

CONTROLS AND SANCTIONS OVER THE USE OF RESOURCES IN THE KAFUE FLATS OF ZAMBIA

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A paper presented at the International Association for the Study of Common Property Fifth Common Property Conference 24-28 May 1995 at Bodø, Norway

Introduction

Although farmers in the Kafue Flats area farm individually on heritable holdings in a commercialised agricultural system, some of the natural resources are controlled and managed through the clan. In a general study of tenure in Africa, Birgegaard notes:

"There is a strong sentiment that natural resources should not be alienated from the group (lineage, clan, tribe) to which they ultimately are thought to belong." (Birgegaard 1993:9)

The local Ila/Tonga people consider themselves individualists and emphasise their independence from both each other and the state (Colson 1963). They are however also proud of their "country", as they call it, and link their identity with their country: they see their country as a garden (Rennie 1980) which they tend; they see the fish as their fish and the game as their game, and these also in the past they tended. The feeling of both owning and belonging to the land is evident of the local people (Smith & Dale 1920; Rennie 1978). An analogy is found in their saying:

"The Chief is the servant of the people"

As stated previously, the clan provides conservation regulations regarding tree, fish and game. As well as this, the clan also provides the accepted parameters for social behaviour. In this way there is a communal influence on the way an individual holds and uses natural resources (Birgegaard 1993).

A description of the Kafue Flats

The Kafue Flats are in the Southern Province of Zambia, the people are nowadays classified as belonging to the Ila/Tonga group formed of dispersed clans and living in villages, each village being an independent unit recognising no superior political authority (Colson 1951). In modern times the villages have been integrated into the nation state. The BaTwa, a non-bantu people who once owned the Flats (locally called Butwa) and controlled the fisheries there, have been denied the status of

tribe (Lehmann 1977) and are officially Ila/Tonga. The Ila/Tonga are politically active and have long been literate. There is highly commercialised agriculture practised, with both cattle and crop cultivation. The Tonga are especially well known for producing good draught animals.

Archaeological evidence shows that Ila/Tonga have inhabited the area for over 1000 years (Clarke 1980, Fagan 1965) and that burning management has been practised for 3000 years. There are traces of occupation since the third millennium BC (Clarke 1980)

The Kafue Flats are an extensive seasonally inundated floodplain within the miombo woodlands of southern Zambia covering approximately 14,000 km², with unreliable rainfall of between 630 and 1030 mm annually and a dry period of 8 months. The people of the area practice transhumant pastoralism between the flats and the surrounding woodland and were the richest in cattle in Central Africa (Fielder 1973). There is a commercial fishery in the river and lagoons. The wildlife quantities amazed early Europeans travellers (Smith & Dale 1920), whose descriptions defy belief. There are three national parks adjoining the flats. The whole area is designated a Game Management Area, implying restrictions on game use but not interfering with other economic activities.

There is a partially documented degradation (FAO 1968, Bingham 1978, Handlos 1978, Turner 1984, Howard et al 1988, Jeffrey 1991) of the previously extraordinarily abundant natural resources in the Kafue Flats area: the fisheries are outfished; game numbers have fallen drastically, some species no longer found and others may not be viable over the long term; the flood regime has been manipulated for the production of hydro-electric power, and the flats no longer flood as they did which has caused vegetation changes. The impact of these dams on cattle keeping, the mainstay of local pastoral and agricultural economy, is ruinous to local people. Many have moved from the area.

In the Kafue Flats area, land was bought and sold or conquered in warfare up to colonial times. Colonial rule from 1910 destroyed the economy by outlawing the local form of slavery, buying and selling of land, trade in wild life products (Fielder 1979) as well as through enforcing open access to fish resources. On top of this the many clans were assimilated under "chiefs" in "chiefdoms" in order for indirect rule to become possible. These Chiefs did not often co-incide with the traditional leaders. Resources were declared by the state to be communal and vested

in: the chiefs (who controlled land distribution); and the state (which controlled wildlife and forest reserves, and distributed land for European settlers). Fish became a free good.

Further ramifications of indirect rule were the introduction of: formal education, christianity, western style primary health care and nutrition, and the political arena of indirect rule. This was perpetuated by the state after independence, which attempted to incorporate rural areas into the national economy through cooperatives, extension services, social adjustment (development) and politics. This provided multiple opportunities for negotiating new relationships and set-ups which may help explain the present complexity of local organisations.

Tenural arrangements and the clan

The traditional land tenure system is still maintained throughout the area and it is generally agreed that land is strongly held as blood relatives have been given (as slaves or in war) to the owning of the land. The clan leaders make all effective decisions about land allocation today, while the modern Chiefs, locally known as Rubber Stamp Chiefs, authorize these decisions on behalf of the state

All land in the area is named after the original settlers who may have gained the land through war, or bought it by selling sisters children as slaves, selling animals, impande shells or land. The boundaries are commonly known and some estates cover several thousand hectares. This land is inherited through the female bloodline by a person chosen from a pool of contenders by the maternal and paternal kin. The chosen person is referred to in this paper as the Owner of the Land or clan leader. The Owner of the Land can allocate land holdings to other people or clans at his or her discretion. These areas, known as katongo, are heritable, held in perpetuity, and mostly used for production. The katongo holder may redistribute this land to family members as wished. However the Owner of the Land still retains the right to control the use of other natural resources on the land.

