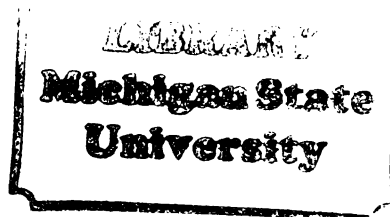




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1927-1941

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THE NAWINDA COURT AND  
BRITISH-LOZI-BALOVALE RELATIONS  
1927-1941

By

John Henry Hanson

A THESIS

Submitted to  
Michigan State University  
in partial fulfillment of the requirements  
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ABSTRACT

THE NAWINDA COURT AND  
BRITISH-LOZI-BALOVALE RELATIONS  
1927-1941

by

John Henry Hanson

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This is a study of African initiative and British policy during the years of "indirect rule." Many historians characterize administrative practice during this period as inflexible. The history of the Nawinda court in Balovale, a multi-ethnic rural District of Northern Rhodesia, corrects this overemphasis on British rigidity. The Lozi monarch Yeta III (1916-1945) exploited the opportunities for change inherent in British policy and established a new Lozi court at Nawinda in Balovale. Lozi judges used the Nawinda court to collect fines from residents who violated Lozi laws and to coerce dissident leaders who resisted Lozi authority. An assault on the steps of the court, however, drew British attention to colonial relationships in Balovale. The court was removed when Balovale was excised from Barotse Province in 1941.



## ACKNOWLEDGMENTS

I wish to express my gratitude to those who helped in the preparation of this thesis. David Robinson oversaw the project from beginning to end. Countless numbers of drafts passed across his desk during the past year, each benefiting from his wise counsel and insightful commentary. Gordon Stewart and Jay Spaulding also have seen drafts of this thesis. Their suggestions and encouragement were deeply appreciated. Amie Campbell, my wife, remained a friend throughout the entire process. She listened and discussed, and always extended a hand when it was needed.



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## INTRODUCTION

Daniel Akufuna, a Lozi judge, burst out of the court at Nawinda with a knife in his hand and lunged at Kasanda, a Ndembu leader who advocated the removal of the Lozi court. News of the attempted knifing quickly spread to Ndembu and Lu-vale villages in Balovale, a multi-ethnic rural District of Barotse Province, Northern Rhodesia. The court had been established in 1933, three years prior to the assault, as the cornerstone of British policy in Balovale; Yeta, the Lozi monarch and Paramount Chief of Barotse Province, had manipulated British officials into accepting the Lozi court as an integral part of their administrative reforms in the District. Lozi officials at Nawinda used the judicial apparatus to collect fines from residents who violated Lozi laws and to intimidate local leaders who resisted Lozi assertions of authority. The assault engendered expressions of popular support for Kasanda, however, and the British called a Commission of Inquiry to study the conflict. The Governor accepted the Commission's recommendation to excise Balovale from Barotse Province because, in his words, "The experiment in Barotse rule of Balovale District has dismally failed."<sup>1</sup> The Lozi court was

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<sup>1</sup>Governor Maybin to CO, 14 November, 1939, CO 795/107/45080/6.



removed in 1941 and Kasanda was placed in charge of one of several new courts created in the aftermath of the excision.

This reversal of British policy in Balovale occurred at a time when "indirect rule" and its associated vocabulary had been adopted as the official idiom of colonial parlance. British administrators throughout the African continent had implemented reforms during the twenties and thirties which were modelled after F.D. Lugard's triumvirate of local institutions--the Native Authority, Native Treasury and Native Court.<sup>2</sup> Most critics of British policy emphasize the rigidity of administrative practice during the years of "indirect rule."<sup>3</sup> Both Yeta and Kasanda exploited the possibilities for change inherent in the colonial situation, however, and British policy in Balovale was shaped by their activities. This is a study of African initiative and British reaction during the colonial period.<sup>4</sup>

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<sup>2</sup>The literature on "indirect rule" and its implementation is quite extensive. See, for its initial formulation, F.D. Lugard, The Dual Mandate in Tropical Africa (London, 1922). See also: D.A. Low and R.C. Pratt, Buganda and British Overrule: Two Studies (Oxford, 1960); K. Datta, "Indirect Rule in Northern Rhodesia, 1924-1953" (Ph.D. thesis, University of London, 1976), cited in A. Roberts, A History of Zambia (New York, 1976), 264.

<sup>3</sup>This literature is also extensive. See, for example, W.R. Crocker, Nigeria: A Critique of British Colonial Administration (London, 1936). See also, for a work which has parallels with the present study, T.O. Beidelman, "Intertribal Tensions in Some Local Government Courts in Colonial Tanganyika," Journal of African Law, X, 2 (1966), 118-30 and XI, 1 (1967), 27-45.

<sup>4</sup>Or, in other words, this study reverses the standard



The evidence for this study consists of published and archival materials. Most of the data is drawn from the Balovale Commission Report<sup>5</sup> and relevant Colonial Office correspondence.<sup>6</sup> The first chapter is an introductory discussion of British colonialism in Barotse Province which is based on the extensive literature concerned with British-Lozi relations.<sup>7</sup> The Lozi court system and the political and economic contexts of Balovale District are emphasized. The second chapter is a narrative of Yeta's initiative and the history of the Nawinda court.

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chronology of British action and African response as evident in G.L. Caplan, The Elites of Barotseland, 1878-1969 (Berkeley, 1970).

<sup>5</sup>The Balovale Commission Report quotes extensively from oral testimony collected in 1938 and 1939 as well as from District, Provincial and Secretariat files. The Commissioner did not find a "uniform state of affairs" and, consequently, did not hesitate to document conflicting opinions or material which he did not understand: Report of the Commission Appointed to Examine and Report Upon the Past and Present Relations of the Paramount Chief of the Barotse Nation and the Chiefs Resident in the Balovale District both East and West of the Zambezi River with Special Reference to the Ownership of Land and the Method by Which the Tribes Have Been Governed and to Make Recommendations for the Future (Lusaka, 1939), hereafter BCR.

