

THE NATIVE ADMINISTRATION AND FORESTRY REGULATIONS IN COLONIAL BENIN

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Abstract

This paper discusses the Benin Native Administration and forestry regulations in colonial Benin. In colonial Nigeria, the Benin Native administration was a two edge structured system, that served the interests of both the colonial authorities and the indigenes or local people. In the context of forestry regulations and exploitation, it was saddled with the responsibility of overseeing the 'unreserved' or 'free areas' of the forest; that was left out of what was constituted into reserves and out of bound to indigenes for farming or extracting any resources. In essence, the 'unreserved' were the only areas the local people could access to get timber to meet their local needs. Therefore, native administration's regulations were implemented to protect these areas against foreign firms' intrusion. The ideal goal of the regulations as perceived by the people was that the unreserved should be opened only for indigenous extractors and for domestic supplies. This paper however found that the native administration was merely an organ through which the colonial authorities further appropriated the unreserved areas of Benin forest for the crown. It relies on both primary and secondary sources of information for analysis and interpretation.

Keywords: *Native Administration, Unreserved, Forestry Regulations, indigenous extraction, Timber Permits*

Introduction

The British conquered and assailed the Benin Kingdom into the British Empire in a most dramatic and brutal invasion of February 1897. Following the conquest, the traditional political institutions were displaced while the British took over the reign of Benin thereby marking the beginning of colonial rule. The native administration played a significant role in local government and forestry matters during colonial period. In the aftermath of the British conquest of the Benin kingdom and imposition of colonial rule in 1897, the Native Council was constituted which was subsequently transformed to Native Administration following the restoration of the monarchy in July 22, 1914.¹

The British conquest set in a seventeen year period of interregnum between 1897 and 1914 when there was no king except for the Native Council that was ambiguously made up of British loyalists that exercised authority during the period. However in 1914 the Benin monarchy was restored with Oba (king) Eweka II while the Native Authority was reformed as the Native Administration (hereafter refers to as administration) with the Oba as the head.² The first and a major step taken by the British upon the imposition of colonial authorities (henceforth refers to as authorities) was to appropriate the Benin's vast forests land and create large reserves, leaving a fraction of the forest as unreserved or Free Area lands. While the reserves were protected for colonial exploitation for the crown, the free area on the other hand was for the indigenous exploitation and managed for the advantage of the local people.³ Yet, trees therein were not open for extraction without the authorisation of the colonial forestry department through the native administration.

So, the administration had to swing into action in allying to this responsibility. The creation and regulations of reserves is not new in academic discourse. For example Hellermann and Usuanlele had explained the strategies adopted by the colonial authorities for the creation of forest reserves as well as the role this process played in altering politics of the local people.⁴ They examine the nature of relationships that existed between the authorities and the administration especially with regard to forestry exploitation in Benin. Also, Egboh brings to light the different forestry policies that guided timber exploitation in the different concessions within reserves and their implications for the indigenous forest owners.⁵ Thus, these respective scholars have touched on timber exploitation and the associated forestry policies guiding specifically forest reserved areas. This orthodoxy scholarship somewhat neglected the management and regulations guiding the 'Unreserved of Free Areas' which is the focus of this paper. It covers the

colonial Benin Division which corresponds to the seven area councils of Egor, Ikpoba-Okha, Oredo, Ovia South-South-west, Ovia South-east, Orhionmwon and Uhunmwonde of Edo State in contemporary period.

The Native Administration and the Unreserved Forest Area

The British imperialism in Benin as in most part of the British Empire was influenced by economic interest in what it stands to benefit.⁶ In particular, the Benin kingdom was endowed with vast expanse of forest rich in timber and rubber products which were sought after in Britain and other parts of continental Europe. Forest products like timber became very important in the European's economy where it was utilised for the production of ship, aeroplane and vehicle parts.⁷ These industrial demands heightened the desire to enter the tropical forest of Benin where there were abundant resources.

Prior to colonial authorities, Benin people had free access to their vast forest and could exploit it for various purposes like farming and harvesting the forest woods for building, carving and cooking. Upon the imposition of authorities, a revolutionary change occurred which made the hitherto landlords or forest owners to become tenants in their own ancestral land. The regulations wrought in by the British had the consequence of creating scarcity of forest products as well as land for farming.⁸ In the midst of this challenge, the administration set up in 1914, rose to the occasion in order to manage the difficult situation of the limited land left after several forest reserves had been created by the authorities. For example, by 1937 when the entire reserves and their dimensions were fully constituted, about 2,841.18 square mile of Benin land became reserves.⁹ This according to Igbafe represents more than 30 per cent of the total Benin territory while Hellermann and Usuanlele argue that about 60 percent of the entire Benin land area was converted into forest reserves.¹⁰ Yet more areas were created for colonial rest houses, dispensary and markets in subsequent years which further reduced the area accessible to the indigenes.

