

# CHALLENGES FACED IN LAND REGISTRATION IN CAMEROON AND MEASURES TO OVERCOME THEM

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## ABSTRACT

Generally, before colonialism touched Africa, the notion of individual land tenure or land registration was alien. Land today is key asset in every strata of our society. However, despite the fact that many people own land today, very few have title to those lands or have embarked on any form of registration. A vast majority of those who own or purchase land usually brandish sale/transfer agreements or Deeds of Conveyance as proof of title. But even these are not conclusive titles of ownership because while they might suffice to justify an interest in land, they are inadequate to justify absolute ownership. The lack of a conclusive and final title to land is usually at the center of many land disputes among Cameroonians. Hence the importance of land registration cannot be overemphasized neither can the problems caused by its absence underestimated. despite the presence of the 1974 ordinance on land tenure in Cameroon and more specifically the 1976 decree establishing the condition for obtaining land certificates, the procedure for land registration still remains complex and unnecessarily lengthy in some cases and not many are familiar with the procedure. The complex nature of the procedure coupled with lack of mastery probably accounts for the disproportionate rate of lack of registration to land acquisition in the country which is in itself problematic.

## INTRODUCTION

From long time past, land has always been a source of economic and political power; it has equally been at the center of many ethnic conflicts as well as the one of the reasons behind tensions between the natives and their colonial masters during the era of colonization<sup>i</sup>. The prime advantage of land registration over unregistered landed property is security of title to wit; land registration clearly accords full and final title to the land owner<sup>ii</sup>. This means that, a land certificate is a full guarantee to title over land.

## HISTORICAL EVOLUTION OF LAND REGISTRATION IN CAMEROON

The territory Cameroon did not exist till the arrival of the Portuguese in the early 19<sup>th</sup> Century, who named the country rio dos cameroes (River of Prawns) from which the country had its name. However, the territory only became a colony upon the signatory of the Germano-Duala Treaty in 1884 and since then, the territory has had a triple colonial experience<sup>iii</sup>. In this light, the historical evolution of land<sup>iv</sup> tenure in Cameroon is not very different from the changes in colonial masters and policies. The historical origin and evolution of land tenure in Cameroon can be sub divided into three parts to wit; land tenure prior to colonization, during (German, British and French rule) and post-colonial era.

Generally, before colonialism touched Africa, the notion of individual land tenure or land registration was alien. Africans held land to be scared and did not attach much value to land. They regarded land air and water which they could use freely without restriction or alienation, land belonged to community, a family, a village and never to an individual; per the purports of Viscount Haldane's dictum in the case of *Amodu Tijani v. Secretary of Southern Nigeria*<sup>v</sup>. These lands were held on behalf of the people by the chief or family head who for the lack of a better word acted as some form of a trustee over the lands<sup>vi</sup>. The chief or family head was a mere custodian of the land and not owner as the case *Omagbemi v. Numa*<sup>vii</sup> suggests. In essence, though some form of customary land tenure exists prior to colonization, the notion of individual land tenure is a complete novelty to the traditional African context. Notwithstanding, despite the fact that there was no defined form of land tenure in Cameroon before colonization, obtaining land through wars and by first settlement were the earliest forms of obtaining land.

The evolution of land tenure in Cameroon during colonial era revolved around 3 countries; Germany, Britain and France.

To begin, the Germans were the first to colonize the territory<sup>viii</sup>. After colonization they were in no hurry to establish an immediate system of land tenure, rather they focused on first acquiring as much land as they could get from the natives for little or nothing as price.<sup>ix</sup> Once they had acquired enough land for settlement and trade, they needed even more for plantation agriculture<sup>x</sup>; at that juncture, they saw a need to enact a comprehensive land law in Cameroon. Land tenure under German reign was governed by the Kronland Act of 1896. The primary aim of this act was to transfer land controlled by the indigenes through their chiefs to the German government, to wit, German rule<sup>xi</sup>. This was a mild way of expropriating native land with little resistance. In a bid to further to legitimize the expropriation of native land, the Germans came up the concept of “herrenloss lands” stated in Article 1 of the Kronland Act.

