

2005

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Recommended Citation

James T. Gathii, How American Support for Freedom of Commerce Legitimized King Leopold's Territorial Ambitions in the Congo, 37 *Stud. Transnat'l Legal Pol'y* 97 (2005).

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HOW AMERICAN SUPPORT FOR FREEDOM OF COMMERCE LEGITIMIZED KING LEOPOLD'S TERRITORIAL AMBITIONS IN THE CONGO

JAMES THUO GATHII*

I. Introduction

In this Article, I challenge the view that the Berlin Conference of 1884-5 was primarily a forum to set out the terms upon which rival European claims could parcel out Africa into colonies and spheres of influence,¹ or as a forum exclusively concerned with the economic motivations of European countries. Rather, I argue that the conference can best be understood as exemplifying at least two modes of 'dominating, restructuring and having authority'² over non-western peoples. The first mode in favor of nonopolistic protectionism of colonial territories as exclusive sources of raw material was primarily favored by European countries. A second mode in favor of freedom of commerce unfettered by territorial, sovereign or other claims of control over colonies was primarily favored by the U.S. delegation to the conference.

I show that the U.S. delegation to the Berlin conference espoused the most liberal principles of commercial freedom in the Congo as a superior governance mechanism to that of colonial territorial annexation. By espousing these principles, the U.S. delegation effectively legitimized King Leopold's designs of making the Congo an international territory free of rival territorial claims by European countries. However, far from making the Congo such an internationalized State, King Leopold kept the Congo to himself contrary to the agreement in Berlin. In effect, King Leopold used his personal relationships with the U.S. delegation to gain sovereignty over the Congo by keeping rival European powers out of the Congo by coaxing them into agreeing to make the Congo open to all of them consistent with the liberal principles promoted by the U.S. delegation. The atrocities that ensued under King Leopold in Belgium Congo were therefore achieved at the altar of the promises of free trade. This Article is therefore related to the theme of this book in exposing the dark sides of the relationship between free trade, peace and development in late nineteenth century international relations.

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II. Leopold's Vision: Commerce as an Antidote to Conflicting Colonial Territorial Claims and How the U.S. Bought It.

The United States was represented by three people at the Berlin conference: Mr. Henry S. Sanford, a credentialed associate delegate and a close confidant of King Leopold II of Belgium³; Mr. John A. Kasson, the American Ambassador to the conference⁴; and Mr. Henry M. Stanley, a naturalized American⁵ explorer who was paid by King Leopold to 'discover' the mineral rich Congo region and the source of the Congo river while entering into hundreds of treaties with African chiefs. Stanley delivered these treaties to the Leopold controlled International African Association.⁶ Like Mr. Sanford, Stanley shared King Leopold's stated goal of establishing free trade along the Congo river and free navigation of the Congo and Niger rivers and attended the conference as a technical advisor.⁷

Although this delegation did not officially represent the United States, the U.S. State Department and Congress endorsed the conference's primary goal of ensuring liberty of trade in the Congo basin, particularly by U.S. citizens.⁸ This endorsement followed intense lobbying on behalf of King Leopold by Henry Sanford who had hosted President Chester A. Arthur at his Florida ranch⁹ and who had for a long time supported the Republican party.¹⁰ President Chester endorsed the benevolent mission of the International African Association in the Congo in a report to Congress that closely tracked a draft that Sanford had prepared for him.¹¹

After the first preliminary report on the conference reached the Senate, on April 10, 1884, the Senate decided to recognize the flag of the International African Association, (IAA) and appointed a commercial agent for the Congo basin.¹² It is notable that the Senate actually intended to recognize that Leopold owned and controlled the International Association of the Congo, (IAC),¹³ since the IAA was already defunct by 1884.¹⁴ Sanford procured this recognition from the Senate by intensive campaign that has been described as "probably the most sophisticated piece of Washington lobbying on behalf of a foreign ruler in the nineteenth century."¹⁵ Sanford had wined and dined members of the Senate in Washington to achieve this support. He in particular procured the support of the racist Senator John Tyler Morgan of Alabama, a former confederate brigadier general. Senator Tyler supported Sanford's claim that the IAC's goal of establishing freedom of commerce within a free African state would provide a home for freed black slaves in the U.S. so that white America would not be threatened by their dreams of equality.¹⁶

