal international treaty. For a biodiverse, ratifying nation like Cameroon, it establishes a legally binding framework to regulate access to genetic resources and associated traditional knowledge. Its core objective is to ensure fair and equitable benefit-sharing [32]. This represents a critical shift from an era of unregulated bioprospecting to one of legally recognized rights and responsibilities, aiming to create incentives for the conservation and sustainable use of biodiversity by ensuring that those who steward it also benefit from its use.

A cornerstone of the Protocol's relevance is its explicit linkage between access to genetic resources and the traditional knowledge of communities. It mandates that access to such knowledge requires the prior informed consent (PIC) of the concerned communities and that mutually agreed terms (MAT) for fair and equitable benefit-sharing must be established [33]. This provision legally empowers communities, moving them from being passive subjects of research or exploitation to active, rights-holding partners in any negotiation concerning their knowledge and resources.

Most significantly, the Nagoya Protocol provides an unambiguous international legal mandate for Bio-Cultural Community Protocols (BCPs). Article 12 explicitly requires member states to support the development of such community protocols relating to access to traditional knowledge and benefit-sharing [34]. This transforms BCPs from a voluntary concept into a formally recognized instrument within a binding international regime. By documenting a community's own procedures for consent and benefit-sharing negotiation, a BCP becomes a practical, local-level compliance mechanism for the Nagoya Protocol's core principles [35].

For Cameroon, ratifying the Nagoya Protocol creates a direct obligation to align its national laws with these provisions. This involves establishing a functional national Access and Benefit-Sharing system and creating a supportive environment for communities to develop and use BCPs. Thus, the Protocol provides a powerful external impetus for Cameroon to strengthen its governance by formally recognizing communities as rights-holders. BCPs serve as the primary vehicle for communities to articulate their terms of engagement with external actors seeking their knowledge and resources [36].

7. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007, is a comprehensive international instrument that establishes a universal

framework of minimum standards for the survival, dignity, and rights of indigenous peoples worldwide. Although a declaration and not a legally binding treaty, its significance lies in its embodiment of evolving international norms and global consensus, influencing the interpretation of other legal obligations and serving as a powerful tool for advocacy and policy development [37].

A foundational principle of UNDRIP is the right to self-determination (Article 3), affirming indigenous peoples' right to freely determine their political status and pursue their development. This overarching right underpins other specific rights, including autonomy and the critical right to Free, Prior and Informed Consent (FPIC). The FPIC principle requires states to obtain indigenous peoples' consent before implementing measures or approving projects affecting their lands, territories, or resources [38].

For indigenous and local communities in Cameroon, like the Baka and Bagyéli, UNDRIP provides a crucial normative framework. It reinforces their position as rights-holders, not mere stakeholders, by affirming their right to maintain, control, protect, and develop their cultural heritage and traditional knowledge [39]. A BCP is a practical manifestation of the right to self-determination and a community's chosen method for operationalizing FPIC. It allows them to define their identity, governance, and the procedures for external engagement [40]. Thus, while UNDRIP may not be directly enforceable in Cameroonian courts, it provides an authoritative international standard. This offers a powerful legal and moral basis for communities to assert their rights through tools like BCPs.

Beyond Symbolism: The Procedural Power of BCPs

The true power of a Bio-Cultural Community Protocol (BCP) lies in its procedural function, not symbolic declaration. It transforms abstract rights into concrete, community-defined processes, altering the dynamics of engagement with the state and third parties. This makes BCPs active governance tools, not passive documents.

Firstly, BCPs perform a critical procedural translation. They define the specific mechanics for implementing broad legal principles like Free, Prior and Informed Consent (FPIC), which international instruments like the Nagoya Protocol recognize but leave undefined in practice [41]. Similarly, Cameroon's framework environmental law, Law No. 96/12 of August 5, 1996, relating to Environmental Management, mandates public participation and the assessment of environmental impacts, which implicitly requires a form of consultation, but it lacks detailed procedural rules [42]. A BCP fills this procedural vacuum. It allows a community to define, for example, that "Prior" means a minimum of three community-wide assemblies, that "Informed" means all project documents are translated into the local language, and that "Consent" is demonstrated by a secret-ballot vote. This community-specific codification turns a lofty legal principle into a verifiable set of steps, creating a clear benchmark for compliance.

