

African Constitutionalism and Barotseland

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Abstract

Current constitutions of African States, such as Zambia, are a mix of traditional features, exemplified by chieftainship and customary law, and mainly of European-type ones, so they are marked by glocalization. Besides, it is no coincidence that the British protectorate of Barotseland within the protectorate of Northern Rhodesia was incorporated in the Republic of Zambia, with some privileges being granted on the basis of the 1964 Barotseland Agreement, but with no clause in the 1964 Zambian Constitution. Kaunda's ruling party of Zambia was initially prepared to allow the process of Barotseland's submission to Zambian rule to transpire gradually and gently, which reminds slightly of the British intervention in the Cretan autonomous State, from 1903 to 1906. The Consul General Howard against the High Commissioner of Crete managed to "...let him down gently". In 1969 the Barotseland Agreement was terminated abruptly whilst a revival of this controversial question has recently taken place.

Keywords: African constitutionalism, Barotseland, Crete ("...To let him down gently"), glocalization, Western Province, Zambia.

1. Introduction: Constitutionalism and Barotseland

Africa has experienced a protracted and important period of colonial control on behalf of many European countries. The British empire played the leading role in the framework of this penetration, particularly in the Sub-Saharan part of the continent whilst France was the Protagonist mainly in countries of the Mediterranean region and of the Western part of the continent.

In this context, in 1960s a very extended tendency to grant the independence to the colonies took place. The emergence of the new sovereign countries was based on the model of constitutional States and, as a result, is related to constitutionalism. However, constitutionalism is not synonym to the existence of a State endowed with a Constitution. It is about a concept that has to do with the adoption and application of a formal Constitution in the legal order of a sovereign State, protecting human rights and consecrating the fundamental principle of separation of powers.

In this context, it would be interesting to examine constitutionalism in African countries and particularly in Zambia, with a special reference to the emblematic conflict case of the Kingdom of Barotseland. So, the current analysis focuses on the phenomenon of African constitutionalism, on the basis of the comparative method.

The profile of current African constitutionalism

- African constitutions are marked by tradition (chieftainship, customary law).
- They are dominated by European-type institutions, such as Constitutional Courts.
- They have adopted presidentialism, invented in Latin America.

Barotseland

- The 1964 Barotseland Agreement granted privileges to Barotseland.
- It would be undermined “gently” but was terminated abruptly, in 1969.
- This “gentle” approach reminds of British diplomacy in Crete (1903-1906).
- The revival of the controversial question of Barotseland has taken place recently.

After analyzing the post-independence era, it examines the current phase.

On account of these data, it highlights the profile of constitutionalism of the Republic of Zambia.

Then, it presents some aspects of the history of Barotseland, from the precolonial era to its conversion into a mere Province of the Republic of Zambia.

Besides, it refers to a similar case in Greek history, having to do with the autonomous Cretan State in combination with the influence of the British factor.

Furthermore, it analyzes the current question of Barotseland and its perspective.

Finally, it ends up to some critical remarks on both the profile of African constitutionalism and the crisis of Barotseland.

2. The post-independence era of African constitutionalism

It is possible to make a comparison between Latin America and Africa, in constitutional terms. In the domain of politics, the New World has proved to be creative, it has invented the President (Ba, 2019). It is about presidentialism, being a form of State, which could be characterized as typical of new States coming from colonial rule. Africa has experienced this form of State, like the American regimes, already in its post-independence era (1960-1980).

Independence constitutions of the former colonies of the British Empire in Africa have borne the imprint of the Westminster model of representative government (Ndulo et al., 1996). However, the shaping of these Constitutions according to a stereotype model does not implicate that the new sovereign States acquired a form of State identical to the British one. First of all, these countries have acquired from scratch a Constitution whilst the UK has no written Constitution. Furthermore, they have not adopted a parliamentary form of governance as long as the President cannot lose his office due to lack of political confidence of the National Assembly towards him. So, it is basically inaccurate to characterize the form of State as “parliamentary government”, although there are eventually some features being intrinsic to the parliamentary form of governance. It is about a presidential (non-parliamentary) system, marked by the fact that in most African countries and in other ones, such as Cyprus and Latin America, the President is elected directly by the people.