The free areas were the only forests land the indigenes could access. It was therefore important to ensure it proper management in order to avoid conflict over land. The administration consequently swung into action to enact regulations that guided the management and exploitation of the free areas.¹¹ This was with the primary objective of protecting the interest of the indigenes with particular regard to timber extraction within the free area. Consequently, about fifty regulations were drafted and monitored by the administration with the backing of the authorities, which purportedly granted the indigenes free access to the free or unreserved area.¹² They were

conditions that disallowed non-indigenes or foreigners, being it private individuals, contractors or firms, to extract timber from the free areas without approval from the administration. It captures succinctly that:

No person who is not of Benin descent shall take any timber from unreserved land without the consent of the Native Authority and subject to such conditions and to the payment of such fees and royalties as the Native Authority may direct¹³

This regulation appears laudable as it was to protect the indigenous rights against marginalisation by the British in forest matters. It could safeguard the rights of the indigenes over outsiders including foreign firms who might want to take undue advantage of their huge capital investment and expertise in timber business.¹⁴ It also placed the local authority i.e. the administration, at the centre of affairs to oversee the exploitation of their forest thereby making their voice heard and giving them some degrees of autonomy. The regulation further ensured that local authority was in place to manage forest products in Benin traditional ways suitable to the people's and contrary to the complex British authorities' style. In this regard, the administration prevented a foreigner other than indigenes, of taking any timber products from the free area without its due approval.¹⁵

The regulation equally mandated prospective indigenous timber extractor to certify the financial obligation of fees and royalties, in order to exploit the free area. It sets the jurisdiction of both the authorities and administration in forestry matters.¹⁶ While the authorities encompasses the reserved areas, the administration controls the free area. Though this division of jurisdiction was not consciously planned by the authorities, it however encouraged decentralisation of power between them for effective regulation. However, these free areas were like the remnant after the authorities had appropriated a greater portion of the people's forests as reserve only exploited for the crown.¹⁷

On the long run however, the regulation did not solve the intended problem of preserving the unreserved areas for the indigenes. For one, they lacked the much needed capital for investment in timber industry, so they could not utilise the advantage this regulation provided. For another and arising from one above, investigation showed that the free areas were still dominated by foreign firms who manoeuvred the regulation and posited indigenes or indigenous firms to front for them as local investors or contractors.¹⁸

It was a sharp contrast to the Benin's unique way of managing their forests in relation to their land tenure and economic activities. The land tenure system and the method of land cultivation i.e. shifting cultivation and

bush fallow encouraged the growth of vast forests area. Indigenes enjoyed fertile liberty to cultivate forests land for crops without any serfdom practice that requires financial obligations.¹⁹ Though the Benin tradition places the Oba as the custodian of the land (king owns the land), he never deprived his subjects of their holdings or arbitrarily regulate their activities to land, which are utilised for the good of the community. Therefore, every indigene has equal rights to the land or forest. According to Osafumwen, the first person to clear a virgin land has the right of ownership over such parcels of land which is passed from generation to generation.²⁰ This did not imply that the authority of the king and other community heads (or Edionwere) over matter of land and forests were not in existence in Benin traditional settings. Conversely, disputes among indigenes within a village or between members of different villages over land were case in point where authorities of the king or village heads were exercised or dispensed for peace.²¹ It is important to note that colonialism rubbed the people of their forests land which were converted into reserves. It consequently hampered agricultural activities as land became scarce for food crops cultivation²²

The administration strengthened its regulations by introducing the Authorisation Permit known as 'Mark of Ownership' which provided that "no person shall take any timber from unreserved lands for export from Nigeria unless authorised to do so by a permit issued under Regulation".²³ 'The mark of ownership' ensured that the area (unreserved) which was limited in size were protected and preserved for domestic utilisation. Although the colonial authorities' regulations did not cover the free area, in reality it must approve of any licence application made to the administration or native authority. Free areas were by implication not protected by the authorities' laws They were opened to everyone for whatever activities which could results to indiscriminate exploitation of timber, deforestation and other environmental hazards.²⁴ To avoid this, anyone who wishes to exploit timber from the free area for export must apply and obtained authorisation with the payment of a prescribed fees and royalties to the administration. The regulation further amplifies that:

The Native Authority (administration) may grant a permit to any person authorising such person to take a specified number of trees for export from Nigeria within a defined area on unreserved lands subject to the payment of the fees and royalties prescribed in schedule "A" of the Forestry Regulations and to the provisions of this part, and to such other conditions as the Native Authority may seem proper.²⁵