“This concept was to the effect that, all lands apart of those occupied by the chiefs or the communities or those which formed property were declared terra nullus or herrenloss (Land without masters) and as such lands belonged to the crown (German Government). The German land tenure in Cameroon was guided by 2 main aims. First to dispose the indigenes from the native land and expropriate same for plantation agriculture and to resettle them in reserves called reservats to obtain get cheap labor for their plantations.”

Further to the already existing land regulations under German rule, they introduced the first form of land registration in Cameroon, all land were registered in the ‘Grundbuch’ which was some form of a land register. Despite the developments made, the German colonial policy generated numerous land conflicts between themselves and the indigenes. A clear example is the Bakweri people who have succeeded in a claim against the state for the restoration of the native land expropriated by the Germans during colonial rule for plantation agriculture. The government has responded to this claim by granting re-allocating land to this communities in the form of new lay outs.

In another development, the evolution of land tenure in Cameroon continued under British reign<sup>xii</sup>. The British administered her own part of Cameroon as an integral part of Nigeria, thus the system of land tenure in British Southern Cameroon followed that which was applied in Nigeria to wit; the Land and Native Right Ordinance No. 1, 1916 and Ordinance No.1 of 1927.

Despite the fact that, the Trusteeship Agreement required that all laws on the transfer of land and natural resources to take into consideration native laws and custom and should only be transferred with the consent of the competent authority<sup>xiii</sup>, The British used indirect rule to control ownership of land without any resistance by ruling the indigenes through their chiefs.

The British declared that all lands as native lands and placed them under the control of the Governor who administered the land for the common interest of the natives, who in real fact were reduced to mere users of the land. The Governor was to be notified for all transactions in land either between indigenes or between them and foreigners. Upon notification, the Governor issued a certificate of occupancy which was treated as some form of title to land. Thus no occupation and use of land was valid without the consent of the Governor<sup>xiv</sup>. In 1922 the British enacted the land registration ordinance to consolidate and amend laws related to the land registration. In all, though the British made a significant contribution in the development and evolution of land tenure in Cameroon by introducing a system of individual ownership of land and a land registration system, their policies greatly altered customary land law and hindered the indigenes from owning and having access to their land freely<sup>xv</sup>.

Cameroon's land policy under French Cameroon (1916-1960)<sup>xvi</sup> The French unlike the British applied a system of direct rule which gave them the leeway to directly export and apply their legislation in Cameroon.<sup>xvii</sup> They generally differentiated between laws which applied to the indigenes known as 'droit indigenat' and those which applied to the educated and assimilated Cameroonians referred to as 'droit assimile'. However, when it came to matters on land, such distinction did not exist with the French applying a uniform system of land tenure.

The French adopted a system of granting land by concession where upon an application for grant of such land, the government will grant the land to an individual for a particular purpose stated in the 'cahier de charge' which literally translates to a record book. The individual was obliged to adhere to the purpose of the land as stated in the 'cahier de charges' and once the purpose was fulfilled, the grantee could apply for the conversion of the land to freehold. In 1932, the French enacted two decrees, the first being for the collective recording of land rights by corporate bodies with no document of title and the second pertaining to the registration of individual land rights. These rights were registered in 'livre foncier' issued 3 months after a

meeting with the ‘prefer’ (District Officer). Though the ‘livre foncier’ gave some form of insurance and security of title over land, holders of such land rights could only sell with the consent of the administration.<sup>xviii</sup> Further, in 1938, the French administration divided all lands into 3 holdings: native lands, lands under German titles and ‘terre vacante’ (vacant land). All lands which were not occupied under German title were considered as vacant lands. The French aptly described these lands in the following words; ‘terre vacante et sans maître appartenent au territoire’ which translates to, vacant lands without masters/owners belong the territory. The territory referred to in this statement did not refer to the indigenous territory but rather, the greater French territory since the French considered their overseas territories as an integral part of France usually referred to as ‘franced’*’utre mere*’. The concept of ‘terre vacante’ was more or less a reincarnation of the German concept of ‘herrenloss land’. This policy was not greeted with much euphoria by the indigenes who considered it unjust and unacceptable,<sup>xix</sup> and as independence drew nearer, land became highly political<sup>xx</sup>. In an attempt to swing support in their favor, the French enacted the decree of 1959 to re-establish customary land tenure.<sup>xxi</sup> Article 3 of that decree placed all lands except private property under customary land tenure.