Anyway, there are differences between the constitutions of States in Africa, which were granted their independence from the UK. In some constitutions, a non-executive president substituted for the Queen as head of state whilst in others the President became in addition the chief executive (Ndulo et al., 1996). The tri-partite structure had in some ways the look of the USA rather than Westminster, but its degree of detail reflected the colonial tradition (Ndulo et al, 1996).

The competencies of the Governor which ruled the country in the colonial era passed largely intact to the executive President. So, presidentialism to an important extent has got the imprint of the form of governance of the colonial era.

The post-independence era was characterized by various cases of authoritarian governance, some years after the declaration of independence. In that context, the regimes of General Sani Abacha of Nigeria, Idi Amin of Uganda, Jean Bédel Bokassa of the Central Africa Empire (now Republic), Marcias Nguema of Equatorial Guinea as well as Gnassingbe Eyadema of Togo had constitutions in one form or the other, which however were devoid of constitutionalism, like the sui generis case of the former Apartheid in South Africa (Olasunkanmi, 2018). In some cases, the mechanism of constitutional commissions preparing constitutional amendments was used, but the reports of those commissions were simply ignored after elaborate ceremonies aimed at diverting public attention and convincing donors and the international community that something positive was being done about democracy (Olasunkanmi, 2018).

3. The post-cold war era of African constitutionalism

The second period of African constitutionalism, which coincides with the post-cold war era of world history (1990 to date), has been called “neo-constitutionalism”. It is marked by a double movement towards democratization and the contribution of the new mechanism of constitutional tribunals to the principle of the rule of law (Ba, 2019). The emergence of new Republics, replacing authoritarian regimes, is comparable to the phase of new constitutionalism in Latin America, from the beginning of collapse of dictatorships in the 1980s and on. Latin American constitutional changes are likely to be more relevant to many of the new African constitutional systems than the Anglo-Saxon models.

Anyway, African constitutionalism is endowed with rigid constitutions in almost all countries, so neo-constitutionalism is ensured by the non-flexible character of its constitutions. In the current period it is characterized by the promotion of multiculturalism (Mvaebeme, 2019). For instance, article 6 of the Constitution of Central Africa previews that “*the State provides stronger protection for rights of minorities, of indigenous people*”.

Furthermore, African neo-constitutionalism is also marked by the fact that it promotes the traditional structures against the European-type model of democratic and republican legitimacy, based on the principle of national sovereignty. This promotion has to do with diachronic institutions of African societies, such as the chiefs. After the collapse of colonialism, no country of the black, French-language Africa made any mention to chieftainship in its Constitution. So, in an innovative way the 1996 Constitution of Central Africa cites that the “*Republic recognizes and protects the traditional values*”. This “revenge” of tradition, “base of custom”, in the modern republican State carries the assimilation of chiefs to civil servants (Mvaebene, 2019). The chiefs are intrinsically related to the existence of customary law in their traditional communities. However, being allies of the central power and “auxiliaries of the administration”, the traditional chiefs become frequently more powerful and more uncontrollable than the legal-rational authorities (Mvaebene, 2019).

As for the Arab Spring, which began in December 2010 in Tunisia, has very important effects in some countries of Northern Africa, such as Tunisia, Egypt and Libya, and of Middle East, given that the African countries on the matter have not experienced the wave of neo-constitutionalism and political alternance in power on the basis of democracy, at least as early as the rest regions of their continent. Nevertheless, this revolutionary movement constitutes a subversion of major importance, far beyond the context of Africa, for the promotion of both democracy and fundamental rights of private individuals and the people.