Secondly, BCPs establish a legitimate, pre-determined representative structure for negotiations. By formally identifying which community institutions have the authority to negotiate and grant consent, they prevent external actors from exploiting divisions or dealing with unrepresentative leaders. This function finds indirect support in the African Charter on Human and Peoples' Rights, which emphasizes peoples' right to freely pursue their development implying

the ability to choose their own representatives ^[43]. By pre-identifying these structures, a BCP undermines "divide and rule" tactics and lends significant legitimacy and stability to any resulting agreements.

Thirdly, and most powerfully, BCPs create a procedural record for legal adjudication. A well-documented BCP serves as compelling evidence of the community's established governance practices and the procedural standard external actors were obligated to follow. This principle was central to the landmark Richtersveld case, where a court relied on the community's own evidence of its customs to establish its rights ^[44]. If a company violates a BCP's specific procedures, the community can argue this constitutes a breach of the general legal duty to consult, transforming the BCP from a soft-law tool into hard evidence that can trigger legal consequences.

In essence, BCPs' procedural power shifts the community's position from reactive to proactive. It allows them to set the terms of engagement from the outset, rebalancing power through meticulous process definition and making BCPs a truly transformative tool.

1. Shifting the Burden of Engagement

The relationship between local communities and external actors has been profoundly imbalanced. Without a formalized protocol, the burden falls entirely on the community, forcing them to react to complex, externally-driven proposals on unfavourable terms and from a position of significant informational and power asymmetry. The Bio-Cultural Community Protocol (BCP) is a strategic tool designed specifically to rectify this by fundamentally flipping the engagement dynamic.

A BCP operates as a proactive, pre-emptive governance instrument. It functions as a publicly declared charter that states: "This is who we are, these are our customary laws and values, these are our resources, and this is the non-negotiable process any external actor must follow to seek our consent." This declarative approach shifts the procedural onus from the community to the proponent. No longer must the community react to an agenda set by a corporation; instead, the corporation must now react to and engage with a process defined by the community. This is a practical application of the right to self-determination, which is recognized under international law as the right of peoples to "freely pursue their economic, social and cultural development ^[45]." Pursuing development necessarily involves controlling the process by which it is negotiated.

The legal weight for this shift is derived from its alignment with national and international procedural requirements. For instance, Cameroon's Law No. 96-12 of August 5, 1996, relating to Environmental Management, establishes the necessity of an environmental impact assessment for prescribed activities, which includes a public consultation component ^[46]. While the law mandates consultation, it is often implemented in a minimalistic, top-down manner. A BCP directly addresses this gap by defining what constitutes meaningful and culturally-appropriate consultation for that specific community. It can stipulate the language, format, and timeline for providing information, and designate the legitimate community representatives. When a company disregards these pre-established procedures, the community possesses a clear, documented basis to argue that the legal requirement for consultation was not fulfilled, as the process did not meet the community's own defined standards for fairness and inclusivity.

This strategic reorientation is a key aspect of the BCP's power as recognized by the Nagoya Protocol on Access and Benefit-Sharing. The Protocol explicitly notes that community protocols can assist in "the implementation of domestic access and benefit-sharing legislation or regulatory requirements," effectively endorsing them as tools for operationalizing legal principles ^[47]. By creating a BCP, a community is not inventing new rights but is giving detailed, procedural substance to rights that already exist in abstract form within the legal system. This transforms the community from a passive recipient of development proposals into an active gatekeeper and agenda-setter for activities affecting its ancestral lands and cultural heritage.

2. Formalizing FPIC

The principle of Free, Prior and Informed Consent (FPIC) is a cornerstone of international law concerning indigenous and local communities. However, its application often remains symbolic because the terms "Free," "Prior," and "Informed" are broad legal concepts that lack concrete definition in practice, leaving them vulnerable to manipulation or minimalist interpretation by powerful actors ^[48]. A Bio-Cultural Community Protocol (BCP) directly addresses this implementation gap by translating FPIC from a vague principle into a specific, community-tailored, and verifiable legal process.