During the post-colonial era, land tenure in Cameroon still followed the blueprints of some aspect of colonial land registration, The British system of land tenure was applied in West Cameroon as it then was while the French system continued to apply in East Cameroon. However, with the emergence of a new state,<sup>xxii</sup> there was an urgent need to control land which had been placed under customary care by the colonialist before their departure. In a bid for the government to consolidate all lands, they introduced to the concept ‘la patrimonie collective nationale’ or better still national law under the 1963 decree.<sup>xxiii</sup> This was more or less a continuous reflection of the concept of ‘terre vacante’ under the French reign and ‘herrenloss land’ under German rule. The 1963 law identified 4 major types of land to wit; national land,<sup>xxiv</sup> state land, land under customary tenancy and land covered by land certificate. In addition, another decree was passed in 1966<sup>xxv</sup> in East Cameroon stressing the need for ‘la mise en valeur des terres’ (evaluation of land) before anyone could obtain a land certificate. Notwithstanding, land tenure in both parts of the territory were eventually harmonized in 1974 with the enactment of 1974 Land Ordinance.<sup>xxvi</sup> Other subsequent ordinances, decrees, orders and circulars were passed between 1972 and 2011 to form a compendium of laws governing land tenure, registration, state land, national land, state property et cetera.

Almost a century after the independence of Cameroon, the land question remains even more elusive than we might think. The phenomenon is of critical importance in the towns, where rapid urbanization has commercialized the land into a commodity like any other basic consumer good. The significant question is no longer to know why indigenous people are selling their 'ancestral lands'. The important questions now relate to the future, and also to the identity of the indigenous minorities in the villages that have become towns. In the final analysis, the land registration procedure is truly a ticking time bomb, which is threatening security, social cohesion and political stability in urban Cameroon. This article examines some of the challenges faced in land registration in Cameroon and means of overcoming such challenges

## CHALLENGES

### *1974 land tenure and discrepancies between customary law*

According to the land tenure law of 1974 cited above, any plot of land whose self-declared owner does not have a land title belongs ipso facto to the national property of the Cameroonian state. The implementation of the provisions of this law clashes with customary law, recognition of which is still neglected by the authorities. Many problems persist in reality, with regard to the occupation, exploitation or development of these ancestral lands by the state, whose main concern is to integrate them under national ownership. So far, many forms of resistance have taken place throughout the national territory. Many customary collectivities have resisted the extension of national ownership to what they consider to be their ancestral lands.<sup>xxvii</sup> Accordingly, 'the chiefs of customary collectivities continue to sell the lands they hold without land titles, because they nevertheless consider themselves to be the true owners', remarks Tjouen (1985: 94). It should be emphasized that the 1974 law formally prohibits the sale of lands belonging to the national. In Cameroon, the text instituting land registration in 1932 (cited above) was largely drawn from French civil code, thus disregarding customary mechanisms for regulating the lands.<sup>xxviii</sup> Under this legislation, all unoccupied lands were considered to be empty and without owners.<sup>xxix</sup> By virtue of the decrees of 23 October 1904 (organization of land tenure) and 24 July 1906 (instituting land property legislation), all lands were considered

to be 'empty and unoccupied' that were neither registered nor owned by the indigenous peoples, according to the rules of the French civil code

There were two significant amendments to this definition in 1935 and 1955. In the decree of 15 November 1935, the meaning of the expression 'empty and unoccupied land' was reviewed. An effort to define the limits of the state's domain and other collective entities (federations, territories, towns) is discernible. According to this decree 'all lands which are not legally titled or possessed are undeveloped or have been unoccupied for more than ten years belong to the state'. According to the terms of this decree, if the state grants a concession to an undeveloped plot of land, it is up to the dwellers (in most cases the indigenous population), who may oppose it, to provide evidence for the existence of their customary rights to that land. In relation to this practice, the decree of 20 May 1955 stipulates in article 7 that 'a concession is granted after an open public enquiry; if the enquiry has not revealed the existence of a customary right to the land, then the burden of responsibility is on the claimant to provide evidence for the absence of those rights'

Another challenge of land registration in Cameroon is the opposition between two different conceptions of land ownership rights: formal land law guaranteed by the state, and informal land law guaranteed by customary rights in the local collectivities. The social relations binding local populations to their land stand in opposition to the purely legal relationship between the state and the land. And the state has a tendency to impose its land law over and above the laws of local collectivities. That said, however, it is important to recognize that there are enormous variations in how the land is represented within any given socio-cultural group, depending on contextual, emotive and affective factors.

