COMMENTARY

LAND REFORM AND CONCEPTS OF OWNERSHIP IN NIGERIA

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Introduction

In this paper, I address the question of land 'nationalization' in Nigeria. Recent changes in legislation have entailed the revocation of all customary rights of possession and transfer, authorizing in their place one national, modern system of land ownership and rights of use, distribution and alienation. As a consequence, all land inside national borders is to be 'held in trust and administered for the use and benefit of all Nigerians' (Francis 1984: 6). This implies important changes in socio-political identities and relations between people and groups, especially in respect of common ('public') and individual ('private') property rights in rural communities whose livelihood depends on the land.

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These changes have scarcely been explored. There is little published data on the impact of legislation 'nationalizing' land or its contribution, through land-use conflicts, to changing representations of person and society and the power relations these encode. Equally scanty is analysis of the legislation as the instrument of a modernizing ruling class in enlarging its private properties and advancing its capacity to accumulate capital by whatever means possible, legal or illegal.

Here, I will use some of my field data to explore these intertwining processes and to evaluate the extent to which they are contributing to changing representations of and relations between person, community and the state in Nigeria. I am currently working with three forest communities inhabiting semi-deciduous and evergreen tropical high forest along the Nigeria-Cameroon border, in an area of the Cross River National Park remote from access roads and accessible only on foot. These communities exploit a series of habitats on a cline from 300 to 1750 metres on the Obudu Plateau. They speak Becheve (an outlier of Tiv, a Kwa language) and Anyang (a semi-Bantu language) and number in total over 4000 people.

Contesting Land

In Nigeria, the Land Use Decree of 1978 empowered local, state and national government administrators to regulate the occupancy, use and transfer of land in the name of greater equality and national 'economic development'.²

- 1. Despite early documentation of land ownership in Nigeria and Cameroons (Meek 1957), it has been difficult to uncover detailed data on the impact of recent legislation on actual rules and practices in the use, management and ownership of land in the moist forest and forest-savannah zones of Nigeria and Cameroon. However, in 1997, I intend to examine customary and magistrate-court land-dispute records, where they exist in regard to the study area, so as to obtain more in-depth data on land conflict resolution and the influence of the Land Use Decree on judgements and subsequent implementation. To my knowledge, only three researchers have published the results of systematic enquiries in the field on the observed impact of Land Use Decrees on land ownership in these zones in Nigeria and Cameroon, namely Francis (1984), Goheen (1988) and Fisisy (1992), though others (Uchendu 1979, Udo 1990) have contributed library-based assessments. This contrasts with Southeast Asia, where there are more adequate empirical data on the influence of national land-law classifications on post-reform agro-ecological and tenurial practices (cf. Poffenberger 1990: xx, 98).
- 2. The colonial and post-colonial state has responded to perceived shortfalls in yields by legislating for large-scale agricultural production: for example, the settlement schemes of the 1950s (Harding 1952); government inducements in the 1970s for farmers to enclose lands so as to create larger production units (Udo 1965, Floyd and Adinde 1967); and a Cross River State local government authority's recent decision to promote 'mechanized farming' on 'larger' farms so as to attract unemployed graduates in agricultural science to use their skills to improve yields per unit area.

The Nigerian government's conception of state and national estate as matching public entities of 1978 is reflected in the National Parks Decree (1990), which empowered the federal government to enclose forests and lands so as to preserve biodiversity for the national good. In law the federal government administers the forests enclosed inside the Park, while state and local governments administer the forests and communities enclosed in the Park's support zone. In principle, therefore, all levels of the state are involved in administering protected forests and communities in the 'public interest', so as to 'protect the national heritage' (World Conservation Monitoring Centre 1991: 1).

Strong market demand and rising prices for bush meat and bush mango, together with rapid population growth, are fanning conflict between, on the one hand, groups claiming common property rights, and, on the other hand, persons or families claiming individual property rights over parts of the village territory. The most aggressive seize blocks of forest and seek to exercise individual ownership over hunting ranges and wild bush mango (irvingia gabonesis) stations. Once they have become too old and weak to trek the ranges, these men intend to give 'their' bush mango stands and sheds to their sons, who still have the 'power' to work in the bush.

