10th Annual Colloquium of the IUCN Academy of Environmental Law:
“Global Environmental Law at a Crossroads”

The Contribution of Local Conventions to the Effectiveness of Environmental Law in Burkina Faso

Presented by:
Habib Ahmed DJIGA
University of Ouaga 2, Faculty of Law and Political Science
Burkina Faso
INTRODUCTION

• Actions to protect and promote the environment undertaken by a State are always a function of the environmental challenges it is confronted directly or indirectly, and the degree of threat that these challenges pose to people and economic structures.

• In Burkina Faso, these challenges are different by their nature, their causes and the severity of the risks they pose to the environment and population. They comprise both the natural resources of life.
Land area (thousands of km²) : 274
Population (thousands) : 16 287
GDP per Capita (PPP valuation, USD): 1289
Life expectancy: 52.3
Education rate: 69.6
(OCDE, 2010)
Environnemental Law in Burkina Faso

Evolution

- Traditional Environnemental Law
- Colonial Environnemental Law
- Contemporary Environmental Law

Challenge

- Effectiveness is sought by all means
- There Is One Solution With the Local Conventions
The essence of this article is to discuss and appraise the contribution of local conventions to the effectiveness of environmental law in Burkina Faso.

**Hypothesis**

The Local Conventions play a significant role in environmental governance and in improving and strengthening environmental texts. Local Conventions contribute to better implementation of environmental law.

Prof. Habib Ahmed DJIGA-Baltimore, 3rd July 2012
LOCAL CONVENTION is a set of local rules conform to current legislation (laws and regulations) and signed by a competent authority or authorities that reflects a consensus among all users for sustainable use of natural resources, prevention and conflict management related to their use.
Stages of the adoption of Local Conventions:

- Identification of stakeholders
- Drafting of the local convention (Plan Act of rural land, Art. 13)
- Application of the local convention
EFFECTIVENESS

“The degree of realization in practice social rules of law.”
Encyclopedic Dictionary of theory and sociology of law (ARNAUD, 1993)

A law is effective or not, as it turns out “or not able to determine interest in the desired behavior.”
(de VISSCHER, 1967)

“The status of a rule of law which is actually applied to citizens and/or respected by them.”

Prof. Habib Ahmed DJIGA-Baltimore, 3rd July 2012
Compliance with rules and standards laid. Changing the behavior of recipients of the rule of law means here, the free observance of the rule.

The ability of law to change human behavior in the direction of better environmental protection. Thus, an environmental law would be effective if it is able to determine its intended recipients of ecological behavior.

The ability of environmental law to ensure the effective protection of the environment. Here, the environmental law tends toward efficiency, that is to say, he manages to limit the environmental damage or to reverse the deteriorating trend for improving the state of the Environment.
I. The Socio-Environmental Virtues of Local Conventions
   1.1. The Contribution to Better Respect The Environment
   1.2. The contribution to the prevention and management of environmental conflicts

II. The Legal Advantages of Local Conventions
   2.1. The Legal Framework for Local Conventions
   2.2. The “Juridicity” of Local Conventions
I. The Socio-Environmental Virtues of Local Conventions

- Local conventions provide two essential functions:
  - Conservation of natural resources;
  - Prevention of conflicts related to natural resources.
1.1. The contribution to better respect the environment

- The Local Conventions must contribute to the effective implementation of Law, by promoting local empowerment in the management of natural resources on their lands (Plan Act of Rural Land, Art. 12).
• Local conventions promote the rational exploitation of natural resources by communities on their land.

• They provide an opportunity for people to use the natural resources management techniques and traditional methods that have proven themselves for centuries.

• African populations, in fact, have developed over the years the techniques of conservation and sustainable use that have kept the natural resources today.
• This is knowledge and traditional skills of conservation of natural resources (soils, forests, water, wildlife), when combined with modern methods implemented by the environmental services of the state, further increasing chances of getting better results.

• From this perspective, local conventions constitute a legal framework at local level of these methods and environmental practices.
1.2. The contribution to the prevention and management of environmental conflicts

- One of the strengths of local conventions lies in the consensus and consultation (GRANIER, 2009).

- Indeed, two important points emerge:
  - Involvement and commitment of all stakeholders;
  - Provision of a tool management and conflict prevention
The development of Local Conventions is a participatory manner through the involvement of all professional categories concerned local by the use and management of the resource (Law on the Regime of Rural Land, Art. 16; The Action Plan for Implementation of Legal and Institutional Reforms, p. 113).

It helps to resolve the problems related to depletion of natural resources, human pressure and demographic differences of interest between pastoralists and farmers, etc.
• So, the Local Conventions establish a climate of confidence between different actors and stakeholders, and are a way to better take into account the interests and concerns of stakeholders and actors.

• Program for Sahel-Burkina (GIZ, 1989-2004)
  ◦ Average reduction of conflicts in the area response of the Project: 75%
  ◦ 44% of conflicts had been resolved applying the statements of Local Conventions (GARANE, 2008)
II. The legal advantages of local conventions

- Constitutional and Democratic Renewal in 1990’s.
- Constitution has been adopted on June 2nd, 1991 and approved June 11, 1991: proclamation of civil liberties (freedom of association), individual rights, consecration of the separation of executive, legislative and judicial, and the freedom of administration of local authorities (IBRIGA et GARANE, 2001).
But, at the time, no text formally dedicated the possibility for communities to adopt local rules of natural resources management.

So, LEGITIMACY vs. LEGALITY
2.1. The Legal Framework for Local Conventions

The Constitution of Burkina Faso:

- Awareness of the people of Burkina Faso "the absolute necessity of protecting the environment". (Preamble)
- The wealth and natural resources are the property of the people of Burkina Faso. They are intended to improve their living conditions (Art. 14).
- Recognition of the right to a healthy environment
- The obligation of all Burkinabe to protect, defend and promote the environment (Article 29).
- The right of every citizen to initiate a petition against acts prejudicial to the environment or injuring the public heritage, cultural or natural history (Article 30).
• The Law on Land and Agrarian Reform (1996)
• The Environmental Code (1997)
• The Forest Code (2011)
• The Law on the Regime of Rural Land
• The Framework Law for Water Management in Burkina Faso (2001)
• National Policy of Environment (2007)

• National Forest Policy (1995)


• National Policy on land security in rural areas (2007)

• National Action Plan to fight against desertification


• Action plan for implementation of legal and institutional reforms for decentralization in the forestry sector (2006).
2.2. The « Juridicity " of Local Conventions

- "Juridicity" is the character of what is legal, therefore complies with the law, rules different from other social or human.

- Local conventions, once adopted by consensus by the people, are officially sanctioned either by local (municipal order) or by devolved authorities (decree). In some cases, they even entered into between the State (decentralized authority) and local

- This procedure gives them a regulatory value.
• Local conventions are equipped with legal force making it mandatory standards whose violation can be sanctioned by Administrative Judges

• Their legality is controlled

• So, the citizens ecological behavior is controlled under the authority of local conventions statements.
LAVIGNE DELVILLE, 2009
THANK YOU!!