The US recognition of the IAC was a huge diplomatic victory for

King Leopold who sought to legitimize his own claims in the Congo. Recognition under prevailing international practice legitimized his ever-growing claims in an area in the interior part of the Continent of which rival European powers had little prior knowledge.¹⁷ King Leopold had appealed to the U.S. Senate and the President in a variety of ways and in particular through proclaiming his support for unrestricted free trade and by representing the IAC as having the goal of establishing a state in the Congo like Liberia, then only recently established by former U.S. slaves.¹⁸ In addition, he promised to suppress the slave trade¹⁹ and to secure the welfare of the barbarous people of the Congo under European tutelage.²⁰ It is noteworthy that King Leopold was making these promises only about two decades after the banning of the Atlantic Slave Trade by treaty and two decades after the emancipation proclamation in the United States. As S.E. Crowe²¹ and Adam Hochschild²² have shown, Stanley and Sanford were crucial to Leopold's procurement of American support for the proclaimed beneficent goals of the International Association of the Congo. The early recognition of the IAC by the United States gave King Leopold an advantage over Portugal, Britain, France and Germany which were all interested in extending their colonial conquests into the Congo but did not have as much information about the Congo as King Leopold had from Stanley's travels. The conflicting ambitions of these powers over the Congo laid the basis of Leopold's adroit suggestion at the Berlin conference for the formation of an independent state, the International Congo Commission, in Central Africa that would guarantee all European countries and the U.S. freedom of commerce in the Congo.²³ The Berlin conference was taking place against a backdrop of growing mistrust and mutual suspicion particularly about King Leopold's scheme of acquiring the Congo. These suspicions were aroused following revelations in the European and American press about Stanley's travels. There was suspicion particularly in Europe of King Leopold's designs of converting the IAA into his private corporation, the IAC, which had been recognized by the United States, and ultimately that his plan was to convert the IAC into a puppet State — the International Congo Commission. King Leopold advocated that such a state should be a neutral territory free of any national interest and should be governed on the basis of the idealism of philanthropists and explorers such as Stanley.²⁴

To appreciate how King Leopold had managed to secure U.S. recognition of his designs in the Congo, it is important to bear in mind that his interests in the Congo dated much earlier than the Berlin conference. As mentioned earlier, with a view to realizing his dream of an African

colony in the Congo, King Leopold had been instrumental in the formation of a private company, the IAA whose members consisted of crown princes and explorers.²⁵ Its declared aims were philanthropic — the exploration of the Congo basin to quench European appetite about the dark Continent. Leopold capitalized on Stanley's disenchantment with his country of birth, the United Kingdom, for its disinterest in his first trip to the Congo. Without the support of the British government, Stanley needed a sponsor and Leopold provided him with the finances necessary as well as an expeditionary force.²⁶ The IAA also served another purpose. Belgians were opposed to acquiring territories in Africa that would be expensive to govern. The creation of the IAA and its successor the IAC ward off criticism that Leopold's colonial designs in the Congo were authorized by the Belgian government. In addition, by personally funding Stanley to go and procure as many treaties from African chiefs under the ostensible cover of an exploration mission, Leopold sought to ensure that rival European powers would not be alarmed by his territorial ambitions in the Congo.²⁷ To further disguise his plans, King Leopold changed the name of the essentially non-existent IAA into the International Association of the Congo (IAC)²⁸ just ahead of the Berlin conference of 1884. The IAA had been formed in 1876 following a meeting called by Leopold in Brussels for 'explorers and men of science from foreign lands.'²⁹ The IAA's aim was to use the geographical knowledge and expertise of explorers as well as their philanthropic aims to explore and civilize Central Africa. The IAA would have national committees that would then constitute the Association's International Commission. The Commission would be headed by a committee of four with King Leopold as chair.³⁰ The participation of the national committees was marred by the reluctance of the Royal Geographical Society in the U.K. to participate in goals unrelated to its exploration mandate. Since the Royal Geographical Society was responsible for forming the British committee, its refusal to send delegates to the International Association left King Leopold in a dominant position.³¹ The Brussels-based IAA in turn became the King's platform of extending his ambitions to colonize the Congo for Belgium. Without Britain's participation in the IAA, the U.S. Senate's recognition of the IAA's successor, the IAC gave King Leopold and his Belgian National Committee the political capital to lead European interests in the Congo. It is noteworthy that the origins of the Belgium chapter of the IAA in 1877 coincided with Stanley's return from the Congo. Upon his return, he agreed to return to the Congo as the paid agent of the IAA for five years after which Stanley would write a book of his travels that would be published subject to being edited by