The power of the BCP lies in its ability to provide operational definitions for each component of FPIC, creating a clear and enforceable standard.

Defining "Informed" Consent: International jurisprudence, such as that from the Inter-American Court of Human Rights, has stressed that consultation must be conducted in a "culturally appropriate" manner ^[49]. A BCP gives this ruling concrete form. It can explicitly state that for consent to be truly "Informed," all project proposals, impact assessments, and contracts must be provided in the local language (e.g., Fulfulde or Ewondo), that technical jargon must be explained in accessible terms, and that communities must have access to independent advisors. This moves beyond the common practice of presenting complex documents in English or French, which can exclude large segments of the community from meaningful understanding.

Defining "Prior" Consent and Identifying Who Grants It: A critical failure in many consultation processes is the lack of clarity over which community representatives have the legitimate authority to grant consent. This can lead to "divide and rule" tactics. A BCP, developed through a participatory process, formally identifies the legitimate decision-making bodies. It can stipulate that "Prior" consent for a major project must be granted by a two-thirds majority in a general assembly that includes representatives from youth leagues, women's groups, and farmer cooperatives, and that this process must be completed before any ground is broken. This aligns with the spirit of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which calls for consultation through indigenous peoples' own representative institutions ^[50]. By pre-identifying these institutions, the BCP removes ambiguity and strengthens the community's legitimate governance structures.

Ensuring Consent is "Free": The element of "Free" consent, meaning the absence of coercion, intimidation, or manipulation, is perhaps the most difficult to enforce. A BCP creates procedural safeguards. It can establish that consent is not "Free" if it is given under duress, during a

period of community crisis, or if it is based on promises that cannot be independently verified. The protocol can outline a "cooling-off" period and the right to revoke consent, mirroring principles found in consumer protection law and applying them to the community context. This transforms the abstract idea of freedom into a set of observable conditions. By embedding detailed procedures into a formal document, a BCP makes FPIC a verifiable legal process. A community can prove not just a lack of consent, but that the external party's process failed to meet their specific, pre-established FPIC criteria.

This elevates the BCP from a statement of values to critical evidence of a legal violation, thereby giving substantive, enforceable power to a principle often treated as mere symbolism.

3. Creating a Legitimate Community Representative Structure

A fundamental challenge in community-investor relations is determining legitimate representation. Companies and governments are often confused over "who to talk to," leading them to engage with individuals lacking a full mandate. This ambiguity creates significant risks, such as elite capture, where benefits are diverted to a small faction, and the negotiation of unstable agreements that lack broad community support and are prone to future conflict ^[51]. The Bio-Cultural Community Protocol (BCP) process is a powerful mechanism for resolving this crisis of representation by helping to establish, clarify, and legitimize the community's own representative institutions for negotiation and decision-making.

Developing a BCP is inherently a participatory and inclusive exercise. It requires a community to engage in internal dialogue to define its identity, governance, and resources. This process often involves forming a representative drafting committee or revitalizing traditional councils to ensure all segments, including elders, women, youth, and different clans, are heard ^[52]. The resulting BCP does not merely describe this structure; it formally codifies it. The protocol can explicitly name the council, assembly, or committee that has the authority to negotiate on behalf of the community and to grant or withhold consent. This formalization provides external actors with a clear and reliable point of contact that has been validated by the community itself.

The legal significance of this function is substantial. Cameroon's land and forestry laws, such as the 1994 Forestry Law, recognize the role of local communities but often lack clarity on the specific entities that constitute their legal representation ^[53]. A BCP fills this legal gap by providing documented evidence of the community's own chosen governance and representation model. This is critically important for upholding the principle of Free, Prior and Informed Consent (FPIC), as recognized in international instruments like the UN Declaration on the Rights of Indigenous Peoples, which specifies that states shall consult and cooperate in good faith with the representative institutions of indigenous peoples through their own chosen representatives ^[54]. A BCP is the tool through which a community "chooses" and makes known its representatives in a verifiable manner.