4. Zambian constitutionalism

Zambia was among those countries that rode on the tail of the wave of democratization following the fall of communism in Eastern Europe, and greater liberalization and democratization in Latin America and parts of Asia in the 1980s whilst Zambia's "opening" began with the steep economic decline of the 1980s (Sims et al., 2013). Its constitutionalism has a rather odd prehistory, given that the British Empire had loosely called "Constitutions" some orders-in-council. This country, which became internationally known for a very significant foreign sovereign debt crisis (Maniatis, 2018), has some pioneer features in its political and constitutional history, at least in the African context, such as the following ones:

a. Presidential (non-monarchical) form of the State

Till the emergence of the Zambian State, with the unique exception of Cyprus, which was of course *sui generis*, all the territories of the UK had gone into independence with a monarchical form of government, and with the Queen represented by a Governor-General. This record should be seen as a realistic acceptance, right at the outset, of what many African countries had (already) found, after only a brief period of independence, the medium best adapted to their political aspirations.

b. The flexibility of the Constitutions

In contrast to the overwhelming majority of African countries, Zambia has shaped a tradition of very flexible Constitutions, as far as the possibility to amend any constitutional disposition is concerned.

c. The Christian character of the Zambian Nation

For the first time in the Third Republic (1991 and on), Zambian State has gradually been transformed into a non-secular State, in spite of the fact that the 2016 version of the Constitution follows the above-mentioned African trend of pluralism, particularly in the form of multi-culturalism. For instance, the Preamble of this version recognizes the multi-ethnic, multi-racial, multi-religious and multi-cultural character of the Nation of the Republic of Zambia.

The tendency to transform Zambia into a Christian State was inaugurated through the 1996 amendment of the 1991 Constitution, given that the Preamble has been endowed with the so-called "declaration" of the Republic of Zambia as a Christian Nation. Scholars confirm that Zambia's political psychic is deeply entrenched with the declaration within Pentecostal-Charismatic moral sensibilities and theo-political imaginations, which greatly influence public discourses and define national identity (Kaunda, 2018).

Christianism has gradually followed the way of Constitutionalism, into which it is in a process of incorporation, in the current era of neo-constitutionalism. The two ideological movements of the Western-type culture eventually will be also met formally, in the main text of the Constitution, as official values and principles, if the 2019 amendment leads to the replacement of the value consisting in "morality and ethics" by "Christian morality and ethics".

More precisely, Part II of the current version of the 1991 Constitution explicitly previews constitutionalism as a value. According article 8, the national values and principles are the following:

- (a) *Morality and ethics;*
- (b) *Patriotism and national unity;*
- (c) *Democracy and constitutionalism;*
- (d) *Human dignity, equity, social justice, equality and non-discrimination;*

(e) *Good governance and integrity; and*

(f) *Sustainable development.*

All these core rules apply to the interpretation of the Constitution, enactment and interpretation of the law as well as development and implementation of State policy.

As for the institutionalization of constitutionalism, it is no coincidence that democracy and constitutionalism are mentioned together. Obviously, as Zambian State is defined as a democratic Republic after the protracted period of the Second Republic (1972-1990), known as the “one-party participatory democracy”, the mainstreaming principle consists in democracy. However, it is rather marginalized, if not partly altered, through the addition of many other attributes to the character of the State. This sui generis lack in democracy is comparable with the problem of extended, if not also contradictory, limitations, in the recognition of human rights, in Part III of the Constitution. This problem is not new, as the Bill of Rights of the 1991 Constitution, which was never amended in spite of the relevant attempts, is very similar to the Bill of Rights of the 1964 Constitution.

Anyway, constitutionalism is intrinsically related to the principle of democracy, particularly as long as the Constitution is not flexible, for instance as for the amendment of the Bill of Rights. This process requires inter alia a constitutional referendum (being endowed with a turn-out clause).

From 1972 and on, there is a political concern for the adoption of a people driven Constitution, obviously in contradiction to the 1964 Constitution, which was granted by the UK after negotiations with various factors, including Barotseland, but it is not quite clear what is people driven constitution and what is not people driven constitution. There is the opinion that the Constitution of Zambia is not a people-driven Constitution unless a comprehensive Bill of Rights is a part of it. In other words, it seems to make use of this political project for scopes being controversial, if not obviously antithetical, to the aforementioned constitutional set of democracy and constitutionalism, in a context of authoritarian governance (Second Republic) or populism (Third Republic).