<sup>6</sup>"Jurisdiction in Barotseland" and "Barotse Rule in Balovale" are two multiple year files contained in CO 795.

<sup>7</sup>I have also consulted the growing literature on Luvala and Ndembu history. Since there are gaps between and within these various historiographies, my argument is speculative at times. These areas are indicated in the text.



## CHAPTER I

### BRITISH COLONIALISM IN BAROTSE PROVINCE

Converging economic and strategic interests compelled the British South Africa Company (BSAC) to establish an administrative presence on the upper Zambezi.<sup>1</sup> The BSAC initially obtained a mineral concession in 1890 from Lewanika, the monarch of Bulozhi (Barotseland). This concession provided the incentive for British strategists in the Foreign Office to secure an enlarged territorial sphere in central Africa vis a vis the Portuguese. The BSAC cooperated with the Foreign Office and employed one of its agents, Robert Coryndon, to establish an official British Residency in Bulozhi. Although Coryndon was under the charge of the High Commissioner in Pretoria, he served BSAC interests in the region. He negotiated several new concessions at the turn of the century which established favorable terms for the BSAC in the region. The

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<sup>1</sup>British encroachment on the upper Zambezi is analyzed from various points of view. The following reconstruction is drawn from: G. Prins, The Hidden Hippopotamus; Reappraisal in African History: The Early Colonial Experience in Western Zambia (Cambridge, 1980); W.G. Clarence-Smith, "Slaves, Commoners and Landlords in Bulozhi, c.1875-1906," Journal of African History, XX, 2 (1979), 219-34; P. Duignan, "Sir Robert Coryndon (1870-1925)," in African Proconsuls, eds. L. Gann and P. Duignan (New York, 1978); J.S. Galbraith, Crown and Charter (Berkeley, 1974); Caplan, The Elites of Barotseland.





concessions effectively divided the upper Zambezi into two British spheres, both of which were under the administrative control of the BSAC. One sphere corresponded to the heartland of Bulozhi and was known as the Barotse Reserve. The BSAC agreed to restrict white settlement and to withdraw its mineral claims in this sphere. Lewanika was recognized as the Paramount Chief of the Reserve and given a measure of autonomous control over the indigenous population. The other administrative sphere included sections of Bulozhi's eastern periphery. The BSAC eliminated all forms of Lozi control in this sphere.<sup>2</sup>

Colonial policies in Barotse Province (the administrative unit which was roughly coterminal with the Reserve) encouraged the migration of African laborers to European mineral and agricultural enterprises. The BSAC administration imposed a hut tax in non-Reserve areas beginning in 1902 and extended this policy with Lewanika's consent into Barotse Province in 1905.<sup>3</sup> BSAC officials also convinced Lewanika in 1906 to abolish all forms of slavery except twelve-days unpaid labor services controlled by the political elite. The former slaves joined the ranks of freemen who were forced by the BSAC hut tax in increasing numbers to migrate to European labor centers outside of Bulozhi.<sup>4</sup> Colonial labor policies

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<sup>2</sup>K. Vickery, "The Making of a Peasantry: Imperialism and the Tonga Plateau Economy, 1890-1936" (Ph.D. thesis, Yale University, 1978), especially ch. 2.

<sup>3</sup>Vickery, "The Making of a Peasantry," ch. 2; Caplan, The Elites of Barotseland, 86-87.

<sup>4</sup>Clarence-Smith, "Slaves, Commoners and Landlords," 232.