By pre-identifying legitimate representatives and reducing ambiguity, BCPs enhance the stability and legitimacy of agreements. A deal signed with a body broadly mandated

through the BCP process is more likely to be honoured by the entire community, as it is seen as fair. Conversely, this protects companies from the risk of having agreements later invalidated for negotiating with the wrong parties. Thus, BCPs create predictability and order, benefiting both the community protecting its rights and the external actor seeking a secure operating environment.

4. Evidence in Administrative and Judicial Proceedings

A critically important function of a Bio-Cultural Community Protocol (BCP) is its utility as formal evidence within legal systems. While not a binding statute itself, a well-documented BCP developed through an inclusive process becomes powerful corroborative evidence to substantiate a community's legal claims regarding due process violations and customary rights ^[55]. The evidentiary power of a BCP lies in its ability to document two key facts: the community's self-defined procedures for engagement, and an external actor's failure to follow them. For example, if a company claims it conducted adequate consultation, a community can use its BCP as a benchmark in court to prove the company's actions fell short of their pre-established standards for "Informed" and "Prior" consent ^[56].

This function is significantly strengthened by its alignment with national law. Cameroon's Law No. 96-12 of August 5, 1996, relating to Environmental Management, mandates environmental impact assessments that include public participation ^[57]. The implementing texts and administrative practices derived from this law create a legal expectation of a fair process. A BCP provides the specific, contextual details of what that fair process should entail for a particular community. When a company or state agency ignores the BCP's procedures, the community can argue that this constitutes a violation of the overarching administrative and legal duty to consult in good faith, thereby rendering any resulting permit or decision procedurally flawed and legally vulnerable.

The persuasive force of such community-generated evidence is supported by international legal precedent. While not binding in Cameroon, the reasoning of the African Commission on Human and Peoples' Rights in the Endorois case is highly influential. The Commission relied heavily on the Endorois community's own accounts of their traditional land use and governance to find a violation of their rights ^[58]. A BCP represents a more formalized and systematic version of such evidence. By presenting a coherent, written record of their customs, governance structures, and procedures, a community can more effectively convince a judge or administrative panel that their version of events is credible and that their rights to property, culture, and a healthy environment, as enshrined in instruments like the African Charter on Human and Peoples' Rights, have been infringed ^[59]. In this capacity, the BCP becomes a shield and a sword in legal battles, empowering communities to seek injunctions to halt projects or claim compensation for harms suffered.

Legal Challenges and Limitations

Despite their transformative potential, Bio-Cultural Community Protocols (BCPs) in Cameroon operate within a complex socio-legal landscape that presents substantial hurdles. Their effectiveness is not automatic and is constrained by several critical factors.

1. Non-Binding Nature on Third Parties

Despite their significant procedural power, Bio-Cultural Community Protocols (BCPs) operate within a constrained legal reality. Their most fundamental limitation is their non-binding nature on third parties. A BCP is not a legislative act; it is a unilateral statement of a community's values, rules, and procedures ^[60]. Its power is therefore persuasive and procedural, not coercive. Unlike a statute or a ratified contract, a BCP alone cannot legally compel a corporation or government agency to act. Its ultimate effectiveness is contingent upon two external factors: the robustness of the state's legal framework and its willingness to enforce it, and the sensitivity of the corporate actor to reputational and social pressures.

The persuasive power of a BCP is directly linked to its ability to reference and give substance to binding legal instruments. For example, while a BCP's requirement for "consent through a general assembly" is not a standalone law, it becomes a powerful argument when it is presented as the community's specific interpretation of the "free, prior and informed consent" mandated by national regulations. Cameroon's Decree No. 2023/099 of 11 April 2023 to Institute the General Rules for the Management of the Environment provides a legal hook, as it explicitly requires obtaining FPIC from local communities for projects affecting them ^[61]. A company's disregard for a BCP's procedures can thus be framed not just as a social misstep, but as evidence of non-compliance with a national decree. However, this chain of logic depends entirely on the state's administrative and judicial bodies being willing to recognize the BCP as a valid benchmark for assessing compliance with that decree.

