

**BAKWERI ANCESTRAL LANDS SHALL NOT BE ALIENATED WITHOUT  
THE CONSENT OF THE NATIVES**

*Submission presented for the Bakweri people by Professor **NDIVA KOFELE-KALE** during a meeting between the Assembly of traditional rulers, notables and elites of Fako division and a government delegation led by Mr. **Ephraim Inoni**, Deputy Secretary-General at the Presidency, to discuss the Presidential decree privatizing or selling the Cameroon Development Corporation held at the Buea Municipal Council Chambers on Thursday August 18, 1994.*

We are gathered here today exactly 34 days since Presidential Decree No. 94/125 on the privatization or sale of the Cameroon Development Corporation (CDC), among 14 other state and parastatal companies, was assigned. In a perfect world, this meeting would have taken place much earlier and most definitely before the decision to include CDC on the list of endangered companies was taken. However, imperfect humans that we all are, we recognize and accept, even if grudgingly, the imperfect world over which we preside, where what “is” is a far cry from what “ought” to be. So, although this meeting is 34 days, we are glad nevertheless that it is taking place. Whether by accident or design, **Decree No. 94/125** was signed on 14<sup>th</sup> July; the day French people the world over were celebrating the 205<sup>th</sup> anniversary of their triumphant liberation from the clutches of feudalism and monarchical domination. That day of triumph for the French became for us, the Bakweri, the beginning of our apocalypse. For if what was signed on that date goes through (and Minister *Inoni* has asserted here this morning that the privatization of the CDC is already 60 % with more to come!), it would condemn the Bakweri, an already beleaguered people, to a form of servitude so odious as to be beyond imagination. I say so precisely because it would be subjugation entirely designed, authored, and ultimately executed by Cameroonians against other Cameroonians. **WE PRAY TO GOD THAT THIS WILL NEVER COME TO PASS!**

It remains our hope that we, i.e., Government and the Bakweri People, can profit from the opportunity afforded by this meeting, belated though it is, to speak frankly, honestly and

with all our cards on the table. I was particularly heartened that Minister Inoni in his opening remarks did not use this occasion as a pulpit from which Government pronouncements are delivered *ex cathedra* to a subject people.

Against this Backdrop, permit me to present the outlines of the Bakweri case against the privatization or sale of the CDC leaving for our leader and Paramount chief Sam Endeley the later tasks of putting flesh and meat where appropriate.

Privatization is not a Cameroonian invention. Rather, it is a tried and proven method for dealing with problem companies and it operated on an economic logic that cannot be seduced by political rhetoric. As a disciplinary mechanism for correcting inefficiently manages and persistently loss sustaining state and parastatal, it has been endorsed by the World Bank and the International Monetary Fund (IMF) and included as one of the conditionalities in their Structural Adjustment Programs in the Third World. Ultimately, therefore, a privatization exercise to be worthy of respect must conform to the internationally-accepted canons of economic logic that undergrid it and which furnish the yardstick against which its appropriateness for CDC must be measured.

We asset, therefore, that as an antidote, privatization is inappropriate for the CDC for two basic reasons: 1) it is an efficiently-managed parastatal; and 2) its account is in the black notwithstanding some difficult periods in the recent past. On the basis of the government's own pronouncements and publications, it cannot be seriously argued that CDC is currently a troubled company therefore its inclusion on the list of endangered companies defies both common sense and economic logic.

To the extent that privatization involves the sale of some, if not all, of those assets of the CDC then we, the Bakweri, cannot remain mute. For the most valuable asset of the CDC are the rich and fertile lands occupied by its diverse plantations, buildings and factories. These lands account for almost 60 per cent of the most arable lands in Fako division. Herein lies the crux of the problem. The CDC does not own these lands; they belong to the indigenous inhabitants of Fako Division.

They have instructed me to declare here today, much as they did on the 22<sup>nd</sup> of July, and to do so unambiguously and unequivocally that their ancestral lands, their collective

patrimony shall not, cannot, and will not be sold/alienated/transferred or what-have-you to non-natives without their consent.