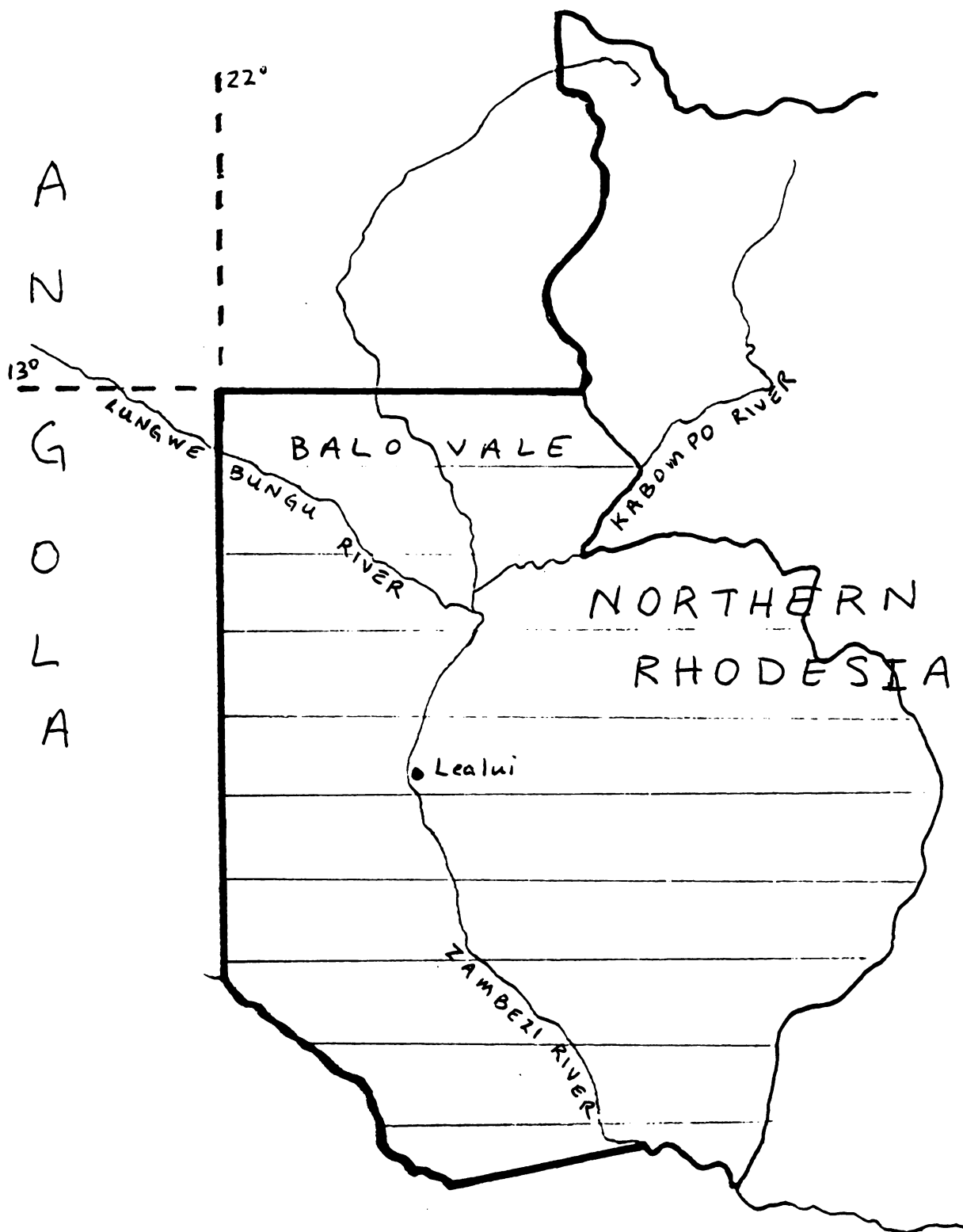


Figure 1

Barotse Province, c.1900-1941



remained relatively unchanged until 1924, the year in which the Colonial Office assumed control of Northern Rhodesia from the BSAC. The new Governor convinced Yeta, Lewanika's successor, to abolish the twelve-days labor services in exchange for a British subsidy. These Colonial policies established Barotse Province as an important labor pool for the Copperbelt as well as for enterprises south of the Zambezi.<sup>5</sup>

The productive capacities of Barotse Province were altered as a result of the loss of labor to European enterprises. Occasional food shortages in the southern and central Districts attracted colonial attention to the problem during the forties,<sup>6</sup> although the decline in agricultural productivity had begun much earlier. The loss of increasing numbers of males from the agricultural labor force was a critical factor because agricultural techniques in this region were labor intensive.<sup>7</sup> The migration of males also contributed to changes in social relationships in the Province. Unfortunately the existing work on social change during the middle colonial period is inadequate.<sup>8</sup>

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<sup>5</sup>L. Van Horn, "The Agricultural History of Barotseland, 1840-1964," in The Roots of Rural Poverty in Central and Southern Africa, eds. R. Palmer and N. Parsons (Berkeley, 1976), 144-169.

<sup>6</sup>M. Gluckman, Economy of the Central Barotse Plain, Rhodes-Livingstone Papers, No. 7 (Manchester, 1941); D.U. Peters, Land Usage in Barotseland, ed. N. Smyth, Rhodes-Livingstone Communication 19 (Livingstone, 1960); E.L. Hermitte, "An Economic History of Barotseland, 1800-1940" (Ph.D. thesis, Northwestern University, 1973).

<sup>7</sup>Van Horn, "The Agricultural History of Barotseland," 149-161.

<sup>8</sup>M. Gluckman's studies are limited by his political and



There were important changes in political relations within the Lozi state during this period. The first two monarchs of colonial Bulozhi, Lewanika (1886-1916) and his son Yeta (1916-1945), controlled annual British subsidies given in compensation for the abolition of slavery. These two monarchs distributed this income to a small group of Lozi officials who congregated at the royal court at Lealui.<sup>9</sup> Lewanika and Yeta also proved adept at manipulating British support for Lealui interventions into local politics.<sup>10</sup> The Lozi court system was a particularly effective instrument for these initiatives.

#### The Lozi Court System During the Colonial Period

The Lozi court system was virtually unencumbered by BSAC restrictions during the early colonial period. Lozi judges retained jurisdiction over all legal disputes except cases which involved a European, the death penalty or a Lozi custom particularly repugnant to British mores.<sup>11</sup> Although British officials frequently complained about the activities of Lozi judges, the BSAC relied on informal constraints and did not

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conceptual biases. His work has drawn criticism from scholars of various intellectual traditions. See, for example, Prins, The Hidden Hippopotamus; Clarence-Smith, "Slaves, Commoners and Landlords;" R. Brown, "Passages in the Life of a White Anthropologist: Max Gluckman in Northern Rhodesia," Journal of African History, XX, 4 (1979), 525-41.

<sup>9</sup> Caplan, The Elites of Barotseland, chs. 4-6.

<sup>10</sup> Prins, The Hidden Hippopotamus, 97-105.

<sup>11</sup> M. Gluckman, The Judicial Process Among the Barotse of Northern Rhodesia (Manchester, 1955), 2-3.





amend the concessions which guaranteed Lozi judicial autonomy.<sup>12</sup> Since Lozi judges benefited from British support, they were careful not to act in ways which would have eroded their working relationship with the BSAC.

Lozi judges used this working relationship to exploit the opportunity provided by increasing numbers of adultery accusations in Barotse Province. An increase in adultery accusations was a common occurrence among African groups whose males became involved in labor migration or military service for extended periods of time. In some cases indigenous groups pressed colonial administrators for changes in adultery laws.<sup>13</sup> In Barotse Province these social demands provided an opportunity for Lozi judges to secure alternate means of support in an era when the British had eliminated dependent labor. One of the first laws promulgated by Yeta during the colonial period pertained to adultery: adultery was redefined from a civil to a criminal offense for the convicted female, who was required thereby to pay a £ 1 fine to the court.<sup>14</sup> If the woman was unable to pay this fine in cash, Lozi judges accepted seven days of labor services in their gardens instead.<sup>15</sup> The abolition of

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<sup>12</sup>Caplan, The Elites of Barotseland, chs. 4-5.