This dependency on state enforcement represents a major vulnerability. In contexts where government institutions are closely aligned with corporate interests or lack the capacity or will to regulate effectively, the BCP's power is significantly diminished ^[62]. A community may have a perfectly articulated protocol, but if the state ministry responsible for issuing mining permits chooses to ignore violations of the BCP's consultation process, the community's primary recourse litigation is often expensive, slow, and politically fraught.

Consequently, a significant part of a BCP's practical force operates in the realm of corporate social license and reputational risk. A company that openly violates a well-publicized and legitimately developed BCP risks significant reputational damage, which can lead to project delays, loss of investor confidence, and campaigns by international NGOs ^[63]. In this sense, the BCP serves as a clear statement of the social and ethical standards a company must meet to operate peacefully. Its "teeth" are derived from this potential to mobilize external pressure, making it a tool of "soft law" whose effectiveness is determined more by politics and economics than by pure legal coercion.

2. Limited Awareness and Capacity

A profound and practical barrier to the effective use of Bio-Cultural Community Protocols (BCPs) in Cameroon is the widespread lack of awareness and technical capacity surrounding them. This limitation exists across the spectrum of key stakeholders: within communities themselves, among government officials at various levels, and within the legal profession. This knowledge gap severely constrains both the

development of robust BCPs and their subsequent implementation as tools for environmental governance.

For local communities, the concept of a BCP is often entirely new. While they possess deep, intrinsic knowledge of their customary laws and resources, the process of codifying this knowledge into a formal, legally-referenced document is an external and complex undertaking. Many communities lack exposure to the international frameworks like the Nagoya Protocol that provide the foundation for BCPs. Furthermore, they frequently do not have access to the necessary facilitators, legal advisors, or financial resources to guide them through the intensive, participatory process required to draft a protocol that is both culturally authentic and legally sound. Without this external support, the risk is high that the process will be poorly managed or that the resulting document will lack the precision needed to be effective in a legal or administrative dispute.

The challenge is equally significant among government officials. Mid-level administrators in ministries responsible for environment, forestry, and agriculture—the very officials who process permits and oversee project approvals—are often unaware of the legal status and utility of BCPs. Even with the passage of Decree No. 2023/099 on environmental management, which mandates FPIC, there is typically a lack of training and administrative circulars explaining how a community-developed BCP should be treated as evidence of the consultation process. An official who is unfamiliar with a BCP is unlikely to consider it when evaluating a company's compliance with FPIC requirements, thereby neutering its procedural power at a critical juncture.

Similarly, many lawyers and judicial officials in Cameroon are not trained in the relatively niche intersection of environmental law, customary law, and international access and benefit-sharing regimes. A lawyer representing a community may not think to introduce a BCP as evidence of a violated procedure, and a judge may be uncertain of its legal weight. This creates a critical gap in the chain of enforcement. As noted by the International Development Law Organization (IDLO), the effective implementation of environmental rights often fails due to a "lack of awareness and capacity within the legal profession to handle such non-traditional legal claims." A BCP, as a non-traditional legal instrument, falls squarely into this category.

This triad of limited awareness within communities, government, and the legal system—creates a vicious cycle. Without demand from communities and supportive enforcement from officials, BCPs remain theoretical concepts rather than living instruments, which in turn perpetuate the lack of awareness and investment in building the necessary capacity for their use.

3. Political and Power Asymmetry

Perhaps the most formidable challenge to the efficacy of Bio-Cultural Community Protocols (BCPs) in Cameroon is the deeply entrenched political and power asymmetry between local communities and the entities they seek to influence. A BCP is a tool for negotiation and legal leverage, but it does not, in itself, redistribute fundamental political power or overturn established legal doctrines that favor the state. In the face of powerful state and corporate interests, a BCP alone may be an insufficient shield, as the state's ultimate control over land and resources constitutes a fundamental structural constraint.