It is the clan control of resources on individually held land which is relevant to this paper. The saying, "the Chief is the servant of his people" is useful to remember. The clan leader is not a sovereign leader, but a representative of his or her clan, and has been chosen mostly for an ability to be diplomatic, manage clan property and carry responsibility. In this way, although the clan leader provides the conservation regulations

regarding tree, fish and game resources and is responsible for enforcing these decisions, other local people have strong influence on the decisions made about natural resource management. For example, *Borassus* palms in Kantengwa and Maala were seen to be damaged by overexploitation and local residents went to the Owners of the Land asking them to take custody of the trees and protect them from outsiders exploitation. These palms were not at that time under traditional protection, which up to now seemed limited to trees which provided food to people and cattle. The threat to the palms came from their commercial value, as the leaves are used for baskets, mats and traps. In Maala it was agreed that anyone, with permission and supervision from headmen could harvest leaves, but outsiders must pay for the leaves. In Kantengwa, only local people would be allowed access to the trees, which was free and not supervised.

This means that within the tenure system, the terms of access are negotiable and that these negotiations are based on relationships subjected to various pressures and responding to changing availability or scarcity of resources in time/space (Bruce 1989, Behnke & Scoones 1992, Berry 1993); Because of this, the system must continually adapt.

One general rule which provides a good example of the kinds of regulation exerted, is that no fruit tree may be felled without the permission of the Owner of the Land. If the tree is not productive or needs to be felled for some other reason, permission has to be granted by the Owner of the Land, and propitiation paid to the ancestors of the land. However products from these trees, such as fruit, bark, roots, leaves etc., may be used as long as the use does not destroy the tree.

Regulations discussed during field work cover: fishing rights, including the rights to use certain technologies; access to pasture and burning management; rights of way, including over water; hunting rights; access to scarce resources such as good potting clay, termite clay, salt licks for cattle; rights to graze cattle, and rights to manure; and the rights to use tree products and other vegetation.

The strategies adopted often show an intricate knowledge of the effects of various practices; for example grazing on the Flats was strictly managed to ensure optimum breeding conditions for certain economically valuable fish when the Flats flooded. As the people who fished were not the ones who managed the cattle, the demands on co-operation are considerable.

Malende, the territorial cult and shrine

It can be said that generally, in order to effect regulation of resource use there must be an institution surmounting political, ethnic and economic divisions which is able to endorse commonly respected and enforceable sanctions. In the Kafue Flats area, although the clan provided conservation regulations for tree, fish and game resources, the source of the controls endorsing these regulations were found in what have been termed territorial cults (Schofeleers 1978; Binsbergen 1981), which are locally called malende.

Malende is a shrine at which all the people in a given area at certain times, especially at times of disaster, make sacrifice; in this case membership of malende is a consequence of residence rather than kinship. Malende is also the "home" of the spirits of dead members of the clan of the Land. The clan is said to belong to the shrine. The dual aspect of malende was emphasised to me many times during field research.

A malende rite described by Shezongo is as follows:

"People had faith and prayed to God through the spirits of their ancestors, together with their prophet or his heir. Beer is offered to the spirits of the ancestors and a black cow or goat is slaughtered. Understand this important point: this is not done in respect, but fear. The people reach God through the ancestral spirits who are with God."

Leza is the cosmic god of the local people and is often associated with rain and weather. Leza is usually given various praise names. People do not pray directly to Leza but through a praise name, and through their ancestors (Sørensen 1993).

In most areas rain rites are still practised annually at malende. The important thing about the malende rites is that, because they are often associated with drought or other "natural" disasters, they affect the residential community.

Mutinta describes how a rain rite might be instigated:

"If there is seen to be disorder in the land, that is delayed rain or drought within the growing season, the people go to the owners of the lands asking for assistance. The spiritual leader will inform them of the day, or may become possessed. Everyone in the area should take part in the rituals."

There is no organised priesthood rather malende has a keeper.

The spirit of malende chooses the successor of the original prophet, not necessarily from the kin of the prophet, but from anywhere in the clan, and possesses that person, who then assumes the spiritual leadership of the clan. This process may take time, even years, but is never forced. Objects used in the ceremony have no significance, rather the shrine is a special part of the landscape in which people have their everyday activities.