<sup>13</sup>A. Phillips (ed.), Survey of African Marriage and Family Life (London, 1953), 55, 228. See also, H.F. Morris, "Indirect Rule and the Law of Marriage," in Indirect Rule and the Search for Justice, eds. H.F. Morris and J.S. Read (London, 1972), 213-250.

<sup>14</sup>Gluckman, The Judicial Process Among the Barotse, 37, 65.

<sup>15</sup>BCR, 86.



twelve-days labor obligations in 1924 increased the need among the Lozi political elite for such a new source of income. Many Lozi officials thereafter became itinerant judges travelling a regular circuit to find enough adultery cases to support themselves.<sup>16</sup> By the forties the overwhelming majority of cases heard by Lozi judges pertained to adultery.<sup>17</sup>

Yeta's initiative into Balovale occurred within this context of declining state revenues and increasing numbers of adultery accusations. Although Yeta was compensated for the abolition of twelve-days labor obligations, he soon found the sum inadequate to cover his expenditures.<sup>18</sup> Yeta took matters into his own hands and used his position as the Lozi monarch to establish a new court staffed by his son and others from Lealui. The choice of location was Balovale, a northern District of Barotse Province, which was officially under Yeta's jurisdiction as Paramount Chief. Balovale was attractive because colonial officials diffused power to several groups in the District and an organized political challenge would be difficult. Also, Balovale agriculturalists were increasing production at a time when most of the Province was in decline.

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<sup>16</sup>Report of the Resident Magistrate of Barotse Province, 1928, cited in Van Horn, "The Agricultural History of Barotseland," 158.

<sup>17</sup>Gluckman, The Judicial Process Among the Barotse, 64-65.

<sup>18</sup>Caplan, The Elites of Barotseland, 133-38. Indeed, Yeta accumulated a debt of £ 2,500 by 1934: see Caplan, The Elites of Barotseland, 148.



Configurations of Power in Balovale District, 1907-1927

Balovale District was a colonial creation whose boundaries were set by international negotiation and colonial fiat during the first decades of the twentieth century. The initial Anglo-Portuguese border in the region ran along the Zambezi and up the Kabompo River: the Portuguese controlled the territory which was to become Balovale. British negotiators used Lozi claims of hegemony over the Luvale and Ndembu to press for an extension of the British sphere north and west of the Zambezi-Kabompo line.<sup>19</sup> The Portuguese had made contact with Luvale groups much farther north, however, and disputed British claims for an extension. The arbiter to the dispute awarded the British in 1905 with an extension of territory to 22°E and 13°S. A BSAC official was sent up the Zambezi with a contingent of armed Lozi Messengers in 1907 to establish an administrative presence.<sup>20</sup> The boundaries of Balovale were set in two separate actions by the BSAC: the region west of the Zambezi was placed in the Barotse Reserve in 1909 and the region east of the Zambezi was designated Crown Territory under the jurisdiction of the Lozi monarch in 1913.<sup>21</sup> Balovale was subsequently administered as a District of Barotse Province.

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<sup>19</sup>C.M.N. White, "The Ethno-history of the Upper Zambezi," African Studies, XXI, 1 (1962), 10-27.

<sup>20</sup>J.H. Venning, "Early Days in Balovale," Northern Rhodesia Journal, II, 6 (1955), 53-57.

<sup>21</sup>The first action was effected through the Concession of 1909; the second action was promulgated in two Ordinances. The Administrator of Northern Rhodesia justified placing this