5. Barotseland from the precolonial era to its conversion into a mere Province

The colonial period in the territory of the current Republic of Zambia had its effective beginning with the 19th-century journeys of European explorers: missionaries, visionaries, adventurers. Through them Europe became aware and interested in Central Africa. The Scottish missionary and explorer Dr. David Livingstone was the most important of these; he opened the way for the first Christian missionary settlements. In 1845, Barotseland had been conquered by the Makalolo (Kololo) from Lesotho, which were in power when Livingstone visited this country, but after thirty years the Luyi overthrew the Kololo King. Before the advent of European explorers, such as Livingstone, the Barotse had no written history, so the history was passed down by word of mouth and, as a result, customary law was favored.

In precolonial era, only a few ethnic groups of the current population of Zambia had politically centralized chieftainships with developed bureaucracies.

The Lozi Kingdom or what is referred to as Barotseland can be argued to have been the most politically centralized and socio-culturally coherent, and thus its people have always had a sense of Lozi national consciousness. The Kingdom on the matter evolved out of a citizen and subject paradigm, where the Aluyi or Luyanas subdued or coerced other groups in most of Western Zambia, namely a lot of different other ethnic groups, and created extensive spheres of influence and also often posted consuls in its neighboring other groups. The governance modes related to these oppressed populations were based on the structures of the central authority of the Litunga

(King). However, there was not a monolithic exercise of public power, as all subjects had representation in spiritual, military and judicial roles. This participatory limitation of this authoritarian governance left intact the principle of supremacy of aristocratic heredity.

In other words, the form of State was clearly a monarchy whilst antidemocratic shaping of governance was common in precolonial Africa. More precisely, the various tribes comprised in what is today known as Zambia had their own justice systems for dispute resolution and for maintaining peace and order among themselves (Sakala, 2009). These justice systems varied from one indigenous group to another but they shared certain fundamental features in their organization. All indigenous groups had village “headmen”, chiefs and Paramount Chiefs. It was through this hierarchical set-up that the indigenous judicial system operated. In these systems, there was no separation of powers in Dicey’s sense of the term (Sakala, 2013).

As far as Barotseland is concerned, King Lewanika I began trading with Europe, after diamonds were discovered. The first concession was signed on 27 June 1889 with Harry Ware and, in return, this Kingdom would be protected. The concession was transferred by Ware to John Cecil Rhodes of the British South Africa Company (BSAC). Barotseland was the first territory north of the Zambezi river to sign a minerals concession to British South Africa Company (BSAC). On 27 June 1890, Lewanika I and the BSAC signed the Frank Lochner Treaty, which previewed Barotseland as a British protectorate under indirect rule and so, to a notable extent, diminished autonomy of its population, the Lozi people.

Afterwards, through its leaders, Barotseland very often formulated a demand for self-rule, against the BSAC, then the British colonial administration itself, and subsequently the national regime of the Republic of Zambia. In October 1964, this British protectorate within the protectorate of Northern Rhodesia gained its independence from the UK, but not in a separate way. In virtue of the Barotseland Agreement, which was negotiated by the British government, between Northern Rhodesia and Barotseland, and was concluded on 18 May 1964, the two protectorates involved, would gain their independence as a single nation-State, to be called Zambia. That text previewed that the customary law of Barotseland would be the principal local authority for the government and administration of Barotseland. It also cited that the Litunga of Barotseland, acting after consultation with his Council, would be authorized and empowered to make laws for it in relation to the matters that include:

- The Litungaship;
- The Barotse Government;
- Local government land;
- Forests, traditional and customary matters relating to Barotseland alone;
- The institution at present known as the Barotse native treasury; and
- Local taxation.

