

The unfortunate and misunderstood history of the Republic of Zambia

by Sitwala Imenda, Senior Professor (Retired)

This article has been triggered by my reading of the Editor's Note in the AfricaFocus Bulletin of April 25, 2017 under the heading: *Zambia: From Democracy to Dictatorship?* What I find quite troubling from these authors' accounts is that, somehow, when this state violence and terrorism were meted out against the people of Barotseland over a sustained period of time, they did not know about it, and only got to know about these actions with respect to Mr. Hakainde Hichilema's arrest. Certainly, what has happened to Mr. Hichilema, as reported in the media, is quite unfortunate, regrettable and extremely sickening, however, from the Barotseland point of view the actions of the Zambian government have been typical. As outlined below, state violence and terrorism have been common place since the dawn of Zambia's fraudulent independence.

The Editor's Note in the AfricaFocus Bulletin was a commentary on the recent happenings on the political scene in Zambia concerning the arrest of Mr. Hichilema, the leader of the United Party for National Development. The Note made reference to contributions made by Messrs Simon Allison, Nic Cheeseman and Tendai Biti in respect to a public letter by the Zambia Conference of Catholic Bishops on April 23, 2017 and a statement released by the Council of Churches in Zambia on April 19, 2017. I ask Mr Allison, "When was Zambia ever a beacon of democracy in Africa?" To Mr Nic Cheeseman I ask, "During what period of its history did Zambia Police and other security forces not use tear gas, excessive violence, torture and terrorism against political opponents?" To Mr Tendai Biti, "When did the Republic of Zambia live though untroubled fifty years of democracy, to envy?"

The three quotations below make it very clear that the authors are totally oblivious to the fact that Zambia's biggest political dilemma, since independence, has been the absence of acceptable democratic processes and practices typified by the Zambian government's continued colonial and unconstitutional occupation of Barotseland and that, as a country, Zambia lack legitimacy insofar as its occupation of Barotseland is concerned. The reported brutality and disregard for the rule of law which characterised Mr. Hichilema's arrest are nothing new to the Zambian brand of democracy. Since the beginning, successive Zambian heads of state and the police have always been the law unto themselves. People with different and/or opposing views have always been classified as enemies of the state, and the police have always been used to sort out political dissent. For people of Barotseland descent, Zambia has always been a brutal state, and never a democratic country. Unfortunately, by and large, most non-Barotse (non-Lozi) Zambians and people external to the country, have turned a blind eye to the plight of the people of Barotseland descent and their very legitimate grievances against successive Zambian governments—often trivialising the grievances or not even understanding them.

The undisputed fact is that, as a Unitary State, the Republic of Zambia was founded on [the Barotseland Agreement 1964](#), a fact which cannot be changed or wished away. The agreement was signed by Mr Kenneth David Kaunda, as Prime Minister of Northern Rhodesia and Sir Mwanawina III KBE, the Litunga (King) of Barotseland as well as the Right Honourable Duncan Sandys, Her Majesty's Principal Secretary of State for Commonwealth Relations and the Colonies, signifying the approval of her Majesty's government of the United Kingdom. However, immediately after its signing the agreement, it

was hidden from the Zambian public by the Zambian government, to the extent that anybody who was ever found in possession of it was arrested and charged with being in possession of seditious material. Zambia's curse emanates from this rebellion of the Zambian government against the country's founding document. I doubt that there is ever a country in the world which was founded on an agreement which was immediately disregarded and discarded after securing independence, such as has happened in Zambia. So, from the very beginning, Zambia has never been the country that most people have assumed it to have been.

Accordingly, the quotations below from Messrs Simon Allison, Nic Cheeseman and Tendai Biti, highlight how successful the Zambian government has been in duping the whole world into believing that Zambia was the normal, peaceful and lawfully constituted country. Unfortunately, this has been far from the truth. The truth is that Zambia has been very successful at window-dressing itself to mimic a normal country and most people around the world bought into the hallucination. Starting from the way the country was constituted to the way it has been governed and administered, there have been huge problems. The biggest problem of which has been the Zambian government's inability to find a solution to the [unilateral abrogation of the unity treaty](#)—the unilateral abrogation of [the Barotseland Agreement 1964](#). The country was constituted fraudulently by creating a Unitary State that incorporated Barotseland through an agreement that Mr. Kaunda never intended to honour. All that Mr Kaunda had wanted was to secure political freedom of a country over which he would be the principal ruler, with Barotseland as part of it. Thus, briefly put, the country itself is a fraud and, in order to deal with the unwanted truth surrounding the country's birth, the founding state President resorted to very harsh, highhanded, cruel and evil ways of silencing people wanting to have the truth revealed and things have remained this way ever since.