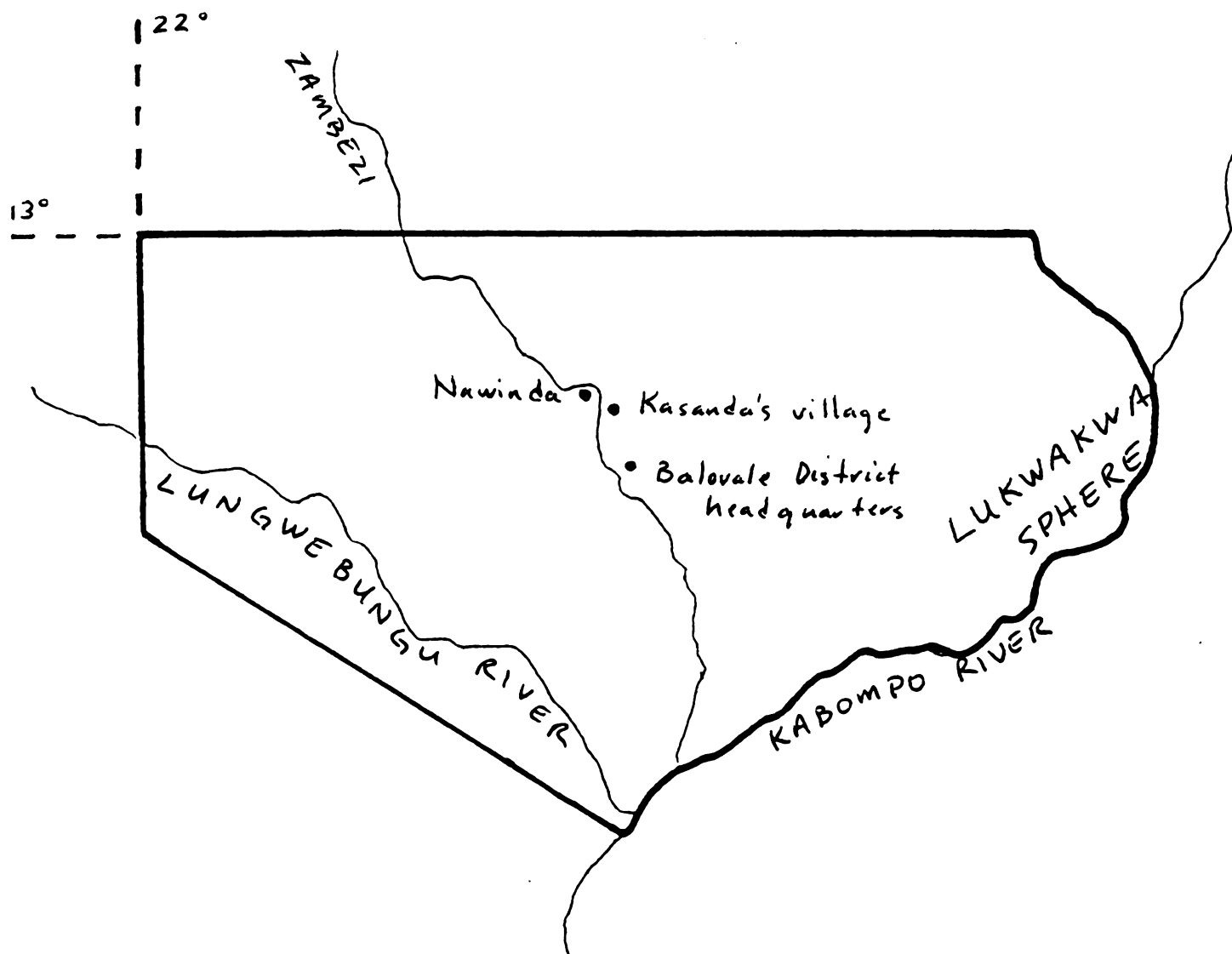


Figure 2  
Balovale District

Balovale was inhabited by agriculturalists who identified themselves with one of several ethnic groups. The Ndembu and the Luvale constituted the two most numerous groups in the District. Ndembu agriculturalists lived in small villages on the east bank of the Zambezi north of the Kabompo.<sup>22</sup> Luvale villages were situated on the west bank of the Zambezi and in areas east of the Ndembu.<sup>23</sup> This latter area was inhabited during the early colonial period when Luvale groups fled from Katanga labor recruiters operating in Angola.<sup>24</sup> Luchazi groups

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territory under Lozi jurisdiction because it simplified administration. Wallace to BSAC, 30 November, 1912, CO 795/97/45080/6.

<sup>22</sup>The ethnography of Ndembu groups living in a District north of Balovale is provided in works by V.W. Turner. See, for example, Turner, Schism and Continuity in an African Society: A Study of Ndembu Village Life (Manchester, 1957) and idem, The Drums of Affliction: A Study of Religious Processes Among the Ndembu of Zambia (Oxford, 1968). See also M. McCulloch, The Southern Lunda and Related Peoples (London, 1951).

<sup>23</sup>The ethnography of Luvale groups in Balovale is presented in works by C.M.N. White and A. Spring. R. Papstein has worked with Luvale oral traditions in an effort to reconstruct the precolonial history of the Luvale. See: R. Papstein, "The Upper Zambezi: a History of the Luvale People, 1000-1900" (Ph.D. thesis, U.C.L.A., 1978); A. Spring, "Women's Rituals and Natalivity Among the Luvale of Zambia" (Ph.D. thesis, Cornell University, 1976); C.M.N. White, An Outline of Luvale Social and Political Organization, Rhodes-Livingstone Paper No. 30 (Manchester, 1960); idem, Elements of Luvale Beliefs and Rituals, Rhodes-Livingstone Paper No. 32 (Manchester, 1961); idem, Tradition and Change in Luvale Marriage, Rhodes-Livingstone Paper No. 34 (Manchester, 1962). Other relevant works by White are cited throughout this study.

<sup>24</sup>C. Perrings, "'Good Lawyers But Poor Workers': Recruited Angolan Labor in the Copper Mines of Katanga, 1917-1921," Journal of African History, XVIII, 2 (1977), 243-44.



also migrated into Balovale during the colonial era.<sup>25</sup> These groups lived among the Luvale and in scattered settlements in Ndembu areas.

There were Lozi communities in Balovale which had been established prior to the colonial period. The first group moved from Lealui to Lukwakwa, a site in eastern Balovale, in retreat from the mid-nineteenth century Kololo invasion of Bulozhi. The Lukwakwa Lozi did not support Lewanika's candidacy to the restored Lozi throne and remained at Lukwakwa.<sup>26</sup> A second group of Lozi were sent as emissary chiefs in 1892 to both Luvale and Ndembu chiefly villages. Lewanika was trying to create a tributary region within greater Bulozhi in the aftermath of a Lozi raid into the region.<sup>27</sup> Although some Luvale and Ndembu communities initially sent tribute to Lewanika, the practice was never institutionalized and the Lozi who remained lived among their hosts with no special political status.<sup>28</sup>

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<sup>25</sup>This immigration was part of a larger population shift from eastern Angola to Barotsse Province as a whole. Hellen estimates that approximately 100,000 Angolans migrated into Northern Rhodesia during the first half of the twentieth century. Clarence-Smith argues that population pressures caused the movement. A second wave of immigrants responded to the opening of the Copperbelt in the late-twenties. See: J. Hellen, Rural Development in Zambia, 1890-1964 (Munich, 1968), 235; Clarence-Smith, Slaves, Peasants and Capitalists in Southern Angola, 1840-1926 (Cambridge, 1979), 95-6; C.M.N. White, "Notes on the Political Organization of Kabompo District," African Studies, IX, 4 (1950), 186.

<sup>26</sup>M. Mainga, Bulozhi Under the Luyana Kings (London, 1973), 65-87, 100-101.

<sup>27</sup>White, "The Ethno-History of the Upper Zambezi," 20-26; Papstein, "The Upper Zambezi," 192-97.

<sup>28</sup>Harding to FO, 5 February, 1901, cited in Caplan, The Elites of Barotseland, 81, 113n; Tour Reports 3 and 4, 1937, CO 795/97/45080/6; BCR, 52-54.

