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NATION STATES AND FOREST PEOPLES:  
TENURIAL CONTROL AND THE SQUANDERING OF THE  
CENTRAL AFRICAN RAINFOREST

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Nation States and Forest Peoples; Tenurial Control and the Squandering of the Central African Rainforest

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I. The Central African Rainforest System

A. The Second Greatest Tropical Rainforest on Earth

The largely contiguous equatorial primary forests of Zaire, Gabon, Congo, and southern Cameroon constitute the last expansive rainforest on the African continent. According to recent figures, these four African countries contain approximately 75% of the continent's remaining primary forest (World Resources Report, 1990). Relatively smaller areas of closed, moist forests in large tracts within Equatorial Guinea and the Central African Republic are a part of the same extensive Zaire (or Congo) River drainage forest system.

The Zaire river basin owes its origins to an ancient, broad, shallow lake over 1,500 kilometers in diameter that drained into the Atlantic Ocean approximately one million years ago to expose what is now a largely forested basin (Wilkie, 1989). It covers approximately 3.5 million square km, an area almost half the size of the United States. After the great rainforests of the Amazon basin in Latin America, those of the Zaire River basin constitute the largest remaining primary rainforest system in the world.

The Nation State of Zaire alone is thought to account for 1 million square kilometers of rain forest, some 13% of all of the world's remaining primary rain forest. (The actual extent of Zaire's primary forests is very much in question; a recent study by the IIED challenged the conventionally used figure of 100 million hectares of primary forest with recent evidence that the more accurate figure is as low as 70 million hectares (Winterbottom, 1988)).

Zaire is endowed with an extraordinary treasure of biological diversity with over 11,000 species of plants, one third of which are found nowhere else, and over 400 species of mammal, almost 100 more than any other country in all of Africa. As with the other countries in the region, its extensive tropical forest system and the animals, soils and products it harbors provide the means of livelihood for millions of rural peoples and a critical income generating resource for national governments.

#### **B. A Threatened Ecosystem**

Many of West Africa's rainforests were largely decimated during the last thirty years, in large measure due to post-colonial influences and policies and the agricultural demands of growing populations. Nigeria, Ghana, Cote d'Ivoire and other West African countries sustained some of the highest annual percentage rates of deforestation in the world in the 1960's and 1970's. Today little if any of their closed forests remains. As late as 1980-85, a remarkable 55% of all global tropical forest loss took

place in West African countries (Repetto and Gillis, 1988). There are some exemplary models of successful community-based forest management in West Africa's Sahelian region, but these are mostly isolated and not yet well integrated in government and donor policies and project planning (Heermans and Minnick, 1987 and Jungren, 90). The project areas in Niger, Mali and Burkina Faso where these models exist are also ecologically and culturally disparate from central Africa's Zaire basin.

At present the equatorial rainforests of central Africa remain relatively intact. Congo and Zaire are estimated to have lost less than 20% of their closed forest and Gabon less than 10%, although the rate of deforestation in these countries is beginning to rise precipitously (World Resources Report, 1990). Rates of forest conversion, as opposed to outright deforestation, are likely to be considerably higher in these (and other tropical) countries, but are not precisely known.

Pressures on the region's forest resources, which span population growth, agricultural expansion, rail and road construction and increased timber sales to earn cash and pay off debt, are growing rapidly. Cameroon now loses more than 200,000 hectares of closed canopy forest every year, and deforestation rates are accelerating. Large areas of Zaire and other countries in the region are also experiencing increased exploitation, although specific figures, rates, and reasons are not fully known. A recent report from Zaire describes how commercial logging, gold panning, ivory poaching, commercial charcoal production, wildmeat

trading and the spread of plantation agriculture are all contributing to the rapid social and ecological change taking place throughout the region (Peterson, 1990).

Increasingly intense pressures on the forests are being felt both from inside the forest and from the inexorable flood of marginalized migrants from densely populated areas surrounding the basin. At the same time, as the world's remaining more accessible tropical timber stocks are being depleted, pressure to exploit central Africa's extensive primary forests is very much on the rise.

If central Africa's rainforests are to avoid the fate of West Africa's forests, research and action are urgently needed to address the root causes of deforestation in the region. By necessity, this effort includes a much better understanding of the conundrum of tenurial issues and the forging of policies and interventions which strengthen local forest dwelling communities' capacities to work in concert with national governments to manage the threatened forest system.

