

SAMALAMA'S DECEPTION ON THE UNITARY STATE OF ZAMBIA, THE BAROTSELAND AGREEMENT 1964 AND PARTIES THERETO

by the BNFA Executive Committee

Pursuant to the misleading utterances on the issue of Barotseland by Zambian President Mr. Edgar Chagwa Lungu, alias Samalama, upon his arrival at Mongu Airstrip on 27th April 2016 for his first trip to Barotseland since assumption of office, the Barotse National Freedom Alliance (BNFA) feels compelled to set the record straight by exposing Samalama's ignorance as regards the evolution of the so called Unitary State of Zambia and the part played by the people of Barotseland in setting it up.

Firstly, Samalama claims that there are only two parties to the [Barotseland Agreement 1964](#), namely, himself and the Litunga with the Barotse Royal Establishment (BRE) and that no other person or entity may discuss or take action in regard to this defunct treaty that gave birth to the now illegitimate Republic of Zambia. We want to advise Samalama that even though the [Barotseland Agreement 1964](#) is no longer in force following the government of Zambia's illegal action to terminate it unilaterally in 1969, which action was formally accepted by the Barotse National Council on 27th March 2012, the text of the [Agreement](#) is still available and can be used to determine who the stakeholders to the treaty were. Paragraph 1 of the Preamble to the [Agreement](#) names the parties as follows:

"... between Kenneth David Kaunda, Prime Minister of Northern Rhodesia acting on behalf of the Government of Northern Rhodesia of the one part and Sir Mwanawina Lewanika III, Litunga of Barotseland acting on behalf of himself, his heirs and successors, his council, the chiefs and the people of Barotseland of the other part..."

In interpreting the foregoing provision it is necessary to start by pointing out that the entity called the 'Barotse Royal Establishment' is not mentioned as a stakeholder to the [Agreement](#) and neither does it feature anywhere within the text of the said [Agreement](#). Meanwhile, it is clear that the Litunga Mwanawina III signed the [Agreement](#) in a representative capacity and the entities represented are listed as demonstrated in the quoted section of the [Agreement](#) above. Needless to say that, while the Litunga, heirs, successors and the council are institutional derivatives of Barotseland, the people are the principal stakeholders from whom the rest spring from. Without the people of Barotseland, there can be no Litunga, no heirs, no successors, no Council and no Chiefs-not even Barotseland itself.

Accordingly, it is not implied by the [Agreement](#) or any other statute, let alone Barotseland Law, that the Litunga has exclusive jurisdiction in implementing the [Barotseland Agreement 1964](#) in particular or the administering the affairs of Barotseland in general. The Executive Authority in Barotseland vests in the 'Litunga-in-Council', as repeatedly stated in the [Barotseland Agreement 1964](#) itself. We wish to inform Samalama that as of 1946, the Legislative Council of Barotseland was elected by universal adult suffrage. This means that the people exercise their authority through this elected body whose actions are ratified by the Litunga. Admittedly, the Legislative Council's operations were momentary curtailed by the political machinations of the Kenneth Kaunda administration of 1965-69 which led to the abrogation of the Barotseland Agreement and subsequent Zambia regimes, including the Samalama regime. However, it goes without saying that in the absence of an elected legislative council, the power reverts to the people themselves-in their diversity.

More importantly, Samalama pretends not to be aware that the [Barotseland Agreement 1964](#) was written and signed pursuant to a process in which the people of Barotseland actively participated. This

was in regard to the way Barotseland should go following the termination of the various treaties between Barotseland and the British Crown, which had provided the basis for the inclusion of the territory of Barotseland within the Protectorate of Northern Rhodesia when the latter was established in 1911. With the coming to an end of the colonial treaties holding Barotseland within Northern Rhodesia at independence, Barotseland would cease to be part of Northern Rhodesia and the two territories would proceed to independence separately. For Barotseland to jointly proceed to independence within Northern Rhodesia, styled as the Republic of Zambia, it was necessary to sign a successor agreement to take the place of the terminating colonial treaties.

There were two conflicting opinions within Barotseland on this issue but the impasse was resolved through elections to the Legislative Council of Barotseland contested by the pro-integration United National Independence Party (UNIP) and the separatist Sicaba Party. UNIP won all the twenty-five elective seats in the Council, which also consisted of twenty nominated seats reserved for the Litunga's appointees. It was this Council which passed a resolution to allow the Litunga to sign a new agreement—the [Barotseland Agreement 1964](#)—the basis upon which Barotseland proceeded to independence within Northern Rhodesia as Northern Rhodesia converted into an independent Republic styled as Zambia. This was the genesis of the [Barotseland Agreement 1964](#) and its provisions were explicitly clear in regard to the powers of both the Litunga-in-Council and the government of Zambia in the administration of Barotseland as an autonomous part of Zambia (self-governing territory within Zambia).