The arrival of BSAC colonial officials altered the political relationship of these Lozi groups to their non-Lozi neighbors. The change was a result of British perceptions of Lozi hegemony in Balovale,<sup>29</sup> the use of Lozi Messengers<sup>30</sup> and the linguistic training of the British officials, who often knew the language spoken by the Lozi but did not know any of the indigenous languages of Balovale.<sup>31</sup> The Lukwakwa Lozi extended their control over immigrant Luvale and Luchazi communities in eastern Balovale during the colonial period. Lozi Messengers used force to coerce immigrant communities whenever they resisted incorporation into the Lukwakwa sphere of control.<sup>32</sup> Resident Lozi along the Zambezi had fewer opportunities for expansion since the number of immigrants was smaller and the District headquarters was closer for those who wished to complain. There were a few cases of Lozi expansion: Njekwa and Mwenda had each secured headmanship over thirty Luchazi and Luvale communities by the thirties.<sup>33</sup>

The increase in Lozi power was paralleled by similar changes in the power of Ndembu chiefs. The Ndembu had been colonized

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<sup>29</sup>BCR, 69, 74. See also, Venning, "Early Days in Balovale."

<sup>30</sup>See, for a discussion of the use of Lozi Messengers, W.V. Brelsford, "The Boma and His Uniform," Northern Rhodesia Journal, II, 3 (1954), 34-42.

<sup>31</sup>BCR, 5.

<sup>32</sup>BCR, 57, 95-97, 100, 122; Keith to CO, 4 November, 1938, CO 795/97/45080/6.

<sup>33</sup>Tour Report 3, 1937, CO 795/97/45080/6; BCR, 122-4, 130-1, 135.

during the early eighteenth century by groups led by Ishinde and Kanongesha, two putative sons of the Lunda chief Mwaant Yaav.<sup>34</sup> Although political power among the Ndembu was quite decentralized during the precolonial period, Kasanda, the holder of the Ishinde title, used British support to create an ordered political structure under his control. Kasanda had been recruited as a Messenger prior to his succession to the Ishinde title in 1912. Thereafter, he moved his village from Angola to a site close to the Balovale District headquarters. Kasanda and his followers expanded the judicial role of Ndembu chiefs and established a hierarchical structure with the Ishinde's court at the apex. Although some Ndembu leaders challenged Kasanda's actions, the British continually supported Kasanda's position.<sup>35</sup>

Luvale chiefs were not able to consolidate their positions as effectively as their Ndembu counterparts. Although Luvale chiefship was authoritative in areas where the Luvale had engaged in the slave trade during the precolonial era, the Luvale in Balovale had not participated in these changes and, consequently, their chiefs had few mechanisms of coercion.<sup>36</sup> The British attempted to recruit Luvale chiefs, although their

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<sup>34</sup>R. Schechter, "History and Historiography on a Frontier of Lunda Expansion: the Origins and Early Development of the Kanongesha" (Ph.D. thesis, University of Wisconsin, 1976).

<sup>35</sup>Tour Report 4, 1937, CO 795/97/45080/6; BCR, 39-41, 75, 84, 90-91.

<sup>36</sup>Papstein, "The Upper Zambezi," 252.

intervention in the succession to the most senior Luvala title in Balovale backfired. The candidate they had supported died and the title was secured by the other candidate, a woman who did not meet the expectations of the British officials. While the British did not completely cut ties with titled Luvala authorities, they often recruited non-titled headmen and tacitly accepted the growing power of resident Lozi such as Mwenda and Njekwa.

Political decentralization did not prevent Balovale residents from establishing links with the colonial economic order. Once a motor-route to the Copperbelt was completed in 1941 Balovale District was intimately connected to large markets for foodstuffs and labor. Prior to the forties Balovale producers sent their surplus foodstuffs down to the markets near Lealui. Balovale's productive vitality was in stark contrast to the other Districts under Yeta's control.

#### Agricultural Production in Balovale

Balovale producers dominated cash-crop production of cassava for the markets of Barotse Province by the early forties. Gluckman observed canoes filled with cassava meal descending down the Zambezi from Balovale and suggested that differential rates of productivity exacerbated the Lozi-Balovale conflict.<sup>37</sup> The Lealui court passed an ordinance in 1940 which encouraged producers to shift their activities from the flood-plain to the

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<sup>37</sup>Gluckman, Economy of the Central Barotse Plain, 122.

land along its banks in order to increase production and push Balovale producers out of the market.<sup>38</sup> The rationale behind this ordinance was sound: Balovale agriculturalists used less labor intensive techniques than flood-plain producers and were able to increase production even when the number of available males was reduced by labor migration.<sup>39</sup> The productivity of Balovale agriculturalists attracted the attention of C.M.N. White, a colonial researcher who studied the Luvala and Luchazi during the forties and fifties; Balovale producers were upheld in colonial circles as Africans particularly receptive to the market-principle.<sup>40</sup>

Although Balovale producers did not receive much attention until the forties, there is circumstantial evidence which points to expanding productivity during the early thirties. White attributes Balovale productivity to the adoption of techniques initially practiced by the Luchazi immigrants who arrived in Balovale during the first decades of the twentieth century.<sup>41</sup> Although it is difficult to envision such a change in the absence of evidence, it is reasonable to assume that the new techniques were initially adopted in multi-ethnic communities and later embraced by other producers when there were incentives for

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<sup>38</sup>Gluckman, Economy of the Central Barotse Plain, 55.

<sup>39</sup>See C.G. Trapnell and J.N. Clothier, The Soils, Vegetation and Agricultural Systems of North-Western Rhodesia, (Lusaka, 1937), 59.

<sup>40</sup>C.M.N. White, A Preliminary Survey of Luvala Rural Economy, Rhodes-Livingstone Paper No. 29 (Manchester, 1959), 37-53.