### *Slowness of decentralization process*

The decentralized system that allows land certificates to be issued at provincial and prefect levels has lacked the necessary institutional development and financial support and is barely functioning. In 2008, the government issued a user-friendly document to describe the land registration process and explain land rights in general, but the document does not appear to have helped encourage land titling and registration. Only about 1,000 land certificates are issued in a year, and they are primarily granted for new urban and commercial development<sup>xxx</sup>

***The registration procedure is generally cumbersome***

The process of obtaining a land certificate includes an administrative phase relating to the assessment of land occupation and development, a technical phase relating to the physical description of the land, and a legal phase that analyzes the conditions of access to property right. The main actors are the Department of Surveys for the technical phase, the Department of State Property and the Department of Land Tenure for the legal phase and the Ministry of Territorial Administration for assessments. The formal procedure for registering land transactions in Cameroon takes 93 days and costs 18% of property value, compared to the average of 81 days and 10% of property value across sub-Saharan Africa as a whole. The registration process requires obtaining a copy of the Cameroon property rights and resource governance profile property deed at the Land Registry, having various drafts and final versions notarized, and registering with the tax authorities and Land Registry. The registration process is generally considered cumbersome, expensive and time consuming. The authority for registration was decentralized to local levels in 2005, with the prefect-level Land Consultation Boards assuming responsibility for demarcating land and adjudicating rights. The Land Consultation Boards and local government offices have lacked systems, equipment, financial support and training. The government recognizes the need for institutional development and capacity building at all levels and coordination of government offices in order for the process to function as intended<sup>xxxix</sup>

***Fraud***

In addition to costs associated with registration, gaps in the land administration processes and infrastructure have contributed to slowing the transition from customary property rights to private ownership of property. Land tenure insecurity has grown rather than diminished. Reports of multiple sales of the same land, false land certificates, and inaccuracies in boundary definitions are commonplace, and conflicts and disputes are frequent. In general, the registration process does not improve tenure security, and neither banks, land holders nor buyers rely on the system<sup>xxxix</sup>



## POSSIBLE MEANS OF OVERCOMING THE ABOVE STATED CHALLENGES

### *The adaptation of the board to local realities*

I recommend that the land consultative board should be adapted to local realities. This is because the Land Consultation Boards are quasi-judicial bodies established by the 1974 Land Law to administer national land and adjudicate land disputes at the prefect level. Some decisions of the Land Consultation Board can be appealed to the formal court system. Separate boards address agro-pastoral conflicts. The Commissions for Resolving Agro-Pastoral Conflicts (Commission Consultative de Règlement des Conflits Agro-Pastoraux) operate at the prefect level and resolve agro-pastoral land-use conflicts. Parties whose rights have been adjudicated have accused these specialized boards of lacking impartiality: there is limited or no public participation in the processes and no rule preventing board members from adjudicating rights to land in which they have an interest. In some cases, parties do not accept the decisions of the boards and disputes continue<sup>xxxiii</sup>. Land cases can be brought to the formal court system, the Land Consultation Boards, Agro-Pastoral Commissions, customary courts or Shari'a courts. The formal court system is not generally favored by the majority of the population, particularly those living in rural areas. The municipal courts require travel to urban centers and payment of various fees and costs, involve lengthy processes, and are conducted in French or English rather than local languages. Judges are often accused of being biased toward elites and subject to political influence<sup>xxxiv</sup>.

### *They should be effective decentralization at the rural areas*

In most rural areas, communities tend to use customary courts to address land issues and resolve disputes. The courts are usually run by the traditional leader and include respected community elders. In some areas career magistrates from formal courts also sit on customary courts and apply formal law, creating a hybrid institution straddling customary and formal systems. The customary courts have become a preferred means of resolving civil disputes. In northern areas where Islamic law is applied, separate Shari'a courts also operate and govern issues such as succession and marital property rights<sup>xxxv</sup>.