This Agreement, which introduced essentially a form of limited self-governance within the non-federal Republic of Zambia, was not incorporated in the 1964 Constitution because Kenneth David Kaunda, the prime minister of Northern Rhodesia and, just afterwards, first President of the Republic of Zambia, did not agree that the agreement be entrenched in the Constitution. Though Lozi people were disappointed that the agreement would not be incorporated into the Constitution, they considered that they had won a substantial victory (Caplan, 1970). This text was terminated by the Republic of Zambia, without the consent of Barotseland, in a context of very intense tribalism (factionism) against nationalism (in the sense of dominance of the unity of the State Nation of Zambia). More precisely, it was ended through the Constitutional (Amendment) Act No 36 of 1969. The national government proceeded to mass arrests of the activists who demanded the repeal of that Act. Not only Western Province, as this

territory was renamed unexpectedly, was transformed in a mere Province of the State but afterwards the government passed the Western Province (Land and Miscellaneous Provisions) Act No. 47, depriving the Litunga of his powers over land and vesting all land in this territory in the President of the Republic.

6. The Cretan State (“...To let him down gently”)

The doctrine has highlighted the undoubted perspective consisting in Zambian rule over Barotseland, in reference to the Kaunda’s ruling United National Independence Party (UNIP) and the National Council of Barotseland. It signaled that “*UNIP was initially prepared to allow this process to transpire gradually and gently, but the intransigence and uncooperative attitude of both factions of the National Council assured that it came swiftly, brutally, and definitively*” (Caplan, 1970). This approach of the real intentions of the major power (Northern Rhodesia) over the minor one (Barotseland) is not merely very realistic but also indicative of the fact that History repeats itself, even in different sociopolitical contexts.

Indeed, the word “gently” had been explicitly used against another non-sovereign State, in the framework of the Ottoman empire, that time by the UK itself. On 10 July 1903, Esmé William Howard, later 1st Baron Howard of Penrith, went to Crete, being a territory, which was essentially free from the Ottoman rule and protected by the UK, France, Italy and Russia. After a long period of time, that skilled diplomat resumed his career in that year and played the role of Consul General for Crete, from 1903 to 1906. The main scope of his mission was revealed by himself, about three decades later, in his book *Theatre of Life*. In the second volume of his book, under the title *Life Seen from the Stalls*, he wrote that his role was not easier, as the Foreign Office made him understand that Prince George of Greece and Denmark, the High Commissioner of the Cretan State, was the favorite nephew of King Edward VII and the Queen Alexandra, and that he would have “*...to let him down gently*”.

The UK, maintaining troops on the island of Crete, would anyway attempt to accomplish its secret mission, but it found a very skilled partner of Greek origin. It was about the Cretan political leader Eleftherios Venizelos, later prime minister in the Greek State, who wanted to run a fight against Prince George. The British government loosely supported Venizelos and coordinated its action with the subversive armed movement of Cretan patriots, known as the 1905 Theriso Revolution. Finally, due to the constant undermining attitude of the British factor, the Head of State was led to resign, in 1906. That year was a crucial one not only for the High Commissioner, who left Crete, but also for Howard, who was sent to Washington as a counsellor at the embassy of the UK there.

The diplomat had managed to accomplish in a splendid way his mission, undertaken at the behest of his service but in ignorance, if not against the moods, of his King (Maniatis, 2008). This secret mission has been characterized as an exquisite specimen of the raw realism of English diplomacy whilst arguably the success of Howard in Crete contributed in his glorious career as diplomat (Markezinis, 1966). Besides, by analogy, Kaunda’s liberation action has some things in common with Venizelos’s struggle for the Union of Crete with the sovereign Greek State.

7. The question of the Western Province’s perspective

Gerald Caplan in his book *Elites of Barotseland* observes that “*Barotseland had existed as an independent national entity long before the creation of Northern Rhodesia, and was legally and historically entitled to maintain or dissolve the attachment as its people wished*” (Mufalo, 2011).