Within months of Zambia's independence, the Zambian government started arresting anyone talking about the Agreement. The first people to be arrested as early as 1965 included Messrs Luyanga, Muteto, Katanekwa, Mushala, Sandala and Nasando. These were followed in 1969 by, among others, Messrs Muchanza, Kaunda, Mulopo, Mupatu, Musole, Mukena, Mulundumina and Mulela for, *inter alia*, objecting to the Zambian government's unilateral abrogation of the Agreement yet still maintaining that the Zambian government was the legitimate ruler of Barotseland, rather than allowing each constituent member of the Agreement to fall away and pursue its own destiny. This amounted to stealing the whole country of Barotseland, and all its people on a winner-take-all basis, as Mr Kenneth Kaunda arrogated upon himself the right to take over the governance and administration of both Barotseland, which he did not represent and North Eastern Rhodesia, the other part of Northern Rhodesia which he represented in the Agreement. The situation has remained this way ever since, despite various protestations and demands from Barotseland.

The methods used by the Zambian regime against Barotse nationalists have always been cruel, evil and excessively brutal. From 1969 when the Zambian government unilaterally abrogated [the Barotseland Agreement 1964](#) to 2012 (a period of 43 years), the people of Barotseland made numerous efforts to beg and cajole the Zambian government to restore [the Barotseland Agreement 1964](#) in order to restore the legality of the citizenry of the Barotse people as Zambians, but to no avail. Instead, the Zambian government routinely and unapologetically responded by carrying out mass arrests, intimidations, harassments, torture and killings of Barotse nationalists, although constitutionally they are not Zambians. In July 1993, when over 5,000 Barotse nationalists gathered to call for Barotseland's independence from the colonising Zambian government through the courts, President Chiluba himself

threatened to crush the protestors and made it clear that this would not be tolerated. Thus, even referring the issue to the courts of Zambia has not been a viable option. Lawyers who initially tried to raise the issue of [the Barotseland Agreement 1964](#) subsequently disappeared and died in mysterious circumstances. Such lawyers included Messrs. Rechard Ngenda, Nosiku Kawanambulu, Ngenda Sipalo, Sitwala Sachika and Muleya Kashewa.

The unprovoked killings and arrests of Barotse nationalists that occurred in November 2010 and January 14, 2011 were preceded by notifications to the police in Mongu by the organizers of the meetings at which the issue of Barotseland was to be discussed. These meetings were to be held against the backdrop of the ongoing process to amend the Zambian Constitution under the auspices of the National Constitutional Conference (NCC) created by the National Constitutional Conference Act No. 19 of 2007, which had circulated a draft for public discussion. The only thing the residents of Barotseland wanted to do was hold a meeting to discuss the draft Constitution, which had not taken on board [the Barotseland Agreement 1964](#) despite several petitions to the NCC to do so. In reaction, the Zambian government violently prevented the meetings from taking place, in total violation of the provisions of the law.

Attendant to the November 2010 and January 2011 killings, mass arrests took place and not less than 132 Barotse nationalists, including an elderly 92 year old former Ngambela (Prime Minister) of Barotseland and former Member of Parliament, were detained on treason felony charges. After languishing for several months in detention, all the detainees were released on a *nolle prosequi*, following the Director of Public Prosecutions (DPP) failure to find any credible charge to slap these innocent people with. Their arrests were baseless and without substance. They were just innocent people arrested to be “taught a lesson” and scare them from raising their voices ever again, against any injustices meted out to them by government. By the time they were released, a number of them had contracted terminal illnesses as a result of being incarcerated under sub-human conditions or deliberate poisoning. Amputations were carried out on several of the detainees and a number of deaths were recorded either in detention or not long after they were released.

The Roger Chongwe Commissions report which was expected to contain details of these shootings has been embargoed by government and has not seen the light of day, which speaks to the Zambian government’s lack of accountability and the impunity that goes with the greater-than-God attitude of those in power. The decision by the Zambian government and its agents not to allow the people of Barotseland to meet freely and discuss issues of concern has remained in place ever since. Government’s intention is that in future, the arrested individuals should just soak in their grievances concerning the Barotseland issue and suffer peacefully without complaining. In a normal society, policemen who repeatedly arrest innocent people without any justifiable cause are disciplined. However, this is not so in Zambia. Instead, they are praised and promoted to higher ranks because this is seen as doing good work for the government.

The violations of Barotse human rights did not stop with the November 2010 and January 2011 state violence. In 2013 a total of 84 Barotse nationalists, including another former Ngambela, former Member of Parliament and Former Minister, Right Honourable Clement Wainyae Sinyinda, were arrested on trumped up treason felony charges, again only to be released on *nolle prosequi* after several months of unnecessary suffering and torment. In all respects, this was just a repeat of the January 2011 arrests. Later, three leaders of the Barotse Imilemas (a youth group): Lutangu Sinonge, Saviour Mumbela and Siyunyi Mendai were