King Leopold.³² In Belgium as elsewhere, Leopold was careful to advertise only the commercial but not the political aims of the IAA.³³ At the Berlin conference, the IAC became one of the most important forums where controversies between the participants were discussed.³⁴

The U.S.'s representation at the Berlin conference in 1884-1885 by King Leopold's underlings seems to have been facilitated in large part by the Senate's policy of avoiding entangling alliances as reflected in its refusal to ratify the Berlin treaty. This disengagement was a reflection of lack of U.S. territorial interest in Africa³⁵ and the fact that even in European capitals, acquisition of African territory or trading interests were primarily pursued by private groups who then sought the imprimatur of their governments. Thus it was not surprising that the Berlin conference was dominated by self-declared philanthropists like Sanford and explorers like Stanley. Scholars like S.E. Crowe described the Berlin conference to have been 'destitute of plenipotentiaries' unlike the Congresses of European powers of the same period.³⁶ Without accredited plenipotentiaries, unaccredited representatives who sat in as technical advisors such as Stanley, and associate delegates like Mr. Sanford represented the view of the United States at the conference.

III. Freedom of Commerce Disguised King Leopold's Territorial Ambitions

Unconstrained by the lack of any direct interests in the territorial struggles of the European states or by specific instructions from the State Department or Congress, the U.S. delegation could afford to be 'magnificently utopian' in espousing its views and pursuing its liberal goal of free trade. According to S.E. Crowe, the U.S. delegation was "constantly advocating the widest possible application of every possible liberal principle from free trade and free navigation on the Congo and the Niger, and the abolition of the internal slave trade and liquor traffic, down to international regulation of colonial occupations of Africa, yet she was the only one who had refused to give a pledge on entering the conference that she would ratify its decisions, and in fact, she never did ratify them."³⁷

It is plausible to argue that the attitude of the U.S. delegation was premised on the then emerging principle at the end of the nineteenth century of giving commerce a legitimate and definite freedom from any constraints such as war time confiscations and restrictions³⁸ and from the constraints of rival European territorial claims that sought to parcel out Africa into a patchwork of colonies where each colonial power would exclude the other colonial powers from having any access to their

colony(ies) as sources of raw materials. Commerce, for this delegation, stood above all other interests including the intense and conflictual territorial claims and treaties imposing high tariffs. The U.S. delegation therefore construed the freedom of navigation on the Congo as “implying that these rivers were free from the claims of jurisdiction by the participating countries” since its view was predicated on ‘unrestricted free trade.’³⁹ Unlike the European countries that were staking out territorial claims in the Congo, the U.S. delegation argued that the area should be opened up to commercial enterprise as a neutralized country where all interested in commerce would have equal privilege and none any special privilege, much in accord with King Leopold’s designs. Mr. Kasson told the conference that the establishment of such a country to ‘maintain justice and order’ could justify the use of force since its purposes were ‘dictated by the principles of civilization and humanity’ and ‘equality and liberty of commerce.’⁴⁰