In this regard, timber from the free area was presumably to be exploited mainly for domestic or local demands. This could reduce the problem of

scarcity of timber needed in Benin as it prevents greedy contractors from running down the free areas. The question is, how will one differentiate timber from reserved areas and the timbers from unreserved areas? According to the regulation, there were instrument for marking and identifying timbers from free areas which imply that there were equally instruments for marking timber from reserved areas. It was therefore prohibited by law for anyone without the proper licence to possess such instrument.²⁶ It gives a mark of ownership and it is only an authorised person that can possess such. Any mark that was given by any other instrument not authorised by this regulations or the administration was voided. Thus,

No mark notifying the ownership of any timber shall be made on any timber except by an instrument which has been registered and in respect of which a licence is held, unless with the consent of the Native Administration.²⁷

This regulation was for all intent and purpose to eliminate illegal exploitation of free area which was rapidly encroach on by foreign firms that also monopolised the reserved area. The instruments were so regulated that it can hardly be fabricated or forged neither can it be bought in the market. No timber or logs leaves the unreserved forest after it has been felled until this mark and the stamp have been inserted on it otherwise the timber was regarded as stolen and seized.²⁸

Hammer licence

The instruments which authorised mark of ownership of timber were issued under a licence called the “Hammer Licence”. This licence authorised an individual contractor or firms to possess such instruments for use. It authorises the possession and use of a hammer or other instrument for marking timber which were issued by the administration’s Conservator of Forest.²⁹ The Hammer Licence covered all instruments for marking timber and not just hammer alone. It attracted a fee of ten shillings renewable every 31st of December.³⁰ A single Hammer Licence cannot be used everywhere as it has its spatial scope which are usually specified in the licence. In other words, a Hammer Licence from area A cannot be used in area B, except its limit was extended or altered with endorsement on the licence by the Conservator of Forest.

The Conservator of Forest kept a register containing every area and mark in respect of licences that are issued, the name of the licensee and the date it was issued. There were designated marks readily available and assigned to every licensed instrument. It was this mark a licensee inscribed to his timber that secured his ownership of such timber. It was a crime to be

found with timber possessing a mark that is inconsistent with that of the license area. To qualify to apply for a Hammer Licence one must have secured a timber licence or permit to exploit timber from an area, without which the application was rejected.³² An interesting aspect of the Hammer Licence was that it cannot be transferred to another person without the consent of the conservator of forest and such must be backed up with certain financial obligations. Thus

The Conservator shall not issue licence to any applicant who is not the holder of a timber licence or of a permit to take timber, or any licence in respect of a mark which owing to a similarity to any registered mark may lead to confusion, or in respect of a mark which has been improperly used. A hammer licence shall not be transferred except with the consent of the Conservator and on payment of the fee of five shillings.³³

This had the advantage of ensuring that the exploitation of free area of Benin forest was well coordinated while the actual numbers of timber fell were accounted for with increased revenue for the administration. Consequently, “the financial position continues to be very strong, forestry revenue again exceeding all expectations...”.³⁴ A hammer licence may be revoked if the conservator of forest if he is satisfied that a registered mark has been improperly used by the licensee. On the contrary however, it can be renewed for a period of one year on the payment of a fee of one shilling if there is evidence of proper use of the registered mark.

Protected Trees in Free Area

Protected trees in free area were restricted from being felled or extracted without permission. The administration placed a ban on some trees for various reasons which range from religious, age, size, location and the importance of such trees. There were three categories of trees that the regulations forbid a licensee from harvesting; juju trees, trees with small girth and trees within four hundred yards of any markets.³⁵ If a licensee desires any of these protected trees he will have to seek the consent of the administration which implies that a licence for the free area only give access to some and not to all the trees in the area. For example, the *Iroko* commonly known as *Uloko* in Benin was strongly protected because of the belief of it having healing properties and also a tree of royalty.³⁶ Also, trees like mahogany and walnuts among others, which were of quality were protected because of their importance value for export to the crown. Therefore, such trees cannot be felled even when it was within a cultivatable farmland in free area without the approval from the authorities who subsequently made arrangement for felling and export. One method of protecting such tree was

by placing a “Tree Preservation Order (TPO)”.³⁷ Once a tree is declared TPO, no one cuts it down without following due processes even when the area was already permitted for timber felling by the administration. The due process as contained in the regulation requires the consent of the authorities for such felling.