## **II. Ancient Partnerships, Colonial Legacies, and State Assertions**

### **A. Hunter Gatherers and Cultivators**

While it is unclear exactly how long humans have inhabited the region that is now within the boundaries of the Zaire basin forest system, there is archeological evidence of hunter-gatherers living there as long as 40,000 years ago. While it is not known for sure whether the Pygmies are the descendants of the basin's

original inhabitants, some 5,000 years ago Egyptians reported Pygmies to be living in the forests south of Sudan.

Farming cultures began penetrating the basin's forests from the savannahs 2-4,000 years ago. Their descendants are the Bantu and Sudanic-speaking peoples who today occupy the forest with the Pygmy groups. The people of the Bantu tribes inhabiting the forests of the regions today number in the many millions. While they have not lived in the forests as long as the Pygmy groups, many are "indigenous", long term forest occupants. The ethnic diversity of these tribes and their traditional marginalization from the urban centers have made them largely isolated from outside attention. Little systematic study of these Bantu forest dwellers has occurred to date, which is unfortunate considering their vital role in maintaining the ecosystem.

Ironically, considering their extreme marginalization and far fewer numbers, the Pygmy groups have received relatively more attention from anthropologists and other scholars. Today the hunter gatherer Pygmy groups number approximately 200,000 and make up less than 1% of the population of the Zaire basin; yet in centuries past their numbers could well have been considerably greater. While their cultures have been undermined by a host of historical and political forces, they have long regarded the forest with reverence and have developed a harmonious relationship with it. Pygmy religion and culture revolves around the sanctity of the forest world and the celebration of it as the ultimate provider for their society (Hart and Hart, 1986). An egalitarian social order

based on reciprocity, the mobility of their culture, taboos, and particular hunting practices all have acted - until recently - to insure that local forest resources are maintained as a storehouse for present and future generations. (Kelleher, 1989)

Traditionally the Pygmies, of which several general and distinct groupings remain today including the Ba-Binga, Ba-Twa and BaMbuti of the western, central and eastern regions of the basin respectively, lived in a symbiotic relationship with the sedentary agricultural Bantu tribes. The Pygmy hunter gatherers provided sought after foods such as a variety of meat, honey, and mushrooms as well as medicinal plants, cords and building material in exchange for starch foods, pottery and metal tools from the Bantu agriculturalists.

Until recently, many centuries of coexistence did not seem to have significantly changed the social/cultural organization or technologies of either the Pygmies or Bantus. The traditional relations between the hunter gatherers and cultivators maintained an unusual structural opposition of cultures that promoted sustainable use of the forest. In fact, according to Wilkie, the symbiosis of Pygmies and agriculturalists over time might well have even increased ecological diversity and provided more food resources for forest animals (Wilkie, 1988).

#### **B. Colonial Precedents; the Unravelling of a Unique Bond**

The beginning of the end of this harmonious relationship between forest dwelling hunter gatherer Pygmies and the

agriculturalist Bantus came with the slave raids and the colonial era. The cultivators were far more susceptible to the brutal effects of the raids and the violent exploitations of the colonial regimes for they could not escape deep into the forest sanctuaries as did the Pygmy groups.

By the end of the Nineteenth Century colonial rulers in French Equatorial Africa and the King Leopold's Belgian Territories which were to become the Belgian Congo embarked on a rush to extract vast quantities of forest products. Huge tracts of forest throughout the region were abrogated to European concessionaires, for the most part trading companies in the business of extracting and exporting forest products. Throughout Francophone Africa, tenure over forests was based on the colonial extension of the principles of Roman law, which held that any "unoccupied" land where written ownership documents did not exist, belonged to the colonial State. Virtually all forests thereby were opened up to colonial control and any formal recognition of land rights of indigenous peoples was lost.

Famine, depopulation and horrendous human exploitation ensued. The colonial administration's treatment of Africans in King Leopold's Belgium Territories epitomized the brutality of the day. In campaigns to amass vast quantities of rubber for the new European motor industry, ruthless rubber collection quotas were leveled on the forest dwellers. Photographs from the era show giant woven baskets filled with severed human hands, the punishment dealt those workers who did not meet their quotas. Some studies



have suggested that within a matter of years at the beginning of this Century, up to one half of the entire territory's population had been killed in the course of this macabre colonial enterprise.