On territorial claims, the U.S. delegation argued that European claims had to be predicated on the consent of the native inhabitants since “blacks will learn from [these foreigners] that the civilization and the dominion of the white man mean[s] for them peace and freedom and the development of useful commerce free to the world.”⁴¹ While the U.S. delegation was spewing its liberal rhetoric, which un-accidentally coincided with King Leopold’s goals, most European countries were seeking to turn Africa into territorial units where each had monopolistic control of trade and mineral resources. Unlike the U.S. delegation that comprised humanitarians and philanthropists, most European nations at the conference were responding to demands for monopolistic protection in their home countries.⁴²

The idealism of the U.S. delegation, erroneous or not, highlights why it would be inaccurate to characterize the Berlin conference as exclusively concerned with establishing monopolies over individual colonies by respective European powers or as merely seeking to establish a regime of free trade unrestricted by their divergent territorial claims.⁴³ What is really crucial here is that while the U.S. delegation had a very idealized view of unrestricted free trade in the Congo, the Europeans were similarly jostling not simply for territorial administrative control, but rather jurisdiction over the fiscal resources, particularly over coastal areas. Thus, both European and American representatives at the Berlin conference sought to continue a free trading system which had been establishing for decades before, unencumbered by the cost of territorial administration.⁴⁴ Thus, the nature of European rivalries in the last part of the nineteenth century was to open up new areas to European commercial activity or

to consolidate existing commercial routes, stations and trading posts which were controlled and managed extra-territorially⁴⁵ by strong rules safeguarding the property rights of these European nationals rather than simply capturing territory for administration. In fact, by the time of the Berlin conference, the idea that foreign owned property enjoyed a minimum standard of treatment was already accepted in Europe.⁴⁶ The pursuit of financial and commercial empires in turn resulted in African colonial chiefs exploiting these ambitions by collaborating with the colonial powers often to the detriment of the local populations.⁴⁷ It is noteworthy that in the post colonial period, some of the elites produced by such collaboration continued the linkages built in the colonial years.⁴⁸

A central question posed by the U.S.'s participation in Berlin was therefore whether its idealistic vision of unrestricted free trade would prevail or whether that represented by the European pursuit of establishing national enclaves would be embodied in the Berlin Act. Since the United States had no territorial claims in Africa, its participation at the conference sought to dissociate legitimate commerce from colonial control without the consent of the indigenous peoples. In the view of the U.S. delegation, territorial occupation without the consent of the indigenous populations was unacceptable since it defied the principles of civilization and humanity that underlay the delegation's commitment to principles of equality and liberty.⁴⁹ In so doing, the U.S. delegation effectively posed territorial colonial occupation without indigenous consent as the antithesis of freedom of commerce in the Congo and in Africa. Since the delegation did not wish to entangle the U.S. in the rivalries among and between the European powers, it chose to ardently defend the commercial and trading interests of all countries in the Congo. The U.S. delegation's dissociation of non-consensual colonial territorial claims from the freedom of trade and commerce, implied that the United States was assuming the mantle of an enlightened power whose interests in Africa were motivated by rescuing Africans from poverty and backwardness through commerce rather than civilizing them through colonial territorial conquest as the Europeans were doing. Yet, by invoking its policy against entanglement, the United States effectively legitimized the very colonial occupation it regarded as illiberal.

The U.S. delegation's broad support for liberal policies also informed the delegation's support of free navigability on the Congo. The delegation invoked the same principles established over the Danube River by the Congress of Vienna, which had been subsequently extended to several international rivers, and were now sought to be applied to the Congo and the Niger Delta. The British supported this position too, but the

French did not. The principles established at the Congress of Vienna extended freedom of navigation and commerce over international rivers. The French objected to the extension of these principles to Africa and instead argued that where a river lay within the territorial possessions of one colonial power only, the question of the application of the Vienna principles did not arise. It is remarkable that neither the Americans nor the Europeans addressed non-navigational uses of the Congo or of the Niger. Indeed, neither did the Vienna principles. The bias at Berlin in favor of navigational and commercial concerns over these two rivers understated their non-navigational uses which were the basis of the livelihood of African peoples living in these river basins.