The cornerstone of this constraint is the principle of state ownership of land. Cameroon's Land Tenure Ordinance No. 74-1 of 6 July 1974 establishes that the State is the primary owner of the national domain.¹ While the law recognizes "native" rights and customary occupancy, these are precarious and can be legally extinguished by the state for reasons of "public purpose" or in the "public interest" terms that are often broadly interpreted to include large-scale agro-industrial or mining projects. This legal framework means that communities are not engaging with corporations from a position of absolute ownership, but rather from a position of usufructuary rights that are subordinate to the state's overarching title. A BCP can assert a community's rights within this system, but it cannot change the system itself.

This legal reality creates a profound power imbalance. When the state, as the ultimate landowner, grants a concession to a logging or mining company, it lends its considerable political and legal authority to the project.² A community using a BCP to resist such a project can find itself not only in a dispute with a corporation, but in a direct confrontation with the state. In such a scenario, the state's role becomes conflicted: it is simultaneously the guardian of the law (including environmental and FPIC regulations), the primary owner of the resource, and the promoter of the economic project. This often leads to a situation where the state prioritizes its economic and proprietary interests over its regulatory and human rights obligations.

The power of a BCP in this context is therefore contextual and strategic. Its value lies in its ability to strengthen a community's position within this unequal dynamic by:

- **Increasing the political cost of violation:** A well-publicized BCP makes a community's stance and the specific procedures violated clear to the media, NGOs, and international bodies, potentially creating a reputational crisis for the state and the company^[3].
- **Providing a legal foothold:** By documenting the violation of due process, the BCP strengthens any subsequent legal challenge, forcing the state to defend its actions in court.

However, as documented in conflicts surrounding large-scale agro-industrial projects in Cameroon, communities often face immense pressure, including intimidation and the marginalization of their concerns, despite having legitimate claims. A BCP is a critical tool for organizing resistance and articulating rights, but it operates within a political and legal landscape where the deck is often stacked against the community, underscoring that it is a tool for the negotiation of power, not a substitute for it.

4. Internal Community Conflict

The development of a Bio-Cultural Community Protocol (BCP), while designed to be an empowering and unifying process, carries the inherent risk of exposing or exacerbating pre-existing internal divisions within a community. These divisions can revolve around leadership legitimacy, gender roles, inter-generational conflicts, or competition over resource allocation. If the process of creating the BCP is not meticulously managed to be genuinely inclusive and participatory, the resulting document can be weaponized by one faction to legitimize its authority and marginalize others, thereby undermining the very goals of legitimacy

and equitable governance that the BCP is meant to achieve^[64].

The BCP process forces a community to confront fundamental questions: "Who are we?", "What are our most important rules?", and "Who has the right to speak for us?" Answering these questions can be deeply contentious. For example, tensions may arise between:

- **Elders and Youth:** Elders may emphasize traditional leadership structures, while youth may demand greater representation, arguing that they are most affected by long-term projects like mining.
- **Men and Women:** Customary law often marginalizes women from land and resource decision-making. A BCP process that does not actively ensure women's participation may simply codify this exclusion, contrary to both principles of equity and international human rights law^[65].
- **Established Families and Newcomers:** Disputes over who qualifies as a "community member" with rights to be consulted can surface, particularly in areas with migrant populations.

If these divisions are not adequately resolved during the drafting stage, the resulting BCP will lack broad-based legitimacy. A powerful faction—such as a chiefly family or a male-dominated council could use the BCP to claim an exclusive mandate to negotiate with external actors, sidelining other groups. In a worst-case scenario, a company could exploit these divisions by engaging only with the group that produced the BCP, using it to claim that FPIC was obtained, even if significant portions of the community oppose the project^[66]. This turns the BCP from a shield for the community into a weapon for its fragmentation.

The legal implication is significant. A BCP developed through a non-inclusive process is vulnerable to challenge both internally and externally. Its credibility as evidence in an administrative or judicial proceeding would be severely weakened if it can be shown that it does not represent the will of the community as a whole. International standards, such as those emphasized by the Committee on the Elimination of Discrimination against Women (CEDAW), call for the full and equal participation of women in rural development and decision-making processes^[67]. A BCP that visibly contravenes such standards would be difficult to defend as a legitimate expression of community self-determination. Therefore, the process of developing a BCP is as important as its content. Without careful facilitation, conflict sensitivity, and a steadfast commitment to inclusion, the endeavour to create a tool for external advocacy can inadvertently fuel internal discord, ultimately weakening the community's cohesive power and its ability to present a united front.