'Privatization' of common property resources is most marked in the most prosperous of the three study villages, Okwa, a tropical high forest Anyang community which is the most distant from roads (eight hours' trek). However, being in the midst of thick forest, it is able to harvest bush products for sale to itinerant Ibo traders for high prices. In this village enclave inside the Park, comfortable households reported annual average cash incomes of N80,000 (£500), two-and-ahalf times average household cash income in the other study communities (Ifeka 1996a, 1996b). Some politically assertive households seek to convert a stake or share in the village territory—'general' or common land—into individually owned property. In this they are assisted by kinsmen who live 'out' in town or city, sometimes in government and professional occupations, whose 'modern' educated values encourage them to alienate common resources for the sake of what they call 'economic development' (these men also hope to benefit financially from contracts to promote 'development', e.g. building a health centre, a secondary school, roads, market sheds, etc.). Politically weaker, poorer households uphold their customary right to be allocated annually sufficient land for their subsistence from the common estate. Having fewer educated children, they resist alienation because they wish to manage village lands and forests for their descendants' common benefit. They support a number of recent community resource management initiatives. example, forest villages with contiguous boundaries engage annually in vigorously contested 'scratches' or 'wars' over access to, and use of, the richest hunting ranges and bush mango stations. Inter-village 'wars' are impelling village authorities to impose access levies in cash on non-indigenous traders, which are deposited in a community 'bank' for community use. Levies are intended to restrict access to non-indigenes and to enable the village as a whole to benefit financially from their common property resource.

Land ownership and use disputes are polarising households into the more and less comfortable who support, respectively, individual and common rights of ownership of village territory and forest resources.³ Incipient class conflict is also encouraging the diffusion of modern concepts of private property and associated 'theories' of private gain for the public good. Land is the object of acute competition between three parties: state agencies claiming that the forests belong to the national estate and are, therefore, public property; communities claiming that they exercise common property rights by virtue of inalienable custom; and individuals insisting that they are entitled to exercise private property rights.⁴

Land is contested by people and groups mobilizing different levels of the political system (village, local government, state and federal government) in support of their 'rights'. National and state elites mobilize to gain exclusive possession of blocks. Village territories, communities and cultures have ceased to be worlds in and of themselves in either thought and practice. These conflicts articulate traditional and modern notions of the person and, in doing so, reflect multiple conflictual and dynamic structuration processes. Disputants invoke simultaneously contradictory norms (cf. Caplan 1995, Johnson 1995).

Contesting Common and Individual Rights

Customary Norms

'Customary' norms define a person as animated by multiple spiritual forces including a bush soul that manifests itself as an animal or a transform, e.g. an elephant, buffalo or leopard.⁵ Persons are partible. Authority is multiply structured between youth, elders and priests/chiefs, on the one hand, and women on the other. Authority too is partible. Rights of use are partible and are shared between all male citizens of the village; rights of possession are vested partibly in family heads.

- 3. However, one recent observer (Forrest 1993: 182) disputes the thesis that rural inequality has increased in the post-structural adjustment years since the mid-1980s.
- 4. See *Daily Times*, 18 April 1985, p. 8. In the 1980s, customary tenure was being blamed for alleged falls in food crop yields per unit area. However, Forrest (1993: 184) presents data for south-eastern Nigeria in the 1980s that indicates an annual increase of about 2.7 per cent in food crop yields, which he attributes to the impact of continually rising market prices for farm products.
- 5. Customary representations of the person were similar elsewhere. See Lienhardt 1985, Jackson and Karp 1990 for African conceptions in general, and Ifeka 1982, 1992 for Ibo constructions of the person.

Customary notions of partibility and sharing are reflected in moral and spiritual norms that inform power, however circumscribed. Authority is distributed between, on the one hand, representatives of founding families, village and quarter chiefs who control important secret societies, and, on the other hand, youth who at times seek to impose a majority view on the elders through their role as secret society executives.⁶ Authority is thus 'shared' collaterally among elders and guardians, making their exercise of power consensual and contingent upon smooth networking and alliances between often feuding factions. Authority is also 'shared' vertically with young people, whose executive activities in support of 'custom' empower elders to uphold otherwise severely contested hierarchies based on age seniority, spiritual/mystical powers, and family standing.

The equalitarian theme of 'sharing' a forest resource defined by custom as general or common to all 'brothers' in the village and in other kin-related villages is invariably invoked when hunters fight over access to valued forests rich in small ground mammals. 'Sharing' is also invoked in dispute settlement. For example, the Becheve villages of Balegete in Nigeria and its 'sister' village Matene in Cameroon believe they are descended from the same parents; they say that, because 'our tradition is as one', each is entitled to exploit the other's hunting ranges and forest fauna. These two communities also share some ranges with Okwa, an Anyang enclave community in tropical high forest on their southern boundaries.