The final Berlin Act embodied the idealistic goals of the U.S. delegation and its chief backer, King Leopold II of Belgium. Article I proclaimed the absolute freedom of trade; Articles II-IV reinforced the freedom of trade by forbidding differential dues, and dues on import and transit, and permitting only such taxes to be levied on imported items; Article V banned all monopolies and embraced the principle of the equal treatment between the property and assets of foreigners and locals; the Act embraced the principle of free navigability in accordance with the Vienna principles and expanded the doctrine of neutrality of the Congo waters to all roads, railways, canals and railways to all nations, neutral and belligerent alike, even in time of war.⁵⁰ The Berlin Act also embodied the recognition of the International Congo Commission as proposed by King Leopold.

The promise of the liberal spirit of the Berlin Act, however, was in trouble even before the ink on which it was first written had dried. Instead of unrestricted free trade over an internationalized state, 'highly monopolistic systems of trade' were set up and King Leopold converted the International Congo Commission into a Belgian colony.⁵¹ In addition, all the other lofty liberal ideals of the Berlin Act including the 'sacred trust' of watching over the preservation of the native tribes and caring for the improvement of their moral and material well being and the suppression of slavery came to naught. The atrocities of King Leopold's Congo Free State illustrate the huge gap between the proclaimed ideals and the realities on the ground.⁵²

IV. Conclusion

In this Article, I have shown how King Leopold effectively deployed appeals to freedom of commerce in the Congo and to the humanitarian and scientific goals of opening it up to Western civilization and progress together with his self-interested underlings that constituted the U.S.

delegation, to dissociate non-consensual colonial territorial claims from his mission of civilizing the backward peoples of the dark continent by opening up their territory to free trade with European nations was crucial to the inclusion of Article VI of Chapter I of the Berlin Act. Under this Article of the Berlin Act, the signatories committed themselves to watching over the preservation of the native tribes and to improve the conditions of their moral and material well being while suppressing the slave trade. The Berlin Act also pronounced absolute freedom of trade and declared all the streams of the Congo, and the roads, railways and canals linking them so that they would be open to all countries whether neutral or belligerent. Only contraband was prohibited in this zone of freedom. Soon after the Berlin Act, Germany, Britain and other European countries recognized the International Congo Association's mission in the Congo.⁵³ The stage was then set for one of the most brutal episodes of colonial governance and economic plunder. The unwitting American belief in the superiority of free trade and a free 'African' state over and above possessing colonial territories, as manifested in the U.S. recognition of King Leopold's International Congo Association in April 1884, had ineluctably set this disastrous outcome of misrule and pillage in motion. This then is not simply the story of King Leopold's deception, but of the dark underbelly of noble goals such as those promoted under the guise of free trade and political freedom. In this light, the Berlin conference was about alternating modes of colonial governance with free trade, on the one hand, and monopolistic economic and political control of colonial territorial possessions on the other. By capitalizing on the appeal of the non-territorial notion of free trade and its underlying humanitarian premise of stamping out slave trade and improving the material conditions of Africans, King Leopold legitimated his colonial territorial ambitions. In this sense, free trade was as much a justification of colonial expansion as was the greed for colonial territorial control and the attendant wealth that European colonial powers siphoned off from Africa.

NOTES

¹ See Jeffrey C. Stone, *Imperialism, Colonialism and Cartography*, 13 *TRANSACTIONS OF THE BRIT. INST. OF GEOGRAPHERS*, 57-64 (1988) (noting that continued commercial access to Africa, not control of its territory was the common objective of the Berlin Conference).

² I have borrowed these terms from EDWARD W. SAID, *ORIENTALISM*, 3 (1978). Other such modes include: despotic methods of governance; employing the power of the armed state to secure economic advantage in the world; empire building; etc. See NORMAN ETHERINGTON, *THEORIES OF IMPERIALISM: WAR, CONQUEST AND CAPITAL* 4 (1984); see also John Gallagher & Ronald Robinson, *The Imperialism of Free Trade*, 6 *ECON. HIST. REV.* (2d series) 1-15 (1953).

