

## **Government Double Standards: Land Rents, Royalties and the Bakweri Land Problem**

When the case pitting the Bakweri Land Claims Committee (BLCC) against the State of Cameroon came up for consideration before the 34<sup>th</sup> Session of the African Commission on Human & Peoples' Rights, the head of the Cameroon delegation, Dr. Dione Ngute, wondered why the Bakweri wanted "to be treated differently" from other Cameroonians. He was referring to the Bakweri and BLCC demands that land rents and royalties be paid to the indigenes of Fako for the exploitation of their indigenous lands by the CDC for agro-industrial purposes. In asking the question, the minister was simply expressing a view common within Cameroon Government circles that the CDC lands were "government land" and that consequently, local communities could not lay claim to the revenue generated from the exploitation of the lands in question.

It should be noted that back in October 2002, the Minister of Finance, Mr. Michel Meva'a m'Eboutou, had expressed essentially the same view in an interview granted to *Cameroon Tribune* (October 22, 2002) immediately following the sale of the Tea estates of the CDC to Brobon Finex, the so-called "South African Consortium". When asked who owned the CDC lands which have been a source of dispute between the Government of Cameroon and the indigenous people of Fako, Mr. Michel Meva'a m'Eboutou was categorical:

**"Elles restent la propriété de l'Etat.** Elles sont plutôt données en bail emphytéotique dans le strict respect de la législation et de la réglementation en vigueur et sous la vigilance du ministère de l'Urbanisme et de l'habitat". [***"They remain the property of the State. They have been leased in strict conformity with existing legislation and regulations and [have been placed] under the supervision of the Ministry of Town Planning"***].

In the Minister's and Government's view, the CDC lands belong to the Government (even though the 1974 land law says the contrary). Consequently even though the lands have allegedly

been leased to Brobon Finex, the people of Fako have no business in the matter and should not expect any part of the land rents because these lands "**remain the property of the State**".

True to the Government's position, the secret "*Convention d'actionnaires*" or Shareholders Agreement of October 18, 2002 between Brobon Finex and the Government makes no mention of the rights of the indigenous land owners or of any financial gains for the local communities -- this in total disregard of World Bank policy that requires the preparation and implementation of an *Indigenous Peoples' Development Plan* (IPDP) for groups such as the Bakweri who are affected by World Bank-sponsored activities.

It is also worth noting that even though the Government has consistently insisted that the lands on which the Tole tea estates stand were leased ("*bail emphytéotique*") to Brobon Finex, the shareholders agreement does not make a single reference to this lease. In fact, all that the document specifies is that shareholding of the Cameroon Tea Estates (CTE), the company created to manage the estates, will be apportioned between Brobon Finex (Pty) Ltd (65%) and the Republic of Cameroon (35%) with the Brobon Finex ceding Five (5) % of its shares to the workers within two years. The agreement also bars Brobon Finex from selling its CTE shares to a third party within a five-year period - except in under very restrictive conditions agreed to by the Government of Cameroon. Again, the nine-page agreement does not make reference to any lease agreement, although credible reports have it that CTE was awarded a 70-year lease, with all ground rents payable to the State. Why the secrecy and lack of transparency?

Whatever the case, the Government of Cameroon seems to be claiming, via its resistance to Bakweri land claims, that it neither recognizes nor applies the universal *Principle of Derivation* whereby a percentage of the revenue accruing from the exploitation of natural resources in a given region is shared among the communities from which this revenue accrues. Hence Dr. Ngute's statement about the Bakweri wanting to be treated differently from other Cameroonians.

But is Dr. Ngute's view actually the Cameroonian reality? Are the people of Fako asking for rights which other Cameroonian Communities do not have and have never had, or, are the people

of Fako being denied basic rights that other communities, particularly those of the South, Centre and Eastern Provinces, exercise on a regular basis? Is there a double standard here? A look at the laws and practices in the Cameroonian forestry sector will answer this question.

## **Royalties and Rents in the Forestry Sector**

### *The Principle*

On January 20, 1994, the Cameroon Parliament passed *Law No. 94-1*, which regulates Cameroon's forestry activities. This law was followed by *decree No. 95/531/PM*, which detailed the implementation of forestry regulations. The 1994 law incorporated the Principle of Derivation (the same principle which the Government has refused to apply to the case of the CDC) and instituted the **Annual Forestry Royalty (RFA)** which is an area tax paid by logging companies. According the law, 40 per cent of logging royalties go to the Local Council(s) where the logging is taking place, 10 per cent to the village communities adjacent to the exploited area area, and 50 per cent to the State. According to the Government, the portion of the RFA allocated to local communities is supposed to be used to build roads, hospitals, schools, provide other social amenities, alleviate poverty and raise living standards

### *The Practice*

Since 2000, the national treasury has paid out **19.2 Billion FCFA** of the RFA to Local Councils and village communities whose forests are exploited by logging companies. It is worth noting that these forests are defined under the 1974 Land Tenure Act, as being on National Lands. For the CDC lands, defined in the same Act as Private Property of the natives of Fako, royalties on this private estate is confiscated wholly by the State!