### *Diversification of Actors representing Community needs*

It would also require a diversification of the actors representing community needs during the negotiations in the acquisition of land certificate. Greater financial autonomy for local level councils would also give them greater capacity to monitor some of these procedures.

## **CONCLUSION**

In summary, land governance in Cameroon is a complex system characterized by tensions between various competing normative orders. Use of the competing legal regimes governing land tends to interact with socioeconomic and ethnic divisions, inevitably leading to the marginalization of the majority from a major resource. Moreover, as we have argued throughout this work, these competing legal regimes serve to undermine the legitimacy of the state in the eyes of its citizens due to the lack of citizen participation in land processes and to competing meanings and uses surrounding land between and within the local, national and international levels. In the Littoral region specifically, poor land governance is reflected in:

The lack of community representation and accountability in land negotiations;

- The lack of disclosure surrounding land deals;
- Diverging ideologies of land use in production and development;
- A disconnect between local and state uses and meanings surrounding land.

We recommend that the land governance system in Cameroon be reformed with particular attention paid to the democratization of the process of land acquisition as it relates to transfers of land between private companies and village community lands.

Furthermore, more attempts should be made to understand and incorporate local farming practices that are at odds with state law into regulatory processes. In so doing, the legitimacy of the state in the eyes of the region's citizens will also be strengthened. On a national level, we recommend that vehicles for public debate and discussion over land deals be strengthened and promoted. This could be a potentially valuable issue around which civil society organizations with similar aims can coalesce and work towards a common agenda. Moreover,

we further believe that stricter enforcement of labor rights and a reduction in the amount of resources needed to acquire land in Cameroon will not only help improve land governance, but will also raise overall levels of livelihood and improve community, company and state relations. As for the limitations of our study, we note that interviews with a greater number of stakeholders would have helped substantiate our findings even further. It would also have helped us attain a wider view of the nature of conflicts over land. The latter are a major window into the tensions between customary and statutory law, individual versus communal uses of land and international versus national norms regarding land use, access and ownership as experienced on a daily basis. We suggest that more research be done on the experience of local farmers in the Littoral region as we are aware that they are not a uniform group.

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## ENDNOTES

<sup>i</sup>Sone Patience Munge, *The Concept of Equality and Access To Land: The Case of the Anglophone Regions of Cameroon*, 2011 available online at <https://www.codesria-library.com> accessed on 23/04/2022.

<sup>ii</sup> According to section 1(2) of Decree No 76-165 of 27 April 1976, land certificate shall be unassailable, inviolable, and final. The same shall apply to documents certifying other real property rights.

<sup>iii</sup> The territory was first colonized by the Germans in 1884 and after the First and Second World Wars, it was partitioned and placed under British and French mandate and later Trusteeship respectively.

<sup>iv</sup>C.F. Fishy, *Power and Privilege in the Administration of Law: Land Law Reforms and Social Differentiation in Cameroon*, African Studies Centre(1992) p.1

<sup>v</sup> (1921) JELR 59845 (PC)

<sup>vi</sup> Irene Sama-Lang, *Lecture Notes on Land Law, Faculty of Laws and Political Science* (Buea: University of Buea, 2019) Handout 1, unpublished

<sup>vii</sup> (1923) NLR, p.17-44

<sup>viii</sup> The Germans were ushered into the administration of Cameroon on July 12 1884 when the Germano-Duala Treaty was signed between the Douala Chiefs represented by King Bell and Akwa and German Traders represented by Carl Woerman and Johannes Voss under the supervision of Gustav Nachtigal and Emile Schultze the German Consul from Gabon.

<sup>ix</sup> Irene Sama-Lang *supra*

<sup>x</sup> E. Ardener. et al, *Plantation Agriculture and Village in the Cameroons: Some Economic and Social Studies* (New York: Oxford University Press, 1960) p. 317

<sup>xi</sup> The Buea Archives, File No 145/38, Qf/a1938/2b: Acquisition of Land by Native Administrator 1938.

<sup>xii</sup> The British took effective control over Cameroon in after the Versailles Treaty of 1919 as a mandate territory per Article 22 of the League of Nations and later as a Trust territory under the United Nations Organization.