³ ARTHUR B. KEITH, *THE BELGIAN CONGO AND THE BERLIN ACT* 35–6 (1919). Keith described Sanford as appearing to “have had a truly American enthusiasm for noble sentiments of philanthropy, as well as a keen appreciation of the business possibilities of opening to trade the Congo, and who won for the enterprise the respectful sympathy of the U.S.” *Id.* at 35–6.

⁴ SYBIL E. CROWE, *THE BERLIN WEST AFRICA CONFERENCE 1884–1885*, 97 (1942) (describing Mr. Kasson as having been distinguished “more by verbosity than by brains [and] an ardent sympathizer with Leopold’s designs, as understood in America through the propaganda of Colonel Sanford”).

⁵ Stanley was born in Britain. *See id.* at 14. It was Stanley who found the famed explorer David Livingstone in Central Africa in 1871. Livingstone had been feared dead.

⁶ Stanley had procured these treaties from over 2,000 tribes which in part specified that the rights these chiefs had ceded “would be conceded by all to have been indisputable, since ages of succession, by real divine right.” KEITH, *supra* note 3, at 49.

⁷ CROWE, *supra* note 4, at 81. According to Crowe, “Stanley remained throughout Leopold’s faithful henchman, and only served the interests of the United States in so far as these were themselves subservient to those of the King of the Belgians.” *Id.*

⁸ Message from President of the United States to the House of Representatives on the Congo Conference at Berlin, 48th Cong. (2d Sess. 1884–1885) 29 H.R. EXEC. DOCS. NO. 247 at 179.

⁹ ADAM HOCHSCHILD, *KING LEOPOLD’S GHOST: A STORY OF GREED, TERROR, AND HEROISM IN COLONIAL AFRICA* 76 (1998).

¹⁰ *Id.* at 77.

¹¹ *Id.* at 78.

¹² The Senate resolution read in part that the “prospective rich trade in the Congo valley should be opened to all nations on equal terms.” *Id.* at 3. Mr. Kasson was instructed that the United State’s most important objective was “free participation in the trade and intercourse of that newly opened country by vessels and citizens of the U.S.” *Id.* at 5. This resolution was largely based on Henry Sanford, the U.S. Trade Representative in Belgium whose business interests coincided with King Leopold’s design of a free trade zone in the Congo. *Id.* at 80.

¹³ *Id.* at 81

¹⁴ *Id.*

¹⁵ *Id.* at 80.

¹⁶ *Id.* at 79.

¹⁷ *Id.* at 86.

¹⁸ *See* HOCHSCHILD, *supra* note 9, at 77–8 (noting that the choice of Liberia could not have been better “since it had not been the United States government that had resettled ex-slaves in Liberia, but a private society, like Leopold’s International Association of the Congo”). On the establishment of the American backed Liberian state and its subsequent related decay into anarchy, *see* IKECHI MOBEJII, *COLLECTIVE INSECURITY: THE LIBERIAN CRISIS, UNILATERALISM AND GLOBAL ORDER* (2003).

¹⁹ CROWE, *supra* note 4, at 80; HOCHSCHILD, *supra* note 9, at 78.

²⁰ HOCHSCHILD, *supra* note 9, at 80.

²¹ *See generally* CROWE, *supra* note 4.

²² *See* HOCHSCHILD, *supra* note 9, at 61–87.

²³ *See* CROWE, *supra* note 4, at 84–5. According to Crowe, “The combination of Bismarck’s wholehearted support of the International Association, born out of his fear of French tariffs on the Congo, with Great Britain’s half-hearted support of it, born out of the same fear, qualified by an instinctive mistrust of Leopold. . . was destined to have important results at the conference.” *Id.* at 90.

²⁴ Leopold managed to payoff journalists in Europe and the United States about the Association’s mission of “rendering lasting and disinterested services to the cause of progress.” HOCHSCHILD, *supra* note 9, at 66.

