

Conservation Litigation in Cameroon

AN INTRODUCTION TO ENVIRONMENTAL LIABILITY IN CAMEROON

This brief introduces Conservation Litigation and highlights opportunities for action in Cameroon. It explores how existing environmental liability provisions can be used to protect biodiversity.

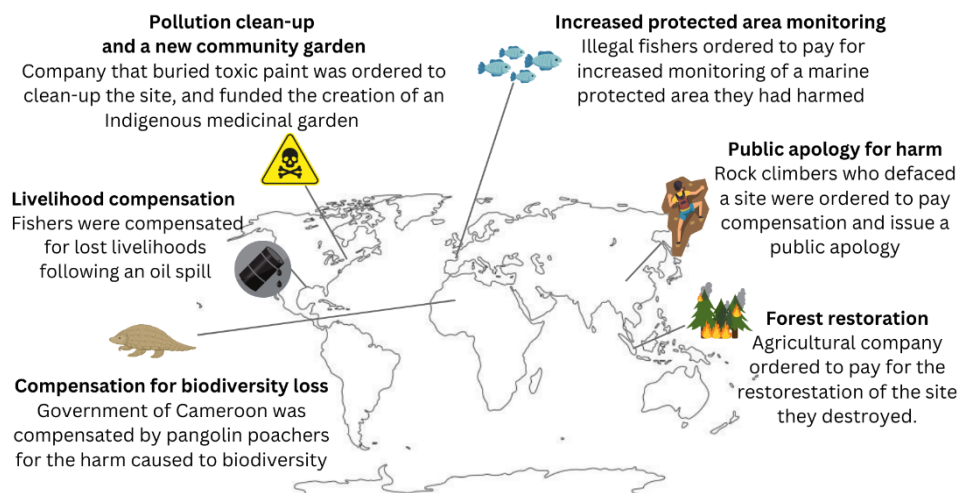
The challenges facing biodiversity

Biodiversity is under growing threat from activities like illegal wildlife trade and deforestation. More than one million species now face extinction, with cascading impacts on ecosystems and human wellbeing. Mainstream conservation enforcement approaches are failing: small fines and imprisonment do not meaningfully reflect the scale of environmental harm, fail to deter offenders, and do little to restore nature.

Opportunities through strategic liability litigation

Conservation Litigation has transformative potential for biodiversity: It uses liability provisions that already exist in the law to hold offenders legally responsible for the harm they cause to biodiversity. Offenders can be required to undertake remedial actions, such as habitat restoration, species conservation, issue public apologies, and pay compensation. Cases serve not only to heal biodiversity, but can also drive new legislation, change practices, and shift social norms. This strategic litigation approach was instrumental in the fights for civil rights and public health against opioids and tobacco. This transformative potential can also serve the conservation sector.

Conservation litigation is already possible in countries around the world, usually based on their existing civil code and environmental laws. However, many people do not know that these legal opportunities exist, how to develop strong cases, or how significant these lawsuits could be. Although cases are still rare in most countries, promising examples are emerging and demonstrate the potential for this type of legal action.



CONSERVATION LITIGATION IN CAMEROON

Conservation Litigation is possible in Cameroon based on the country's existing legislation, and the Ministry of Forestry and Fauna (MINFOF) has been successful in several recent cases. These have been based primarily on the country's Civil Code, which establishes a general obligation that those who cause harm to someone—whether through voluntary action, negligence or imprudence—must remedy it (Articles 1382, 1383 and 1384). Cameroon's Environmental Management Law specifically instructs that parties should be liable for harm caused during the transport and use of hydrocarbons, chemical or other dangerous substances (Article 77). Although it does not explicitly mention liability for harm to biodiversity, it introduces a number of applicable principles, such as the polluter pay principle and the principle of liability for causing harm. The Biodiversity Law further explains that the State is obliged to protect natural resources and enforce against violations, including not only through sanctions, but also the potential for monetary compensation and restorative measures (Article 162.1).

Cameroon's key liability provisions are found in:

- Law No. 96/12 of 5 August 1996, The Environmental Management Law
- Law No. 94/01 of 20 January 1994 regarding the Management of Forests, Fauna and Fisheries (The Biodiversity Law)
- Civil Code (Articles 1382, 1383 and 1384)

What types of cases can secure remedies?

Liability litigation is possible in cases where biodiversity is harmed as a result of unregulated activities, such as illegal logging or illegal wildlife trade. It is also possible in cases where harm results from a breach of an administrative framework, such as abuse of a concession agreement, permit or quota.