In 1989 there was a serious 'scratch' or war over bats involving hunters from all three villages, who were exploiting Matene's bat colonies. The other two villages (Balegete and Okwa) refused Matene's demands to pay an access tax, because as putative 'brothers' and neighbours respectively, they should be able to 'share' and hunt freely in Matene's territory. The three villages were unable in and of themselves to resolve the bat war, partly because they were similar in size, number of guns and contingents of strong-arm youth who carried out raids on each others' territories on both sides of the international border between Nigeria and Cameroon, seizing harvested basins of bush mango, capturing hostages and killing at least two men. As a consequence, the two national governments had to intervene. Officially, they settled the dispute by restoring the status quo ante, so that all three villages exercise equal rights to the disputed ranges and the bat colonies. However, hunters from the three villages are careful to sleep in different sheds. The dispute still smoulders.

The more usual situation is that elders use consensual methods backed by appeal to the village anti-witchcraft ju-ju to resolve outstanding inter-village disputes. But if the ju-ju's mystical power to detect and punish witches is not feared sufficiently, one party often refuses to 'obey' the other. For instance, during Matene's most recent 'bush mango' war with Okwa and Balegete, non-Matene hunters and their village elders refused to 'obey' Matene's demands for the

^{6.} Village-wide secret societies honour ancestral and/or animal spirits and are responsible for upholding current concepts of customary land ownership.

payment of a tax to be allowed access to hunting and bush mango ranges. Fighting flares up periodically. Since villages define their identities in part through feuding over access to common properties or village territories, these disputes may be essential to inter-village and village territorial socio-political relations.

Individual Norms

Individual rights of ownership over planted economic trees and naturally germinating oil-palm trees (eleusinesis guineansis) are recognized in custom. In forest villages, though not Obudu Plateau forest-edge settlements, women own considerable numbers of banana, plantain, African pear and fruit trees, which they may dispose of as they see fit and transmit to their daughters or brothers' daughters. They also own domestic animals and dispose of their own cash incomes, amounting, in wealthier forest households, to over thirty per cent of total household income.⁷ Men own large numbers of banana, plantain, kola and oil-palm trees, which they transmit, together with their own flocks of domestic animals to their sons and, at times, sister's sons. Today, wealthier men are behaving more aggressively, testing customary property rights to the limit, denying the general (customary) right of other village men to clear a bush fallow they formerly cultivated, and seeking to claim fallows as their own private property. They usually make such claims by maintaining some kind of a presence, for example, setting out ju-ju markers, doing some occasional limited clearing or planting, and reducing periods of fallow.

On the Obudu Plateau, in grassland villages several kilometres' trek from the nearest thick forest, powerful elites are mobilizing themselves to carve up more than ninety square kilometres of common land owned by villages and managed in the public interest by a bankrupt parastatal, the Obudu Cattle Ranching Company. The company's collapse has enabled local elites to stake out blocks for their patrons and clients in state and national government agencies to occupy and own outright for private gain if allowed by the state government, the principal share-holder in the bankrupt company, and the federal government, the sovereign owner of all land in Nigeria under the 1978 Land Use Decree. 'Big men' may be given land in exchange for services rendered or may pay some token sum, and local 'small boys' are given handsome 'handshakes' in exchange for making this possible.

As with a similar law in Cameroon, the 1978 Decree encourages the individualization of property, because some national lands can be converted into private property through registration or concessions (grants). Individual rights and personal gain are facilitated by the Land Use Decree and by Park support zone legislation. These practices deny the guiding principle of customary tenure, the

^{7.} At 1995 rates of exchange between the Naira and sterling, this amounted to N24,000 or £190.00 per annum. See Ifeka 1996a, 1996b.

principle of inclusion or incorporation through social adhesion and identities based on birth into the community, age, ritual rank and esteem (cf. Werbner 1980). In excluding collateral claims, inclusive (customary) rights are being converted into exclusive and singular (private/public) rights of possession. The Land Use Decree thus discourages the continuance of customary community property rights: community titles may not be legally enforced because in federal law traditional village authorities are no longer formally recognized as the owners of the land. withdrawal of formal recognition explains, in part, why the traditional landlords of the Obudu Plateau were unable to obtain a ruling in their favour that the Obudu Cattle Ranching Company should pay the landlords annual rents for land they claim they lease to the Company for its use. At the same time, the traditional landlords are quietly 'dashing' friends and allies with blocks of land for farming and residential building, thus converting customary into private property rights.