Therefore, the authorities through the native administration used this practice to discourage indiscriminate felling of trees in the free areas. It was a device by the authorities to hide under the façade of the administration to control the unreserved area of the Benin forest. To exploit protected trees therefore, every interested contractor, private individual or firms must obtain permissive right from the colonial Governor (Nigeria) through the administration, in addition to possessing both timber and harmer licenses. The Governor merely consults with the administration- that customarily oversees protected trees- in matter of such application, as the final approval rest with him.³⁸

In essence, the permission or otherwise for felling of protected trees resided with the authorities whose regulations covered protected trees and not the administration. In practice “a holder of licence granted by administration has no authorisation to fell protected trees within free area for domestic market or utilisation”.³⁹ To further ensure that protected trees were fell for export only, after the approval by the Governor has been obtained, the administration takes over and executes it in the presence of the colonial Administrative Officer who will attest to the execution in accordance with the directive of the Governor that it was fell for export. Cutting down a protected tree without a licence or permit was a grievous offence upon which many farmers were charged to court and fined appropriately in Benin. In some cases farmers were ordered to plant a specified number of trees as a punishment for the fell one.⁴⁰

The licence to exploit timber from free area lasted for a period of five years and could be renewed for every five years up to a total renewal period of twenty years, provided that the consents of the administration’s Conservator of forest was sought. Application for renewal is made through writing and addressed to the administration about six months before the date the licence was due to expire. Unlike the reserved areas where the licence gives the licensee or holder exclusive right to all the timber in the approved compartment, the licence for free area does not preclude the owners or licensees from felling timber for domestic purposes such as use for agricultural implements, fences, vessels, buildings, encampments and other works as the local needs may be.⁴¹ The authorities were also at liberty to cut and remove any tree in the course of the construction of any road, tramway,

telegraph or other public work without the consent of the administration and licensee.

This interference from the authorities in area, in which there existed a licensee, tends to weaken the potency of the licence and the regulation itself. Specifically, in 1938 more than ten thousand acres aggregated were appropriated by the colonial authorities for various purposes within the free area with valid license in parts of the division. This did not include areas that were approved for the cultivation of oil palm and rubber plantations for which the seedlings were supplied by the authorities.⁴² This clearly shows that the free areas were not entirely free to local users or indigenes after all, because they cannot extract timber that was labelled 'protected', without a permit. Even with a licence the authorities or administration can override the licence and enter unreserved for whatever reasons termed as public importance or interests.⁴³ The main reason why the authorities or the administration could access already licensed areas was because the free area could only be granted to the indigenes or locals. Therefore, the regulations guiding it were neither binding on the authorities nor the administration that made them. It is important to note that the native administration was the creation or constitution of the colonial authorities hence its regulations appeared not binding on them. Therefore, the administration according to Igbafe were puppets in the hand of the colonial authorities as its members readily dance to the side of the authorities thereby betraying the trust of their people.⁴⁴

The regulation provided that the timber, other than protected trees, required for domestic market must have its logs subjected to manual conversion of planks by hand operated tools and implements. This manual processing of log was energy sapping and time consuming while the final product was not as smooth or straight as that of mechanical processed. Yet the insistence on hand operated tools by the administration was to prevent damage to other nearby timbers that may be caused by mechanised operations. This shows that the regulations were somehow indifferent to local requirements as it places premium on timber for export. From all indications therefore, they seem to support foreign firms which were rich and capable of paying the necessary license fees and royalties at the expense of the indigenous population who cannot.⁴⁵ Since the administration were purportedly in charge of unreserved or free area, it was expected that its regulations would favour the indigenes, but they were amenable to the whims and caprices of the colonial authorities whose main objective was extraction of forest resources for export to the crown.

Conclusion

The forestry regulations were major steps adopted by the Benin Native Administration to protecting and preserving the free areas following the colonial authorities' arbitrary constitution of tract forests into reserves. The regulations covered the securing of licence before one can access the free area as well as the protected trees inundated. These regulations appeared to be alluring as it attempted to prevent the extraction and exportation of timber from the unreserved out Nigeria. It equally intended to make allowance for the people to exploit the resources of their forest specifically for domestic market.

However, the regulations as they finally manifested, did not favour the indigenous people as they became strategies by which the authorities extended its control to areas beyond the reserved. The administration that was responsible for the control of unreserved were susceptible to the authorities, who in most cases fiddle with forestry regulations to favour foreign firms and exportation of timber. Thus, it could hardly grant any permit without the Governor's approval which therefore made the administration a willing toot in the hand of the authorities and instrument of indirect rule. Although the primary objective was to exclude strangers from the unreserved and preserve it to meet local need, the conditions for acquiring the licence for timber and the regular interference of the Governor consequently placed the license and eventual exploitation beyond the reach of the indigenes. By implication, there was almost no unreserved or free area as the entire Benin forests; reserved and unreserved; were infested and exploited for export in energetic manner. Finally, it could be argued that it was an irony of circumstance that the regulations instead of protecting the free area for the local people, ended up protecting it for the colonial authorities and for the crown.

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