

Negotiations, Agreements and Assurances with a bearing on the constitutional position of Barotseland to this day

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Barotseland was a sovereign and autonomous nation for centuries before the coming to Africa of Missionaries and later Colonialists. It is true to state that when the Missionaries and Colonialists arrived in Barotseland, the nation's sovereignty was acknowledged, recognised and respected leading to a number of Treaties. Of particular importance is the point that The Litunga protected himself in all these treaties and Agreements by way of the clause that “nothing written in these agreements shall otherwise affect my Constitutional power or authority as Chief of the said Barotse nation.”

In 1890, Lochner Concession was negotiated between the British South Africa Company (BSAC) and the King Lewanika of the Barotse. Lewanika further insisted among others that; Barotseland should be established as a Native Protectorate and the Concession to be regarded as a Treaty or Alliance with Her Britannic Majesty Queen Victoria. This Agreement opened the way to the entry of the white man into what is today Zambia.

The Barotse's striking attitude throughout during the negotiations was the continuity and consistency of their demands to be securely under the direct protection of the Crown and Her Majesty's Government rather than in any form of relationship with the BSAC or intermediaries. When the 1900 Concession B terms were allegedly breached by the Company in 1906, Lewanika protested. Then in 1907, Barotseland made a firm demand to be established as “a Native Protectorate” separated completely from the Company's authority and administration.

The next important event was the Concession of the 1909, by the terms of which, in return for increased land rights for the Company in the area East of the Kafue, the boundaries of Barotseland (i.e. the area in which prospecting was forbidden) were extended to the West of the Zambezi River right up to the Portuguese border.

In 1911 North Eastern and Barotseland—North Western Rhodesia were amalgamated through the 1911 Order in Council “Charter”. It gave the Barotse the assurance for their future, which Lewanika and the people of Barotseland desired. The clauses (mainly 40-43), which gave effect to those principles, became fundamental parts of all subsequent Northern Rhodesia legislation affecting Barotseland even to the very day after independence in 1964 as stipulated in the Barotseland Agreement 1964.

It is important to bring this truth to the public attention that when the amalgamation was first proposed of Northern and Southern Rhodesia in 1915. The Litunga Yeta in 1916 in his petition for direct rule of Barotseland to be under the Crown as affirmed in the 1900 Concession and in the subsequent Orders in Council and Proclamations and assurances necessitated safeguards to be put in place. In reply, His Majesty Government affirmed the continuation of the safeguards. It is of great interest that in the reply to the petition, the return to Barotseland of the German territory of the Caprivi Strip would receive the full consideration of the Allies after the War. Unfortunately, Caprivi Strip was given to the Union of South Africa, and over the years this has been source of dissatisfaction and grievance with the Barotse.

The question of the transfer of the administration of Northern and Southern Rhodesia from Company to the Crown which arose in 1919 was so involved that a commission of enquiry presided over by Lord Buxton was set up to look into, particularly, the question of the ownership of land and mineral rights in

the territory. The commission observed that Barotseland “is, and must remain, a Native Protectorate—a sort of Basutoland.”

In summary, the 1924 Northern Rhodesia Order in Council contained the clauses of the 1911 Order in Council securing Barotseland’s position. It also held to preserve the rights and privileges of the Barotse as enshrined in the 1900 Concession. The period from 1924 to 1936 is a critical one for the British relations with Barotseland, and is the immediate origin of the position and problems Barotseland found herself to day.

The prolonged dispute over the amalgamation of Northern and Southern Rhodesia from 1927-31, during which the 1929 Hilton-Young Commission was set over and Her Majesty’s Government’s 1930 statement on Native Policy, casts much relative light on the Government’s conception of the status of Barotseland. The Governor of Northern Rhodesia in evidence to the Hilton-Young Commission declared that the position of Barotseland was quite different from the rest of the territory: it was a Native state and would have to be safeguarded in any changes in the political status of Northern Rhodesia, and should be placed under the High Commissioner for South Africa on behalf of Her Majesty’s Government.

In conclusion, the whole fiasco is that whereas the colonial government acknowledged, recognised and respected the sovereignty and political autonomy of Barotseland, only to be disregarded by fellow Black Government of Zambia! Basically, Barotseland never lost her sovereignty in a legal sense to the Government of Zambia because Barotseland sovereignty is protected and can be contested at international courts. The illegality of what Zambia did cannot stand in an impartial court of law. The Barotseland Agreement of 1964 never discarded the treaties and concessions that existed hitherto between Her Majesty’s Government and Barotseland but the government of Zambia inherited the obligations which it was not supposed to legislate against.