Recently, on December 20, 2003, the Minister of Finance, Michel Meva'a m'Eboutou handed out about **3.2 Billion FCFA** to 41 Local Councils and village communities (the bulk of them located in the "Forestry Exploitation Zones" of the Center, East and South Provinces) during a lavish ceremony in Yaounde.

According to the French language daily, *Mutations* (December 22, 2003), Mr. Meva'm'Eboutou, in his address to the lucky recipients, described the RFA as:

une rente assise sur le superficie, indiquée dans le titre d'exploitation forestière attribuée par la ministère de l'environnement et des Forêts, assimilable à un loyer à payer annuellement par chaque détenteur d'une parcelle de forêt- concession ou vente de coupe- qui lui est octroyée par l'Etat .

*[an annuity based on the surface area indicated in the exploitation license issued by the Minister of Environment and Forests, and is comparable to a rent to be paid annually by each holder of piece of forest - a concession or a "ventes de coupe" (Sales of Standing Volume) - given to him or her by the State].*

In other words, indigenous communities whose forests are being exploited by logging companies are paid royalties, and these royalties are proportional to the exploited surface area. During this ceremony, the RFA cheques handed out by the Minister ranged from over half a billion FCFA for the communities with the largest exploited surface area to about 1.6 million FCFA for those with the smallest. It should be emphasized that the RFA is an annual rent and that for most local councils the rent money generally constitutes about 80% of their annual budgets – a life saver and development incentive indeed.

### **The Double Standard**

So contrary to the claims of Government officials, including Minister Meva m'Eboutou himself, the **Principle of Derivation is alive and well in Cameroon** but is only applied in select regions of the country. While some communities deserve to be paid royalties for the exploitation of national lands and resources, others do not. This explains why only a handful of favoured local councils and communities have received royalties amounting to about 20 billion FCFA in just three (3) years while in close to 50 years of protest and activism, the people of Fako have not received a single penny from the billions of Francs that the CDC has been paying annually to the national treasury as land rents, in conformity with the *Head Lease Agreement* of December 29, 1960 between the Commissioner of the Southern Cameroons and the *Cameroons Development*

*Bakweri Land Claims Committee (BLCC)*

*Corporation* (Registered on March 15 1961 as No. 42 at page 42 in Volume 24 of the Lands Registry at Buea). After all, as it is often stated with spite, “Fako na Government land”...What is even more troubling is that while royalties are paid on lands classified as “national lands” by Law, the indigenous natives of Fako are denied compensation for the exploitation of their estate, defined by Law as “private property.”

As Barrister *Ngale Monono* aptly pointed out in a posting on the *Fakonet* Internet forum:

When it comes to paying royalties to communities of the ruling clan the Biya/Musonge regime is very prompt... The communities and council areas concerned are informed to immediately come for their cheques... When it comes to the Bakweri we should not get a brass farthing for our own land. It has even gotten into the national psyche. You hear Cameroonians talking of '*le bois de l'est*', '*le bois du centre*' then of course they say '*notre pétrole*'. Theirs is for them but ours must be shared...

## **Conclusion**

What the recent flurry of activity in the forestry sector has shown is that beyond the legitimate claims stemming from their historical rights to the lands being exploited by the CDC, the people of Fako are entitled, even more so than those in the *forestry exploitation zones* of the South, East and Centre provinces, to directly receive the revenue generated from the exploitation of their indigenous lands and resources. As *Mola Njoh Litumbe*, Secretary General of the BLCC has unequivocally stated:

The recent fanfare of distributing royalties to Councils in whose areas timber companies have been given exploitation licences only confirms the double standards of Mr. Biya's Government to spite the Bakweri, by denying them ground rents on their private lands which are similarly occupied and exploited. And so, the struggle of the Bakweri for the restoration of their ancestral land rights, through their accredited *porte parole* the BLCC, is not only just, but must be vigorously sustained until Government recognises that the Bakweri in Fako Division deserve similar treatment as other Cameroonians.

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