<sup>41</sup>White, A Preliminary Survey of Luvala Rural Economy, 23-25.

such a change. The first incentive may have been the British willingness after 1925 to accept tax payments in cassava as well as cash.<sup>42</sup> A District Officer reports that there were surpluses of cassava coming in during tax collection in the early thirties.<sup>43</sup> Since agricultural production in the central and southern Districts was beginning to decline by this time, the markets down river were an added incentive for surplus cassava production. Although Balovale had been considered a poor District in the early twenties, expanding production in the early thirties altered that situation dramatically.

Agricultural expansion was possible because the Balovale work force had not been depleted through labor migration. Balovale District was situated outside recruiting areas for Katanga mines, on the one hand, and southern African mines and plantations, on the other. Katanga recruiters were discouraged from operating in Northern Rhodesia because they had to pay the workers in British sterling.<sup>44</sup> Recruiters for enterprises from the south avoided Luvala laborers because they were

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<sup>42</sup>After a visit to Balovale the new Secretary of Native Affairs recommended changes in the tax structure because the District Commissioners were unable to collect the tax. The Secretary attributed the problem to the District's distance from European labor centers. The rate of tax was reduced from 10/- to 5/- in Balovale while the rest of the Province remained at 10/-. See Tour Report, Secretary of Native Affairs, CO 795/6/106.

<sup>43</sup>"If there was a market a large surplus of cassava meal would be forthcoming." See R.S. Hudson, "The Human Geography of the Balovale District, Northern Rhodesia," Journal of the Royal Anthropological Institute, LXV (1935), 241.

<sup>44</sup>Perrings, "'Good Lawyers but Poor Workers,'"

perceived as unsuitable for heavy labor in the mines.<sup>45</sup> Consequently, Balovale males were not forced to work at European labor centers during the early colonial period.

When the Copperbelt opened in the late twenties Balovale residents were able to make more choices than most rural Africans in the region. Balovale farmers could stay in the District and produce for the cassava markets downriver. Another option included migration to the Copperbelt as a means to obtain cash for subsequent investment in the agricultural sector of Balovale District. There was also the option to engage in petty trade in the District or on the Copperbelt.<sup>46</sup> This situation contrasted with the central and southern Districts where agricultural production was declining and the number of males migrating out of the district continued to increase. Yeta's decision to establish a new court in Balovale may have been a recognition that the productive bases of the Province were shifting northward. Balovale was at the very least an attractive prize for Yeta and the Lealui Lozi.

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<sup>45</sup>This stereotype emerged from the experiences of Angolan Luvale recruits on Katanga mines. They were marched from Angola to Katanga and lived in crowded and unsanitary housing. Consequently a large proportion of the Luvale contingent died and a stereotype of Luvale weakness emerged. This stereotype was still extant among British recruiters in the thirties. See: Perrings, "'Good Lawyers But Poor Workers'"; Report on the Native Labor Association Conference, 1930, CO 795/39/35600; Annual Report Upon Native Affairs for the Year 1933 (Lusaka, 1934), 37.

<sup>46</sup>Annual Report Upon Native Affairs for the Year 1936 (Lusaka, 1937), 89.





## CHAPTER II

### HISTORY OF THE NAWINDA COURT

#### Yeta's Initiative, 1927-1931

Noyoo Luchanana, an elderly member of the Lealui court, stood on the steps of Balovale District headquarters in July, 1927, and announced the extension of the Lozi Adultery Ordinance into Balovale. District Commissioner Sharratt-Horne had initially discouraged this assertion of Lozi authority and implored the Lealui court to establish a regular court instead.<sup>1</sup> Yeta did not establish a court at the time because he had extended the Lozi Adultery Law in order to facilitate the activities of itinerant judges outside his patronage network. These judges, however, made infrequent visits to Balovale in the years that followed Luchanana's proclamation.<sup>2</sup> The opening of British-Lozi negotiations for administrative reform in 1929 presented Yeta with an opportunity to expand his initiative along the lines Sharratt-Horne had initially suggested.

Governor J.C. Maxwell (1927-1932) was given the orders by the Colonial Office to rationalize the inherited BSAC administrative structure. He established a Native Authorities

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<sup>1</sup>BCR, 86, 105. Yeta had the right to extend the Ordinance as the Paramount Chief of Barotse Province.

<sup>2</sup>BCR, 84, 87.

and Courts<sup>3</sup> system in 1929 which was modelled after Lugard's recommendations. Since the various concessions signed by Lewanika had safeguarded Lozi authority against British intervention into African affairs, these administrative reforms were not implemented in Barotse Province. Maxwell was not satisfied, however, with the British-Lozi status quo because the Governor had no formal control over Lozi judges. He ordered the Provincial Commissioner of Barotse Province, C.R. Rennie, to approach Yeta with the idea of extending the Native Authorities and Courts system into the Province. Maxwell encouraged Rennie to explore the possibility of using the initiative to create non-Lozi Native Authorities for the largest ethnic groups under Lozi control.<sup>4</sup>

The negotiations began in June, 1929, and continued throughout the following year. Rennie and Yeta used a draft of the Native Authorities and Courts Ordinance as a working model for reform. Yeta agreed that the new system was attractive, although he expressed his reservations about the clauses which gave the British total authority to appoint and dismiss African officials. Yeta also asked for British support for a new court in Balovale District. Rennie would not compromise on Yeta's first point, since Maxwell's intent was to obtain

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<sup>3</sup>Since Maxwell did not authorize the Native Authority to collect tax, there was no Native Treasury.