In countless cases colonial administrators coerced Bantu villagers into forced labor for public works, primarily road and railroad building. Whole communities were forced into engaging in compulsory production of cash crops such as cotton, cocoa and coffee for the State. While more difficult to control and discipline, many of the region's hunter gather groups were also brought into the colonial enterprises, forced to provide logistical support and field labor for their village patrons who no longer had the time to tend their fields.

As hunter gatherers entered this exploitive system, the traditional symbiosis between the Bantus and Pygmies gradually evolved into what the anthropologist, Bahuchet, termed 'an authoritarian system bordering on slavery' (Bahuchet, 87). In the period between the First and Second World Wars colonial administrators in the Belgian Congo instituted a system of indirect rule of the cultivators over the hunter gatherers. Through a system of "Circonscription Indigene" overseen by the Territorial Administrators, local political control by sedentary farmers was ensured. The result set a precedence that has carried into the present with ominous consequences for the region's indigenous inhabitants. "For the first time customary land rights of the farming population were enshrined in law that effectively disenfranchised the hunter-gatherers; the villagers succeeded in

monopolizing access to justice through tribunals, which settled most local disputes" (Oxfam, p. 13).

In the 1930s French Equatorial Africa colonial administrators introduced a "Taming" policy to help Pygmies wean themselves of their dependence on the villagers. While the purported aim of this policy was to "emancipate" the oppressed and backward Pygmy populations, the real colonial purpose was to make them fully dependent on the colonial administration and ensure their participation in production activities and the development of the colony.

### **C. Nation States' and "Their" Forests;**

#### **Taking Over Where Colonial Regimes Left Off**

Many of the precedents relating to the disenfranchisement and exploitation of forest dwellers established during the colonial era in central Africa remain in force in the modern, post-independent nations of the region. After Independence, some French-speaking African countries tried to amend the regulations on forest ownership, but, generally, the legislative texts creating communal forests were not applied (FAO, 1982). Other newly independent countries decreed outright that forest lands, if not all national territory, belonged to the Nation State. This resulted in the maintenance of the status quo in which the entire forest area was, again, considered the property of the State.

In Zaire, the former Belgian Congo, for example, the General Property Law of 1973 abolished the category of "native lands" that

had been recognized under customary tenure. All land was made state domain. Today the only legally secure titles to land are those with officially registered titles as private concessions granted by the national government, a small percentage of the national territory. In Zaire, President Mobutu Sese Seko declared Pygmies "emancipated" and obliged to live in model roadside villages. This experiment was soon abandoned as many took ill and returned to the coolness of the forest and the corrupt Mobutu regime became preoccupied with other pressing economic and social problems.

In Gabon, the government has continued the French colonial policy of denying the validity of customary titles to land. Secure title to forest lands (or any other) can be obtained only through written registration with the state authorities which can then lead to receiving a private individual title or lease. Private individual title to state land is ceded by the state authorities for an initial five year period and definitive title can be acquired once the land has been shown to be developed (Land Tenure Center, 1986). This requirement of proving that land has been developed is a common feature of land tenure in many countries and has been shown repeatedly to have negative ecological consequences for primary forest lands. As is the case in other tropical countries such as Brazil, developing land for the purposes of obtaining title more often than not means either converting primary forest or outright deforestation.

In the Congo, a country with still extensive tropical moist

forests, all land is officially owned by the state and all customary rights (and land titles) have been ostensibly abolished. As in Gabon and other nations in the region, the Congo perpetuated the French colonial legal fiction that undeveloped primary forests were "vacant" and thus the sole property of the state. In essence this principle is based on the ancient principle of Territorium Nullius, that vast tracts of lands are "empty quarters" and the domain of Kings and state regimes. This principle negates the very existence of the millions of people living within the forests, making them uncounted and invisible (Lynch, 1990).

Until very recently, it appeared that most, if not all of the national governments of the countries of the Zaire basin were intent upon controlling the direction and pace of forest exploitation without regard for the livelihood needs and perspectives of local communities. National governing elites have replaced the colonial elite power structure. These elites rose through tribal politics and an archaic system of corruption have achieved positions of unmitigated power, immune to the toils and tribulations of marginalized forest dwellers.