²⁵ *Id.* at 65.

²⁶ *Id.* at 63.

²⁷ *Id.* at 63–7.

²⁸ CROWE, *supra* note 4, at 13. See also HOCHSCHILD, *supra* note 9, at 64–5.

²⁹ KEITH, *supra* note 3, at 32.

³⁰ CROWE, *supra* note 4, at 13.

³¹ *Id.*

³² HOCHSCHILD, *supra* note 9, at 63. Remarkably, Leopold's first organizational effort was not even the International African Association, but rather the Committee for the Studies of the Upper Congo. *Id.* at 65. Hochschild also notes that it was probably Leopold who edited Stanley's best selling hook, *The Congo and the Founding of Its Free State*, to reflect that it was the IAC and not the IAA that had been recognized, *id.* at 81.

³³ CROWE, *supra* note 4, at 14, 78.

³⁴ *Id.* at 119.

³⁵ KEITH, *supra* note 3, at 298.

³⁶ See generally CROWE, *supra* note 4.

³⁷ *Id.* at 97–8.

³⁸ See JOHN BASSETT MOORE, INTERNATIONAL LAW AND SOME CURRENT ILLUSIONS AND OTHER ESSAYS 13–4 (1924).

³⁹ Message from President of the United States to the House of Representatives on the Congo Conference at Berlin, 48th Cong. (2d Sess. 1884–1885) 29 H.R. EXEC. DOCS. No. 247 at 179 (referring to instructions to Mr. Kasson dated October 17, 1884).

⁴⁰ 29 H.R. EXEC. DOCS. No. 247 p. 179 at 7.

⁴¹ 29 H.R. EXEC. DOCS. No. 247 p. 179 at 8.

⁴² SIBA N'ZATIOLA GROVOGUS, SOVEREIGNS, QUASI-SOVEREIGNS AND AFRICANS 82 (1996). However, all the participants at the Berlin conference espoused the liberal principles most acutely proclaimed by the U.S. delegation. See CROWE, *supra* note 4, at 1.

⁴³ RUTH M. SLADE, KING LEOPOLD'S CONGO: ASPECTS OF THE DEVELOPMENT OF RACE RELATIONS IN THE CONGO INDEPENDENT STATE 40 (Oxford University Press 1962). "The Americans quite erroneously believed that the free states which the Association intended to establish on the upper Congo would in time be able to govern themselves rather on the model of the recently established republic of Liberia; there was also in the United States considerable trust in King Leopold's promise of a free trade regime in the Congo basin, and approval for his avowed intention of suppressing slave trade." *Id.* at 40.

⁴⁴ J.D. Hargreaves, *The Making of the Boundaries: Focus on West Africa*, in PARTITIONED AFRICANS 21–2 (A.J. Asiwaju ed., 1985).

⁴⁵ *Id.*

⁴⁶ CHARLES LIPSON, STANDING GUARD: PROTECTING FOREIGN CAPITAL IN THE NINETEENTH AND TWENTIETH CENTURIES 4 (1985).

⁴⁷ *Id.*

⁴⁸ See James Thuo Gatbii, "Imperialism, Colonialism and International Law," December 2005 Draft (available from the author).

⁴⁹ Message from President of the United States to the House of Representatives on the Congo Conference at Berlin, 48th Cong. (2d Sess. 1884–1885) 29 H.R. EXEC. DOCS. No. 247 p.179 at 3 (expressing concern that the efforts of the European powers to define the formalities to be observed to legitimize new occupations of African territory was "restrictive and conservative of the rights of native tribes against foreign encroachment"). The U.S. advocated consensual occupation of indigenous territory by the Europeans. *Id.*

⁵⁰ KEITH, *supra* note 3, at 56–62.

⁵¹ CROWE, *supra* note 4, at 1.

⁵² For these atrocities, see HOCHSCHILD *supra* note 9; see also SLADE *supra* note 43.

⁵³ KEITH, *supra* note 3, at 63.