National Norms

'National' norms protect the sovereign right of the state and its local government functionaries to own and control the use and transfer of land in the 'imperative interest' of national 'economic development'. The concept of 'public lands' has nowhere been clearly defined, in either contemporary or colonial legislation.8 It may be agreed, though, that the phrase 'public' and its implied antonym 'private' invokes, albeit covertly, the Western political ideology of 'good' government by a public agency—the state—on behalf of private citizens, that is, civil society. Thus, individuals (citizens) may exercise the (private) right to occupy and transfer land at the discretion of the (public) bureaucracy.

For example, in the early to mid-1970s, senior army officers took possession of common land on the Mambilla Plateau and developed cattle ranches (perhaps this experience encouraged Major-General Obasanjo's government to pass the Land Use Decree to give such acquisitions legal standing). By the 1980s the Mambilla Plateau had been carved up by elites, the extent of common lands greatly reduced, and many villagers dispossessed of their customary titles and means of subsistence.

Elites are fond of invoking the principle of 'national' or 'public' good to authorize the acquisition of lands in their own names and for their private gain. In doing so, they help reproduce the modern notion of society as being divided into public and private spheres. Similarly, they push the modern notion of the singular person exercising exclusive rights of use and management, and deny the partibility and multiple structuration of customary authority and the person. Other avenues for the diffusion of modern concepts are the decisions made and implemented by Land Use Allocation Committees, regardless of political resistance to 'nationalization' by some sections of rural communities.

Regimes

These ideological constructions transform tenurial relations into regimes (Foucault 1979), that is, normative regulations concerning the putative reasons for which, and mechanisms whereby, land may be allocated by different criteria between people, groups and the state.

In this connection, in what respects may the ideological construction that people put on land use and rights of possession in densely populated zones differ from those of communities which inhabit sparsely populated areas within the same broadly similar ethnic area? Do tenurial regimes in densely and sparsely populated areas, where cultivation is carried out by more and less intensive methods respectively, encode different notions and expressions of balance between people, groups and land? For example, the Becheve people of the Obudu Plateau and lower forested slopes live in small, scattered settlements in large village territories held in common. Becheve still practise land-extensive shifting cultivation, and like their forefathers at the turn of the century, they regard hunting tracts, streams, bush fallows and relatively undisturbed forest as diffuse points on a continually unfolding, spiritually differentiated landscape (cf. Mansfield 1908: 92). By comparison, the Boki people live in large compact settlements in village territories held in common on the more densely populated and generally deforested Obudu plains. Boki have responded to population pressure by practising a mix of shifting and more intensive cultivation. Nowadays they share tightly demarcated boundaries with neighbouring villages and, unlike their forefathers, they see fallows, farms and patches of disturbed forest as precise points on a bounded landscape differentiated by occasional shrines dedicated to the ancestors of founding families and antiwitchcraft protection spirits (ju-ju) (Ifeka, fieldwork data).

Given rapid population growth, widespread deforestation and erosion caused by annual burning for farms and tree-felling for fuelwood, more sustainable methods of cultivation and exploitation of remaining forests are imperative if some forests are to be conserved to protect remaining flora and fauna and watersheds. A strategy that has had some success elsewhere, and which should be trialled in the Park, is community stakeholding in endangered plant resources (i.e. rattan/raffia stands) used in making house roofs and mats as well as in tying sticks used in fencing; also, several men could form themselves into gorilla/elephant stakeholder groups who would seek to reduce hunting so eco-tourists could pay stakeholders to view or sight herds from hides. But there is a catch: implicitly, stakeholder groups claim exclusive rights of ownership, so stakeholding might encourage the diffusion of private property rights in the heart of the forest. Such developments

9. Depending perhaps on their study area and classificatory predilections, Lagemann (1977: 23) offers a fourfold classification of farming and residential space, which he identifies with different types of usufructory right, while Chubb (1961: 57) and Floyd (1969: 58) offer fivefold classifications.

have been described as 'creeping privatisation' on 'public' lands enclosed to protect biodiversity (Beinart 1987: 15-19).