During the last two years, however, the worldwide movement toward democracy has started to arrive in force in Africa. Congo has recently abandoned its Marxist orientation and Gabon, Cameroon and even Zaire are lurching toward multiparty elections and real political reform. What successes these countries will encounter depend largely on how long the popular movements can remain viable, and what the current political leadership decides to do in

response.

The popular new trend of holding national conferences is an encouraging development, but should not be expected to produce immediate results. Nor should it be assumed that the present leadership is sincerely interested in multiparty reform rather than symbolic gestures to placate international and domestic criticism. There is hope, though, for the first time since the early years of independence, that a period of democratization will ensue and thereby present an opening for a more equitable and realistic framework for forest management throughout central Africa.

### **III. The Tenurial Conundrum: Searching for Options for Promoting Sustainable Forest Management in Central Africa**

Throughout the central African region, the operative reality of land use and ownership is far more complicated and contradictory than suggested by the straightforward, state-centric legal principles espoused by the nation state's in their written law. De facto authority over and use and management of the region's forests is a complex mix of traditional (customary) forest use practices and rules, modern statutes and laws, legal and business agreements with foreign entities in the form of timber and mineral concessions, and a wide variety of culturally and socially influenced local tenurial arrangements between different ethnic groups. Contradictions between oral customary law and written codes, regulations and statutes that concern tenure rights to forests and other natural resources are exacerbated by conflicting

interests in the forests between local peoples and government authorities. These contradictions often lead to a reluctance by local resource users and government authorities to work out equitable arrangements to manage primary forests for sustainable use and conservation.

There is also a dearth of information concerning the numbers of and differences between people living within or dependent upon the forests and their practices and perspectives. Even well-intentioned development initiatives such as credit programs for small scale investments, extension activities, training and education in community agroforestry, etc. are often designed and implemented without local input or regard to customary laws and land use patterns. One reason for this is that national legal procedures for recognizing customary rights are largely absent or ineffective. In addition, most forest dwellers have little, if any, access to the official decision-making processes that effect the fate of their forest cultures. Instead, national elites unilaterally prescribe and enact laws that arbitrarily assert public ownership rights or impose zoning regulations over vast forest areas. Legal rights are then allocated to favored outsiders (either foreign business interests or national political elites) who engage in extractive enterprises often without regard for long term, ecological consequences or short term ethical ones.

At the same time national governments are largely unable or unwilling to effectively control or enforce forest exploitation practices throughout the region. A particularly severe constraint

in the appropriate exercising of state authority over immense forest regions is the inability of governments to staff, train or pay responsible officials in forest surveying, exploitation, and management. Nevertheless, nation states in the central Africa region have proven their reluctance to genuinely involve forest dwellers in the planning and management of their national forest patrimony.

Multilateral, bilateral and other development organizations have largely failed to encourage the development of systematic equitable and environmentally sound strategies to address tenurial issues related to improved forest management at the local and national levels. Meanwhile, large scale, donor-initiated development projects are being planned in the region that could have major impacts on the forests. Mining projects, railroads, roads, and large scale cash crop and agroforestry enterprises are being forwarded with little concern for the importance of local communities vital role in promoting forest conservation and management.

While widespread deforestation in central Africa has not reached the alarming rate evident in many areas of Asia, Latin America and other African regions, the coming decade is crucial if the integrity of this great rainforest ecosystem is to remain intact (Myers, 90). Unless a concerted effort is made to devise systems of management that promote the sharing of responsibilities and benefits of forest exploitation, central Africa's forest and cultural resources will be irreparably damaged if not lost.

The following steps need to be taken as initial research and policy activities to provide a better analytic base and forge an improved socio-political framework for managing central Africa's forests.

- o A great deal of serious demographic analysis should be undertaken to provide policy makers with a firm foundation of knowledge of who exists within or are directly dependent upon the primary forests of the Zaire basin. The uncounted millions of mostly Bantu migrants who have been flooding into the forests looking for resources to live on need to be accounted for and their resource use practices understood. Similarly, the remaining tens of thousands of Pygmy hunter gatherers need to be counted and their traditional and more modern forest practices analyzed. The traditional relationship between the hunter gather and cultivator cultures might provide insights and options for future forest management practices. Similar initial studies have provided insight into traditional resource practices relating to ecosystem management that hold promise for improving forest conservation in Africa, Asia and Latin America.