Van Binsbergen describes a shrine as follows:

"The essence of a shrine is that it belongs to non-observable beings or forces.....in the empirical world this is a spot where entities existing outside this order can manifest themselves and be communicated with by people"
(Van Binsbergen 19 :101)

The shrine may be some trees, a pool in a river, a valley, a hilltop, and very occasionally may be the place where a prophet disappeared (eg Monze's grove). Malende may also be related to phenomena such as hot springs, or it may be the place where a miracle has occurred, such as the sudden appearance of a fully grown tree. Malende may be very old,

"Even our grandmother's grandmothers found it" was said of a shrine at Mbeza. There is always a prophet associated with a shrine. These places may cover several hectare, or be small, but they are all totally protected: nothing may be removed from them. Except at burial as told by a group of women from Mbeza:

"Spirits of the dead are returned to their ancestors at a ceremony at burial. The body is usually buried at home. The crowd will rush from the grave to malende. They will not look back as they will see the ghost of the deceased immediately behind them. At the malende they will break branches off the bushes and trees to indicate to the ancestors that they are taking a part of the ancestors and substituting it for part of the living people. Now they turn and run as fast as possible, not looking back, to the grave and they beat the grave with the branches from malende. Now only the body remains, the spirit is with the ancestors and the ghost will not trouble them"

Returning the clans spirits to malende is considered vital to the well being of the people (Smith & Dale 1920) and it is still considered very important for the Tonga and Ila people to be buried at home (Sørensen 1993). Mutinta describes the philosophy of malende in the following:

"It was believed that outward signs of disorder in the order of nature reflected disorder in the living society of the lands. If severe signs of interrupted order were found, such as prolonged drought, hunger, disease or blight, a cause had to be found in society, the cause righted, cleansed or destroyed"

We found that social disorder could be divided into four categories,

1. Disobedience of clan laws regarding resource use
2. Failure to follow custom and ritual
3. Manifestation of disorder in physical abnormality, such a deformity or abnormal development in a child
4. Crimes, such as murder or theft

According to this philosophy, the social causation of environmental ills (Schofeleers 1978) must be discovered, the cause of misfortune agreed on and atonement made. In these days this is usually in the form of a fine, but it does occasionally result in expulsion from the area. Previously atonement was fines or bondage into slavery. In extreme cases death was the only atonement, and usually this would be a child who was sacrificed, especially if the child was found to be the cause because of deformity. These atonements have to be seen as propitiation to the ancestors of the land for behaving in a way they did not like. Having righted the wrongs, it was hoped that the ancestors would intercede with the cosmic powers, and ensure favourable conditions for the people again.

Accordingly, everyone in the area, was responsible for following the clan regulations. Even the clan leaders are held responsible, or to use a modern term, accountable, for their ability to ensure good management of the territories property. In this way, unscrupulous practice by the communities leaders is reduced.

However, these age old systems, despite their inherent flexibility and fearfulness can occasionally be ineffective: One local chief, who has sidestepped the clan and relies on his political power alone, is poaching game and playing havoc with local land distribution. This clearly illustrates the problems associated with the dual legal systems within which local institutions usually work. It also shows how valuable local institutions are if they can maintain their influence.

Another impact on the traditional institutions, striking at their cultural basis, is world religion. In the Kafue Flats, local burial rites are seen as wicked by some christian denominations,

territorial and rain rites are seen as worshipping the devil. Both practices are sought discontinued, often by preaching predictions of hellfire for those who both go to church (as many local people do) and still practice their local rites (which most local people also do). The malende in Kantengwa, site of one of the first missions in Zambia (1904), has been destroyed; the trees cut down and the soil ploughed. One reason for environmental degradation was perceived by some people to be caused by a lack of faith in Leza and a lack of respect for the clans codes of behaviour and resource regulations

The effect of the dams is an altered flood regime, vegetation change and severe draught in some localities. This raises the question of the scale of impact with which a local institute can cope. The vegetation change means that people cannot practice their management regimes; for example they can no longer practice burning management of pasture, as there is no longer any grass to burn. Although most local regulations are adhered to in most areas in the Kafue Flats, this powerful outside development has altered the ecosystem and, due to translocation of people, has forcibly altered local population distribution, altering the social balances in some areas. The dams were built in the 1970s and only time will tell how the local institutions will cope with the changed situation.

Untangling the webs, or the significance of malende

Elizabeth Colson, who has worked with the Tonga for more than 30 years, has described the Tonga as being involved in a web of control in both time and space (Colson 1960). The complex tenure system, some of the strands of which I have tried to tease apart today, verifies this statement. I would have been completely stuck without the guidance of Mutinta and Munakampe, local experts who constantly reviewed my growing understanding.

To summarise the effect of malende, as far as I have been able to relate it to common property management, malende is an institution able to endorse decisions made by other institutions, providing the sanctions for these decisions. Without the endorsement of malende it is unlikely that regulations made by the traditional leaders would be respected beyond the lineage of the clan. In this way malende also functions by providing a forum for influence and negotiation making the connection between the Owners of the Land and the farmers or other local people.

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