These lands, our leader and Paramount Chief Sam Endeley will shortly expound, were forcibly expropriated from the Bakweri by the Germans at the turn of the century. They were subsequently repurchased by the British Colonial administration at the tail end of the Second World War and declared “Native Lands”. This declaration was subsequently endorsed in a special resolution on Bakweri Lands adopted at the Sixth Meeting of the United Nations Trusteeship Council in March 1950 (we refer you to page 41, paragraph 178 for the exact language of that resolution).

Lands declared by positive law to be Bakweri lands were then placed under the custody of the Governor of Nigeria who held them in trust for the native inhabitants of the areas concerned. Ordinance No. 74-1 of July 6, 1980 which declared certain lands to be “national lands” has been interpreted to include all of the lands currently occupied by the CDC. However, a careful construction of articles 14 and 2 of that ordinance will quickly disabuse anyone of this fanciful notion that Bakweri lands under temporary occupancy by a tenant on the basis of a long-term lease are “national lands”!

Besides the weight of legal opinion treats the vesting of these lands in the Governor of Nigeria (subsequently the Government of Cameroon) not as a transfer of ownership but merely as a conferral of a power of supreme trusteeship. This is the view advanced by *C.K. Meek*, the foremost authority of his time on land law in British colonial Africa, in his magisterial study **Land Tenure and Administration in Nigeria and Cameroons**, pp 355-356; it is shared by Judge *T. O. Elias*, the first African to be elevated to the Presidency of the International Court of Justice, in his equally seminal work on **Nigerian Law and Custom**; and equally endorsed by the eminent Mr. Chief Justice (now Paramount Chief) *Sam Endeley* in a series of well reasoned and exquisitely-crafted Counsel’s Opinion Letters addressed at their requests, to various ministers of this Republic over the last two decades.

These Lands, which were held in trust for the Bakweri people, were then leased to the newly-created statutory corporation – CDC – in 1947 for a term of 60 years. The CDC

itself has acknowledged its status as a tenant for a definite term. For instance, Chief *P.M. Ewusi*, a founding member of the Bakweri Land Committee that took the fight for the return of Bakweri lands to the United Nations, appearing before the INGLIS COMMISSION OF INQUIRY in 1967 read into the record page 1 of the CDC report for the period 1947-1951 wherein the corporation acknowledged that the lands it occupied were leased native lands (we refer you to page 123 of the Report of the Inglis Commission of Inquiry).

Even more significant, the corporation, being the model tenant that it has been, set aside sums of money annually in its operating accounts as ground rents that it paid to the public treasury (first to Nigeria and on independence the West Cameroon Government) not to the land owners. This information is squarely in the public domain and a quick perusal of the annual reports of the CDC will establish this fact.

The CDC lease will expire in less than 15 years. The Bakweri have no present intention of renewing that lease and are organizing themselves to the back their lands come the year 2007. In light of this, they expected two things from the government – a government of and for the people. First, that government would enter into discussions with their accredited representatives to work out a smooth and peaceful transfer of these lands to their rightful owners. Second, the government would put on notice any foreign investors and creditors of the attendant risks of placing huge sums of money at the disposal of a corporation whose most valuable asset – land – would revert to its rightful owners in less than 15 years. And that Government would then encourage these financiers to enter into direct negotiations with the Bakweri Land Owners to work out the terms of any long-term investments. Neither of these have been done but it is not too late and this meeting is an auspicious beginning.

Finally, the attempt to dispossess a minority people of almost two-thirds of their lands implicates some fundamental human rights. Cameroon is a signatory or party to all the pertinent human rights instruments that address the question of minority land ownership and is bound under the law of nations to respect these protected rights.

Let us recall that when in 1960 Cameroon became a member of the United Nations, it pledged itself to take joint and separate action, in cooperation with the organization, for the achievement of human rights goals set forth in article 55 of the U.N. Charter. Let us further recall the lofty pronouncement in the Universal Declaration of Human Rights that “... it is essential, if man is not to be compelled to have recourse, as a last resort to rebellion against tyranny and oppression, the human rights should be protected by the rule of law.”

We the Bakweri, are counting on our government that the rule of law will protect our individual and collective right of ownership, possession and use of our ancestral lands.

Failing which, we serve notice of our resolve to pursue this matter in all international fora open to us including, if necessary, the United Nations until we are vindicated.

**IF FIGHTING FOR OUR LANDS IS WRONG THEN WHAT IS RIGHT?**

**THANK YOU.**

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