- o Areas in which long term forest zone occupants have lived and maintained tropical forest systems should be demarcated and protected from outside pressures whether foreign timber concessions or land hungry migrants. Other areas of still pristine primary forest that have not yet been opened to exploitation need to be



protected, at least for the short term. Pressures on the central Africa's forests are becoming increasingly intense, and high priority areas would benefit by being clearly defined and protected before it is too late.

o Tenurial laws, policies, and local arrangements must be better analyzed and assessed for their effect on forest management. In particular, the contradictions between national and local level policies and laws need to be better understood and eventually resolved. It is clear that local communities of forest dwellers need to gain a greater sense of authority over the forests in which they live. National government bodies need to divest themselves of some of their control and give local peoples a more equitable share of both the responsibilities of forest management and the economic benefits of forest product exploitation.

At the same time, the national governments of the region need to understand how and why it is to their advantage to share the benefits and responsibilities of forest management with local communities. They must be given reasonable assurances that indeed government authorities will retain specific claims and elements of authority over the national forest patrimony. It is a two way street. The problem as is the case in so much of the rest of the world, is that a sense of balance has been lost and governments are ruling for the benefit of a tiny but all-powerful elite, and not for the population at large.

These new more equitable and practical arrangements could

begin along the lines of long term forest leases and contracts between national authorities and local communities. Models of such contracts exist from other parts of the world and can be applied in central Africa, especially today given the new political climate.

o International donor organizations whether multilateral, bilateral or non-governmental need to get their own collective house in order and work much more closely together to provide the conditions and policies that will encourage governments to work in concert with local peoples in an equitable fashion. Increasing interest is being demonstrated in central Africa's forests by the international community - both those groups interested in exploiting it and those concerned with conserving it. All such organizations have a responsibility to promote better forest management predicated on local peoples' and national governments' rights to the forests and the riches that they provide.

## INITIAL BIBLIOGRAPHY

- Bahuchet, S. 1987. "Les Pygmees." *Ethnies* 6-7, Automne 1987.
- Beauchlerk, John. 1990. "Hunters and Gatherers in Central Africa: On the Margins of Development." A draft consultancy report for OXFAM, Oxford.
- Food and Agriculture Organization (FAO) 1982. Tropical Forest Resources. Forestry Paper, p. 51.
- Hart, Terese B. and John A. Hart. 1986. The Ecological Basis of Hunter-Gatherer Subsistence in African Rain Forests: the Mbuti of Eastern Zaire, *Human Ecology*, vol. 14, no.1.
- Kelleher, Stephen. 1989. Anthropological and Ethnobotanical Review of the Mbuti in the Ituri Forest of Zaire, Masters Thesis, Yale University School of Forestry and Environmental Studies.
- Lynch, Owen. 1990. "Whither the People? Demographic, Tenurial, and Agricultural Aspects of the Tropical Forestry Action Plan." World Resources Institute.
- Myers, N. 1989: "Deforestation Rates in Tropical Forests & their Climatic Implications." *Friends of the Earth*, December 1989.
- Peterson, Richard B. 1990. "Kutafuta Maisha: Searching for Life on Zaire's Ituri Forest Frontier." African Development Bank, IUCN, World Bank.
- Repetto, Robert and Malcolm Gillis. 1988. Public Policies and the Misuse of Forest Resources. World Resources Institute.
- Riddell, James C. and Carol Dickerman. 1986. Country Profiles of Land Tenure: Africa 1986. Land Tenure Center.
- Talbott, Kirk. 1991. "Improving Land Tenure Systems and Forest Management in the Humid Tropics of Africa" (draft). World Resources Institute.
- Wilkie, D.S. 1989: "Impact of Roadside Agriculture on Subsistence Hunting in the Ituri Forest of Northeastern Zaire," American Journal of Physical Anthropology 78(4):485-494.
- Winterbottom, Robert, et al. 1988. Zaire Forest Policy Review, International Institute for Environment and Development.