In March 2012, at a meeting of the Barotseland National Council, called by the Litunga for the purpose and appointed in accordance with tradition by the people from across Barotseland, the Council resolved that it finally accepted the repudiation of the 1964 Barotseland Agreement by the Government of Zambia and inter alia that it no longer wished to be part of Zambia but resolved instead for its people to exercise their own right to self-determination as an independent nation. As a result, activists have contacted various international organizations, such as African Union and United Nations, with no tangible results. They are in a process to petition the International Court of Justice, demanding their right to becoming a sovereign State following the abrogation of this Agreement (Kakanku, 2018).

It is to signalize that the struggle of some social groups of Western Province to gain their independence from the Republic of Zambia is peaceful. As Barotseland is not a sovereign State, at least recognized by the international community, cannot be a member of United Nations. As a result, it entered in 2013 the Unrepresented Nations and Peoples Organization. The Barotse National Freedom Alliance (BNFA) in November 2019 sent a letter to Prince Harry of the UK, in which it invited him to meet with Barotse leaders and drew attention to the fact that they unilaterally declared independence in 2012, since there is no legally binding legislation for Zambia's rule over Barotseland (Unrepresented Nations and Peoples Organization, 2019). The choice of no violence, in contradiction to various armed movements in Africa in the second half of the twentieth century, ties in well with the relatively peaceful character of the political history of the Republic of Zambia, which constitutes one of the particular features of Zambia in the African context.

Besides, the Western Province is the poorest and least developed of the (nowadays ten) provinces but the incidence of poverty is characteristic of all rural provinces. There is an important "convention of the constitution" in the political system of the Republic of Zambia, inaugurated by Kaunda and maintained by the rest Presidents. It is about the "tribal balancing" policy, due to which governance representation in Zambia has been void of inequities likely to cause dissent in the dominant ethnic groups, and, as a result, equities at the "governance elite level" has caused inequalities at the regional levels (Mufalo, 2011). In this context, the revival of Barotse secessionism should not be attributed to a sense of socioeconomic and political marginalization but be interpreted on the basis of the sense of belonging to a traditionally and colonially recognized, historically defined, nationhood, and the consequent Lozi national consciousness (Mufalo, 2011).

The resulting democratic governance modes in post-independent Zambia, though recognizing the polarity between traditionalists and nation-State building advocates (nationalists), created a dichotomous governance system, which, according to an approach of the doctrine, usurped most of the traditionalists' autonomy and privilege and, as a result, does not provide adequate regional political and administrative space to traditionally and culturally diverse social groups (Mufalo, 2011).

On account of these data, a proposal was formulated, in 2011, for both the introduction of a federal type of State, with its consequent self-rule for the regions of Zambia, and the adoption of a democratic reform for Barotseland, preserving its monarchical form of governance, as far as the head of the country is concerned (Mufalo, 2011).

This proposal, being nowadays much more controversial due to the political mobility of some groups of the Barotse community towards the creation of a sovereign State, was not easy to accept. On the one hand, it was not compatible with both the Preamble and article 1 of the 1996 version of the Constitution, according to which Zambia is a unitary, indivisible State. So, uniquely through a constitutional amendment could be created a Federation. On the other hand, the emergence of federalism would be likely to enhance centrifugal political tendencies, such as sectionalism and, at least as far as Western Province is concerned, secessionism. On the other

hand, this proposal is rather problematic in material terms, as well. Poverty and underdevelopment of rural areas are a challenge of the already established national values of the Constitution, such as social cohesion and sustainable development. In other words, the mainstreaming constitutional normativity is available for the application of a socioeconomic policy in favor of rural population, including the people of the Western Province. Last but not least, posterior political data have demonstrated the political impasse of the decentralization reform. The 2016 version of the Constitution has been considered as very progressive as many, if not all, of the submissions that were made to the Mung'omba Constitutional Review Commission have been included, with the exception of the creation of the provincial parliaments. The rejection of this proposal for the democratization of provinces was justified with the argument that it would be too costly for the nation (Chipalo, 2016).