Conclusion

Bio-Cultural Community Protocols (BCPs) in Cameroon are a significant evolution in environmental governance. They are practical instruments that translate abstract legal principles into concrete, community-owned procedures. By codifying customary norms, BCPs empower communities to become active managers of their heritage, rather than passive subjects of top-down initiatives^[68].

The profound legal implication of BCPs is their ability to proceduralize broad principles into actionable processes.

They transform the principle of Free, Prior and Informed Consent (FPIC) into specific, justiciable procedures by defining what "informed," "prior," and "free" mean for a particular community. This function is critically enabled by synergy with national laws, such as Cameroon's Decree No. 2023/099, which legally mandates FPIC [69]. By presenting a BCP as evidence that an actor failed to follow its pre-established procedures, a community can shift the legal burden of proof and establish a verifiable standard for a court to assess. This principle was central to the South African Constitutional Court's ruling in the Richtersveld case, where the community's own evidence of its customs and land use was used to establish its legal rights [70].

However, BCPs are not a panacea. Their effectiveness faces significant challenges in a complex landscape defined by power imbalances, limited awareness, the protocols' non-binding legal status, and the risk of internal community conflict. The state's ultimate ownership of all land, as established by Ordinance No. 74-1 of 1974, remains a fundamental structural constraint [71]. Ultimately, BCPs provide a critical "how-to" manual for achieving equitable and sustainable community-based environmental governance. They are a nuanced tool whose ultimate power is not inherent but strategic. Their success will be determined by how effectively communities, supported by civil society and proactive government actors, can leverage them to assert procedural control, enhance legal standing, and hold powerful economic and political interests accountable to the rule of law [72].

Recommendations

To transform Bio-Cultural Community Protocols from aspirational documents into effective tools for environmental governance, a concerted and strategic effort is required from all stakeholders. For the Government of Cameroon, it is imperative to move beyond symbolic recognition and provide explicit legal anchorage for BCPs. This can be achieved by issuing specific implementing texts that formally acknowledge BCPs as valid instruments for demonstrating compliance with the national Free, Prior and Informed Consent (FPIC) requirement enshrined in Decree No. 2023/099. Concurrently, the government must invest in comprehensive capacity-building programs for its forestry, mining, and environmental officials to ensure they understand how to assess and uphold the procedures outlined in a community's protocol during the permit approval process.

For local communities and the civil society organizations that support them, the focus must be on ensuring the internal legitimacy and strategic use of BCPs. The development process itself must be prioritized, with a steadfast commitment to inclusivity and conflict-sensitive facilitation to ensure that women, youth, and marginalized groups have a meaningful voice, thereby preventing the protocol from being weaponized by internal factions. Furthermore, the creation of a BCP should not be the end goal but the beginning of a legal empowerment strategy. Communities must be equipped with paralegal training and ongoing support to know how to operationalize their protocol in negotiations, administrative appeals, and, if necessary, litigation to defend their rights.

The role of development partners and the international community is to provide the sustained financial and technical backing necessary for this ecosystem of

governance to thrive. This includes funding the entire BCP lifecycle and leveraging international finance standards. Institutions like the World Bank can rigorously apply their Environmental and Social Standards, particularly ESS7 on Indigenous Peoples and Sub-Saharan African Historically Underserved Traditional Local Communities, by requiring that client companies demonstrate how they have respected existing community protocols as a core component of their social due diligence. Finally, for corporations and investors, respecting BCPs must be integrated into corporate risk management frameworks. Adopting a clear policy to recognize and adhere to legitimate BCPs is not merely a social responsibility but a critical strategy for mitigating reputational and operational risks, ensuring that their projects are built on a foundation of consent rather than conflict.

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