Different land-tenure systems therefore articulate conflicts between comfortable and poor households, whose interests are in individual (exclusive) and customary (inclusive) titles of ownership and use respectively. Land claims encode power contests between sections of rural society. Tenurial regimes are conflict-ridden systems of power. In principle, each set of claims authorizes a different, and contradictory, concentration and dispersal of titles to resources between, respectively, village communities, their common properties (village territories), individuals and the state, representing the interests of the 'national' or 'public' good. These contexts suggest some changes from a past in which communities were, in and of themselves, arenas of conflict over status and ritual power offset by an ideology of balance achieved through sharing. Today, the foci of conflict and associated conceptions and practices of rights of possession over land are infinitely more wide-ranging: local-level processes of political and economic accumulation interlock with regional, national and international forces of property accumulation. However remote from roads, these communities on the Nigeria-Cameroon border have ceased to be arenas of conflict only in and of themselves (cf. Mukamuri 1988).

Conclusion

Let me now begin to draw the threads of this account together. I have suggested that legislation creating a national system of land tenure reflects the Nigerian state's interest in appropriating wealth-creating resources for 'development' activ-Arguably profitable national ventures include agricultural development projects to raise annual yields of food crops ('Feed the Nation'), the exploitation and sale of natural assets (rivers, forests, off-shore mineral reserves, etc.) to shore up the state's hard-pressed currency reserves, the conservation of biodiversity and the 'development' of wilderness tourism through the preservation of large blocks of forest. The state's advisers also know that maintenance of the biological 'core' of life enables continuing capital accumulation, 10 so that enclosing forests inside Parks for their preservation can be a government priority as was the case in Nigeria under President Major-General Babangida.

10. We may agree with Anderson and Grove (1987: 5) that nostalgic visions of Africa as a natural wilderness obscure the interest of the African and Western state in retaining a fundamental core of genetic stocks as a platform for biologically engineered tropical reconstruction (cf. Grimes 1972). The role of the biological core of life in enabling capital accumulation is not a theme that most ecologists address, but see Anon. 1992, Shiva 1991.

Of course, the role of land-allocator also gives modern elites—state and local government functionaries, as well as traditional elites acting as village authorities—many opportunities to profit personally, usually by demanding a 'commission' in return for land grant favours. Land 'nationalization' thus articulates the modern African state's class character in economic terms (cf. Leys 1976: 43) as well as expressing a dominant-class ideology. State functionaries and other modern political elites assume that land nationalization is a good thing, because in their opinion it enables 'backward' communities to substitute 'unproductive' (unprofitable) tenurial and agricultural practices for 'productive' techniques that will raise yields, feed a rapidly growing nation and transform cultivation into a highly profitable economic activity. Functionaries also express their class role in their belief that a national system of tenure will remove the many different rules of customary tenure that they believe obstruct economic development and modernization. They may note resistance to the reforms on the part of kin groups and communities who cling to customary rules of tenure-i.e. common ownership of all resources located inside territory boundaries—as markers of their cultural (ethnic/sub-ethnic) distinctiveness compared to neighbouring communities. But in their view, sooner or later these residues of an 'uncivilized' past dominated by cultural difference will enter into oblivion: communities should be absorbed into a state-directed national system of land-tenure under which a uniform national economy and culture will evolve.

I would like to suggest that these reforms may become a vehicle of the state to subvert the individual's consciousness by turning a once alien (that is, colonial) notion of people-land relations and of exclusive rights in land into what Benjamin calls 'covert common sense' (Benjamin 1988: 23). The state is engaging in mystification even on the nation's forested frontiers—that is, in the symbolic condensing of an idea so that it becomes a diffuse notion rather than a 'thinkable or talked about, focused-upon concept', a 'prerequisite for turning an erstwhile covert ideology into covert common sense' (ibid.). Is the state becoming a vast enterprise in cultural engineering, seeking to set itself up as a bureaucratically administered 'Over-self' into which citizens should merge their customary and local identities (ibid.: 25)?

Reviewing his regime's progress, Major-General Babangida said that he and his advisers had worked hard to 'change the minds of the people'. They believe that 'Nigerian...society is now highly sanitized' in the sense that they have compelled reluctant 'indisciplined' citizens to assume their 'basic civil responsibilities' (West Africa, 22 February 1993, pp. 281–5). All in all, they have bettered the condition of 'our people' by providing for the absorption of local communities in the Nigerian State's 'pragmatic ideology of development' (Turner 1976: 67). This is a sombre note on which to end.

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