8. Conclusions: Glocalization in Africa and mobility in Western Province

The current study has ended up to the following remarks:

a. Glocalization of African constitutionalism

African Constitutionalism has been based on presidentialism, an invention of Latin America, which is a region whose Southern part is symmetrical to Africa in both geographical and constitutional terms. In its first phase, this movement had to cope with serious obstacles, such as the colonial preliminary shaping of the independence Constitutions and shortly afterwards authoritarian forms of deviance. For this reason, some scholars make reference to the existence of three periods of post-independence constitutional history, along with the post-cold war period, namely just as three Republics of Zambia are mentioned. Anyway, mainstreaming concepts of constitutional principles and human rights, such as democracy and peace, have been altered in some points of Zambian Constitutional History, at least as far as the Second Republic is concerned.

The current era of neo-constitutionalism has implicated a gradual modernization of both State and society, introducing novelties in Pan-African level, such as the mechanism of Constitutional Court which was introduced in the 2016 version of Zambian Constitution, and the alternance of political parties in power, with Cabo Verde and Zambia as the two pioneer countries. Furthermore, regional novelties have been added, such as the constitutional consecration mainly of chieftainship, related to customary law, but also of traditional values, in the former colonies of France. This tendency has contributed to a further convergence of Constitutional Law of African countries, particularly of the former French colonies to the former British ones, but also exemplifies glocalization. This term is a portmanteau of globalization and localization and has to do with an osmosis of globalization with particular features of local societies, including normativity and political institutions.

b. The "gentle" character of diplomacy

The Barotseland question has proved to be slightly comparable with the (partly parallel) Cretan one. In the case of Crete, the UK made use of the services of a new Consul General with the secret mission, decided by the Foreign Office, to undermine "gently" the political position of the Head of State, Prince George of the Kingdom of Greece. 41 years later, Kaunda, the Prime Minister of a British protectorate who was very experienced on the "know how" of the diplomacy of the UK, had the intention to undermine gently the political establishment of Barotseland in the framework of the Barotseland Agreement, which however resulted in being terminated by Kaunda's regime not only unilaterally but also abruptly. Anyway, the similarity of political and legal adventures of territories protected by the UK is amazingly important, even between non-neighboring lands in different historical phases.

c. The international mobility of Western Province (Barotseland)

As far as Western Province is concerned, elements of self-rule can be ensured in a wider project for democratization of provinces in their whole. Besides, not only is the question of Barotseland controversial but also difficult to resolve, at least through the eventual recognition of a State. Indeed, it is difficult to establish a new State, even a union State within a federation, inter alia because Zambian constitutionalism has led to the model of the unitary Republic, reinforced by important national values, in spite of the fact that neo-constitutionalism of the Republic of Zambia has exemplified the African tendency to promote multi-culturalism (pluralism). This tendency ties in with an important, diachronic Zambian “convention of the constitution”, consisting in the “tribal balancing” practice in terms of governance.

It is to put the stress on the fact that the State on the matter is not only unitary, officially, but also unified through some national values and principles, which have been explicitly incorporated in the Preamble of the Constitution (democracy and Christianity) and – at least in the process of constitutional amendment – in the article on national values and principles (democracy, constitutionalism and Christianity). Indeed, initially Christianity and later constitutionalism itself both have gained territory in the framework of Zambian constitutionalism, through the amendments of the 1991 Constitution whilst democracy constitutes the oldest principle being explicitly recognized. Besides, tradition is represented, obviously in a secondary way, in the same framework, and is exemplified by various components, such as the chiefs and the institutionalized House of Chiefs as well as customary law. However, this hardcore aspect of African constitutionalism has raised criticism as long as it is rather anachronistic, if not democracy-unfriendly and dangerous for human rights. For instance, like its predecessor, the 1991 Constitution provides for the protection of fundamental rights and freedoms of the individual without getting rid of some limitations contained in the previous Constitution, as it is the case of potential discrimination based on customary law and resulting in disadvantaging of women. Article 23 on this role of customary law is still in vigor, as the entire Bill of Rights has never been amended, to date.

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