However, there are general criteria that need to be fulfilled for a case to trigger liability:

- **Causation:** Liability is only triggered if the case successfully demonstrates a clear relationship between the defendant's purported action and the harm caused to the plaintiff. The notable exception involves protected species harmed by illegal wildlife trade, for which the burden rests with the offender to demonstrate that they were not responsible.
- **Party's Fault:** Cameroon's Civil Code establishes that parties who cause harm are responsible for actions caused by their fault (fault liability), whether it was intentional or the result of negligence.
- **Specific Environmental Liability triggers:** Although many countries establish environmental thresholds to determine when a party can be held liable for causing environmental harm, Cameroon does not have these for most cases: There are rules for dangerous substances, such as toxic waste, that automatically require offenders to clean-up and remedy the harm caused, but these are not established

for other causes of harm, such as habitat destruction or illegal wildlife trade. Plaintiffs may thus claim remedies for any harm to biodiversity from any cause, provided that the general liability criteria are met. In practice, Cameroonian authorities have prioritised litigation in cases where a criminal offence was committed, and involved species listed as class “A” or “B” protected status.

Who can bring cases?

Liability suits can be brought by different types of actors:

- **State:** The State is the primary legal caretaker of the environment, and has the right to request that offenders remedy environmental harm under various pieces of legislation. The Biodiversity Law also stipulates that, even if public authorities initiate criminal actions against an offender, others can request monetary compensation and remedies. For cases involving biodiversity, the Ministry of Forestry and Fauna (MINFOF) is the responsible authority that has the right to bring cases.
- **Individual parties:** Individuals can bring forward cases where they have been directly harmed, including not only harm to property and livelihoods, but also their right to a healthy environment. They have a right to obtain both injunctive remedies via the administrative courts (against the State, or where the State has failed to act), and to use the civil courts to request remedies for harm they have suffered.
- **Public Interest Litigation (PIL):** Civil society organisations can bring PIL, on behalf of the environment and the general public interest in nature. To exercise this right, they must be registered in Cameroon, have a public interest in environmental issues, and be acting in cases that involve offences described in the Environmental Management Law that directly or indirectly affect matters within the organisation's scope of action. This provision has been used to compel parties to comply with environmental rules (e.g., impact assessments), but not yet to claim remedies to harm.

What types of remedies are possible?

Liability litigation can provide several different types of remedies:

- **Injunctions against harmful actions:** Injunction can require a party to undertake or to refrain from doing a specific act, usually as a temporary measure to avoid imminent harm. Injunctions are usually issued by government administrative agencies, such as in cases where environmental impact assessments were overlooked or violated. Although rare in practice, plaintiffs can also seek injunctions via courtroom litigation, in cases where authorities or business failed to allow public participation in environmental decision-making; have not taken preventative measures to anticipate and prevent harm, and/or to put a stop to actions that endanger or harm their environment.

- **Requests for judicial reviews of existing legislation:** Litigation can be used to order government agencies to review existing legislation, to ensure they meet their legal commitments. These rights have not been well tested in Cameroon's courts.
- **Orders to remedy harm:** Courts can order offenders to remedy plaintiffs for the harm they caused. There is no legal limitation as to the type of remedies that can be sought, and plaintiffs are responsible for supporting their case before the court. To date, however, remedies have been limited to monetary compensation rather than undertaking remedial actions (e.g., reforestation, species conservation). Moreover, the right to seek remedies has only been exercised by the MINFOF. If the verdict awards compensation to the State, these are directed to specialised environmental funds to support general environmental protection, but not necessarily for use in remedial actions to address the harm caused in the specific cases, although this has yet to be tested in court. Importantly, monies from successful cases have yet to be recovered, although the country's new National Debt Collection Company is expected to improve outcomes.

Case Example: Liability for illegal possession of pangolin scales

(Decision N. 3487/FD/COR of 28 December 2018, Court of First Instance Douala-Bonanjo, Public Prosecutor and MINFOF vs Tidjani, Abba, Tizani and Abbo)

The defendant was accused of illegal possession of 630 kg of pangolin scales. Pangolins are a Critically Endangered, class "A" protected species in Cameroon. Alongside the criminal prosecution initiated by the Public Prosecutor, the Ministry of Forestry and Wildlife (MINFOF) intervened as a civil party, based on Article 1382 of the Civil Code. The MINFOF requested nearly CFA 60 million (approx. US\$98,000) in compensation for a long list of harms, including environmental, social and cultural harm; harm to eco-tourism; market value of the injured specimens; loss of hunting license, and legal costs. The Court granted the MINFOF the full amount requested.



Endangered orchid, *Ossidulum aurantiacum*, found only in Cameroon and DR Congo.
Credit: P.J.Cribb & Laan



Conservation-Litigation.org is an international network of lawyers, scientists and conservationists. We support strategic liability litigation as a creative legal response to the biodiversity crisis. We do this by providing novel legal analyses to reduce the technical barriers for action, by supporting novel litigation cases around the world, and by empowering others to litigate for biodiversity.

More information

For a full analysis of Cameroon's environmental liability laws and how they can help biodiversity, see Rodriguez, M., Njike H., Owona D., Phelps, J. 2023. Legal remedies for harm to biodiversity: An analysis of Cameroon's environmental liability legislation. Conservation-Litigation.org.