The [Agreement](#) did not assign any of the parties power to unilaterally terminate it and, in line with Clause 8, it clearly precluded enactment of laws that were in conflict with its provisions. The most important point to note here is that the Litunga's action to sign the [Agreement](#) was mandated by the people of Barotseland through an elected Legislative Council. Meanwhile, the government of Zambia repudiated this Agreement in 1969 thereby stripping itself of any authority over Barotseland. Moreover, that action was formally acknowledged by the Barotse National Council in 2012. Under the foregoing where does the Litunga or the fictitious BRE get authority and/or mandate to engage with Samalama over a non-existent [Barotseland Agreement 1964](#)? Our position is that the future of Barotseland vests in the people of Barotseland.

Secondly, we are appalled by Samalama's inability to correctly appreciate the status of the [Barotseland Agreement 1964](#) whereby even his professed legal education eludes him. This Agreement was terminated by Samalama's predecessor, Kenneth Kaunda, and this status has persistently been upheld by all past Zambian Presidents up to the time when Barotseland formerly acknowledged the desire of the Zambian government not have Barotseland within the borders of the Republic of Zambia. Clearly this has been demonstrated by all successive Zambian regimes' refusal to reinstate and honor the [Barotseland Agreement 1964](#), including Samalama's enactment of the recent Zambia's new Constitution of 2016. The action by the Barotse National Council of 27th March 2012 sealed the matter in as far the Barotseland Agreement 1964 is concerned, that is, it is dead and buried. However, Samalama now wants to cheat the world that his signature on the [Agreement](#), as successor to Kenneth Kaunda, counts for something. Our question is; of what use is a signature on a dead contract? How does a signature on a defunct Agreement help you Mr. Lawyer? We do not expect an intelligent answer from Samalama, considering his failure to correctly interpret the Litunga's role in administering Barotseland affairs.

Lastly, we refer to the issue of the unitary state and its motto of one Zambia-one Nation. This motto is erroneously credited to Kenneth Kaunda by fluke of history and political manipulation. The truth is that

the unitary state of Zambia derives from paragraph 3 of the preamble to the [Barotseland Agreement 1964](#) wherein it is stated:

“And whereas it is the wish of the Government of Northern Rhodesia and of the Litunga of Barotseland, his Council, the chiefs and people of Barotseland that Northern Rhodesia should proceed to independence as one country and that all its people should be one nation”.

The birth of Zambia as a unitary state was facilitated by the [Barotseland Agreement 1964](#) which was signed on 18th May 1964. Purely on account of this [Agreement](#) the British Government passed the Zambia Independence Act on 8th July 1964, to provide for the coming into being of the Republic of Zambia. Section 1 of that Acts provided as follows:

“On 24 October 1964 (in this Act referred to as the ‘Appointed Day’) the territories that immediately before the appointed day are comprised in Northern Rhodesia shall cease to be a Protectorate and shall, together, become an independent republic to be known as Zambia and, on and after that day, Her Majesty in the United Kingdom shall cease to have jurisdiction over those territories.”

The territories comprised in Northern Rhodesia were the Barotseland/North-Western Rhodesia on one part, and the North-Eastern Rhodesia, on the other part. These two territories were merged in 1911 to form Northern Rhodesia for administrative convenience. It is on record that the British influence and acquisition of authority over the territory of Barotseland/North-Western Rhodesia were achieved through the 1900 treaty with King Lewanika. Prior to the amalgamation of the two territories King Lewanika and Council were consulted by the British government and gave their consent, based on the understanding that Barotseland autonomy would not be compromised by the amalgamation. Following which the amalgamation was granted that formed the basis of the creation of Northern Rhodesia. Therefore, Northern Rhodesia was a jurisdiction of two distinct territories mandated by the Lewanika treaty of 1900, which was observed by the British government all the way to independence in 1964. The [Barotseland Agreement 1964](#) succeeded the Lewanika treaty with the objective of holding Zambia together as a unitary state after independence, but Kenneth Kaunda and his successors failed to observe it. Under these circumstances the unitary state of Zambia died with the termination of the Barotseland Agreement 1964 and, therefore, the national motto of one Zambia-one Nation is a fallacy