<sup>xiii</sup> See Article 8 of the Trusteeship Agreement 1947

<sup>xiv</sup> See Section 4 of the Lands and Native Right Ordinance, 1948 of the Laws of the Federation of Nigeria.

<sup>xv</sup> C. K Meek, *Land Tenure and Land Administration in Nigeria and the Cameroon*, Her Majesty's Stationary Office (1957), p.355.

<sup>xvi</sup> The French administered their own portion of Cameroon as an separate entity, first as a mandate territory under the League of Nations and later as a Trust territory under the United Nations.

<sup>xvii</sup> Irene Sama-Lang *supra*, Handout 1.

<sup>xviii</sup> *Ibid*

<sup>xix</sup> Tijouen, A.D, *Droits Domaniaux et Techniques Foncières en Droits Camerounias*, Edition Economica (1981) p.93.

<sup>xx</sup> Fishy *supra*, p.36

<sup>xxi</sup> Law No. 59-47 of 17<sup>th</sup> June, 1959

<sup>xxii</sup> The Federal Republic of Cameroon upon reunification in 1961 and later the United Republic of Cameroon and The Republic of Cameroon after referendum in 1972 and the amended of the 1996 constitution respectively.

<sup>xxiii</sup> Law No. 63-2 of 9<sup>th</sup> January 1963.

<sup>xxiv</sup> By virtue of Article 26 referred to all lands except those held under customary law or land certificates

<sup>xxv</sup> Decree No. 66-307 of September 1966.

<sup>xxvi</sup> Ordinance No. 74-1 of 6 July 1974, to establish rules governing land tenure in Cameroon.

<sup>xxvii</sup> Two occurrences illustrate the vigorous resistance of the indigenous peoples of Yaounde and the surrounding areas to the public authorities' brutal compulsory land acquisitions. The first was the camp of the Nsimalen people on the landing strip of the international airport built in that locality. In response, the Nsimalen denounced the expropriation of their ancestors' land, and demanded compensation for damages. The second protest action was mounted by the Ngouso people of a neighbourhood in the north-east of Yaounde, who repelled with stones and machetes a delegation of the Prime Minister of Cameroon that had come to lay the foundation stone of a dispensary sponsored by a partnership with the Chinese. In both cases, the populations succeeded and receive compensation after they had withdrawn.

<sup>xxviii</sup> With respect to French Equatorial Africa, Coquery-Vidrovitch has also discussed the thoughtless alienation of the indigenous people from their lands to the benefit of the big concessionary companies. See Coquery-Vidrovitch 1974.

<sup>xxix</sup> It is useful to note at this point that the colonial lands were considered to be simply an extension of France's national domain. Consequently, French citizens had an entitlement to them, in conformity with French law. The

following example is illustrative. In a draft law on the extension of the French state's domain to the colonies presented by Guillaïn, the Minister for the Colonies in 1898, it was explicitly stated that 'the vast territories of our colonial empire, which are an extension of the French nation, constitute the common property of all French people, and as a result, must be considered as part of the national domain, and not constitute local dominions in each colony'.

<sup>xxx</sup> African Development Bank. 2009. "Cameroon: diagnostic study for modernization of the lands and survey sector available at [http://www.afdb.org/fileadmin/uploads/afdb/Documents/ProjectandprojectOperations/Cameroon\\_Etude%20sur%20le%20cadastre\\_english\\_001.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/ProjectandprojectOperations/Cameroon_Etude%20sur%20le%20cadastre_english_001.pdf) 2009; GOC 2008.retrieved 07/07/2022

<sup>xxxii</sup> African Development Bank. 2009. Cameroon: diagnostic study for modernization of the lands and survey sector. [http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Cameroon\\_Etude%20sur%20le%20cadastre\\_english\\_001.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Cameroon_Etude%20sur%20le%20cadastre_english_001.pdf) last visited 19 July 2022

<sup>xxxiii</sup> AfDB 2009; World Bank report about cameroon 2009; Hobbs 1998; Nguiffo and Djeukam 2008)

<sup>xxxiv</sup> See Joko 2006; Njamnshi et al. 2007; Egbe 1997

<sup>xxxv</sup> see Joko 2006; Fombad 2009

<sup>xxxvi</sup> Joko 2006; Fombad 2009; World Bank 2006a; Egbe 1997