arrested and charged with *sedition practice* for merely carrying and displaying a flag of the Unrepresented Nations and Peoples Organization (UNPO)—an organisation which advocates nonviolence in the pursuance of members’ fight for self-determination. The youths were subsequently discharged by Kaoma Magistrate Court but the state has since appealed against the discharge in the High Court. Currently, three Barotse nationalists, Messrs Afumba Mombotwa, Pelekelo Likando and Sylvester Kalima are serving a ten year jail sentence for their part in pursuing self-determination for their motherland, Barotseland predicated on the Zambian government’s unilateral abrogation of [the Barotseland Agreement 1964](#) and Barotseland’s subsequent endorsement of the abrogation through an open and democratic process in 2012. To the majority of the people of Barotseland, the abrogation of the Barotseland Agreement 1964 meant the collapse of the Republic of Zambia as a Unitary State, given that the only legal provision that put the Unitary State in place (the Barotseland Agreement 1964) has fallen away. Thus, there is absolutely no basis upon which the Zambian government can claim jurisdiction over Barotseland, absolutely none. This was the position taken by Messrs Mombotwa, Likando and Kalima in their activism for the free Barotseland.

The Barotse National Council (BNC) meeting of March 26-27, 2012 was historic, having been attended by the people of Barotseland from all the districts and witnessed by representatives of the Zambian government. This was a democratically constituted body in all respects and its resolutions should be respected and taken very seriously as they carried the unequivocal and unified voice of the people of Barotseland. The most important resolution taken was the eventual endorsement of the Zambian government’s annulment and termination of [the Barotseland Agreement 1964](#). In doing so, the BNC took the international public law interpretation that the parties to the original agreement were now free to revert to their respective original sovereign status. Nonetheless, the BNC committed Barotseland to a peaceful disengagement from Zambia, preferably under the auspices of the United Nations. On May 14, 2012 the Barotse Royal Establishment (BRE) formerly informed the Zambian government of the Barotse people’s acceptance of its repudiation of the Barotseland Agreement 1964, and the resulting disengagement of the two constituent parts from each other. However, the Zambian government responded by increasing its military and security presence in Barotseland, accompanied by the exercise of brute force, arrests, torture and killings.

The Barotse National Freedom Alliance (BNFA), an umbrella organisation set up to promote the implementation of the [BNC Resolutions March 27, 2012](#), has always pursued legal channels in addressing the Barotseland quagmire, but all such efforts have so far been ignored by the Zambian government. The BNFA’s request to the African Commission on Human and People’s Rights (ACHPR) made in 2012 to rule over the atrocities committed by successive Zambian governments against the people of Barotseland was one such action. Unfortunately, the ACHPR was unable to rule on the matter of the abrogation because it took place before the body was formed. Nonetheless, there was sufficient merit in the application for the ACHPR to urge the Zambian government to engage with the people of Barotseland on the substantive matters raised. However, the Zambian government has, as usual, ignored this peaceful initiative. Secondly, the late President Michael Sata and current President Edgar Lungu were challenged by the BNFA, through their international legal representatives, to sign the Permanent Court of Arbitration (PCA) submission to allow impartial arbitrators to peacefully determine the status of Barotseland following the Zambian Government’s unilateral abrogation of the Barotseland Agreement 1964 in 1969, followed by Barotseland’s declaration of self-determination and self-rule in 2012 against Zambia’s continued occupation of Barotseland. Both Presidents declined to sign the PCA submission agreement. The BNFA

has interpreted this reluctance by the two Presidents to point to their guilt and continued efforts to circumvent the legal process.

Therefore, my point of departure from the five contributions in the AfricaFocus Bulletin cited below, springs from the mistaken impression precipitated by the heading: *Zambia: From Democracy to Dictatorship?* Added to this heading were remarks like Zambia has been “*long a beacon of democracy in Africa*” (Simon Allison); that “*despite numerous opportunities to detain him in broad daylight, armed police and paramilitaries planned a night attack in which they switched off the power to the house, blocked access to the main roads, and broke down the entrance gate ... Inside the property, the security forces are accused of firing tear gas, torture, urinating on the opposition leader's bed and looting the property*” (Nic Cheeseman); that “*the rule of law in Zimbabwe has long been considered broken. The same can now be said of our neighbour north of the Zambezi, Zambia... Zambia's leadership seems intent on destroying the 50 years of work post-independence to build democracy by replicating actions we have routinely seen in Zimbabwe, notably the systematic harassment and intimidation of press, civil society and the opposition*” (Tendai Biti).

Quite clearly, all these five contributions demonstrate their limited knowledge of the unfortunate and misunderstood history of the Republic of Zambia but have given fair assessments of the wicked malevolence surrounding Mr Hichilema's arrest and the attendant torture of his family and workers, as publically reported in the media worldwide. These contributors have also made what appears to be a correct assessment of the underlying reasons and purpose behind the state violence and terrorism meted out against one of their kind, a North Eastern Rhodesian, Mr. Hichilema. Certainly, it is improbable that the state would have taken such drastic actions against someone whose political party is the official opposition in parliament without the head of state sanctioning such actions, especially when such a head of state also doubles up as the commander-in-chief of the armed forces, including the police, who were reportedly unnecessarily armed to the teeth when they attacked Mr Hichilema's homestead.