<sup>4</sup>Maxwell included a selection of the most important communications between Yeta, Rennie and himself in a despatch to the Colonial Office. This discussion is drawn from Enclosures I - XIV, Maxwell to CO, 26 May, 1931, CO 795/47/36170.



legal recognition of British authority in the Province. Instead, Rennie altered the wording of the relevant clause to acknowledge "the recommendation of the Paramount Chief" prior to British decisions. Rennie and Yeta compromised on the second issue; Rennie agreed to recognize Lozi-staffed First Class Native Court in Balovale in exchange for Yeta's acceptance of Luvale and Ndembu Native Authorities in Balovale. The agreement was finalized in March, 1931, approved by the Governor's office and sent on to the Colonial Office in London.<sup>5</sup>

#### Consolidation at Nawinda, 1932-1935

Members of the Colonial Office were surprised when they received the 1931 agreement. They feared that Maxwell's zeal for administrative reform had violated the special status accorded the Lozi in the various concessions of the early period.<sup>6</sup> Although Maxwell received a negative response from his London superiors, he was not cowed. The Governor wrote back in defense of the 1931 agreement, arguing that administrative reform was a British obligation which was in the interest of the Africans.<sup>7</sup>

Maxwell's assertiveness did not succeed in persuading the Colonial Office to accept the 1931 agreement, although his action forced his superiors into a debate on the appropriate

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<sup>5</sup> Maxwell to CO, 26 May, 1931, CO 795/47/36170.

<sup>6</sup> Tomlinson, Minute, 6 July, 1931, CO 795/47/36170; W.E.B. to Wilson, 18 October, 1931, CO 795/62/5584.

<sup>7</sup> Maxwell to CO, 22 March, 1932, CO 795/52/36364.

administrative arrangement for Barotse Province.<sup>8</sup> The question of amalgamation lurked behind the Colonial Office debates. The chairman of an earlier Colonial Office study on this question had advocated a plan which included the creation of a Lozi "native reserve" partially autonomous from a single British colony which combined Northern with Southern Rhodesia.<sup>9</sup> Some officials argued that Maxwell's initiative would standardize the administrative structure throughout Northern Rhodesia and make a Lozi reserve more difficult to create. Other officials argued that the Lozi required preferential treatment similar to the Baganda. Since the debate was not quickly resolved, Maxwell's successor, Governor R. Storrs (1932-34), was ordered not to act on the Lozi question until given further instructions.

British inaction on the 1931 agreement did not prevent Yeta from establishing a court in Balovale. The Lozi monarch toured Balovale in May, 1932, to secure local support for his initiative. The District Commissioner heartily approved of Yeta's plans, although he cautioned against infringing upon the rights of Ndembu and Luvale chiefs.<sup>10</sup> Yeta consequently approached Ishinde Kasanda and obtained his consent to the

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<sup>8</sup>The following discussion is drawn from the file "Jurisdiction in Barotse Province": CO 795/47/36170; CO 795/52/36364; CO 795/62/5636; CO 795/64/5645; CO 795/69/25580.

<sup>9</sup>Report of the Commission on Closer Union of the Dependencies in Eastern and Central Africa (Sir Hilton Young, chairman), 1929, Cmd. 3234.

<sup>10</sup>BCR, 106-7.

creation of the Lozi court. Yeta did not reveal at that time that the court would be located at Nawinda, a site less than ten miles north of Kasanda's capital. Although Kasanda later objected to the location of the court, the protest was dismissed and Kasanda was reprimanded for his hostility toward the Lozi during the opening ceremonies at Nawinda on April 4, 1933.<sup>11</sup>

The Nawinda court consisted of eighteen members only seven of whom actually resided on the premises. The residential group, the Nawinda Lozi, included Yeta's son, Daniel Akufuna, and six other Lozi originally from Lealui.<sup>12</sup> Among this group of advisors was Kalonga Wina, a close personal friend of Yeta.<sup>13</sup> The non-resident judges included the sons of the emissary chiefs, the most powerful of which were Njekwa and Mwenda. Finally, there were three non-Lozi officials to represent the Liuwa, Mbume and Luchazi communities. The Nawinda court had jurisdiction over the entire District except the eastern portions of Balovale which were under the jurisdiction of the Lukwakwa Lozi.

The Nawinda Lozi quickly moved to consolidate their position in Balovale. These Lozi attracted a following through the authorization of subordinate courts created by Ndembu and

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<sup>11</sup>BCR, 110.

<sup>12</sup>BCR, 109, 124.

<sup>13</sup>Wina married into the royal family and later served as acting monarch during Yeta's prolonged incapacitation after 1939. See Caplan, The Elites of Barotseland, 156-7.

Luvalé leaders willing to send appeals and adultery cases to the Nawinda court. The Nawinda Lozi also instructed the Lozi Messengers to bring all adultery cases to their court. The judges offered the women convicted of adultery the option of working on the Lozi farms in lieu of the £ 1 fine. Balovale residents who objected to the new relations of power were intimidated into submission.<sup>14</sup> There were a few cases of physical abuse, although the Lozi operated the court system and easily coerced dissidents under the guise of enforcing the law. The British tacitly supported the Lozi, often referring cases directly to the Nawinda Lozi.<sup>15</sup> One District Commissioner refused to hear Ishinde Kasanda's complaints against the Lozi and referred him to the Nawinda court, the source of his problem. Kasanda described his situation in a letter to the Ndembu chief in another District, conceding that the Lozi had completely deceived the British and usurped his power.<sup>16</sup> Indeed, the Nawinda Lozi had successfully transformed Yeta's initiative into a working operation.

Since the 1931 agreement had not been approved by the Colonial Office, Yeta pressured Governor Storrs at every possible occasion to implement the agreement and thereby assure British support for the Nawinda court.<sup>17</sup> Storrs made no

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<sup>14</sup>BCR, 112-115, 117, 122, 135-37, 140-41.

<sup>15</sup>BCR, 112, 119-20.

<sup>16</sup>BCR, 117.

<sup>17</sup>Record of Interview, 30 August, 1934, CO 795/62/5584.

promises to Yeta, although his despatches sympathetically conveyed the monarch's desires to the Colonial Office.<sup>18</sup> Since the chances for the amalgamation of Northern and Southern Rhodesia seemed remote during the mid-thirties, members of the Colonial Office were persuaded by Storrs' opinion and finally agreed to extend the Native Authorities and Courts system in Barotse Province.<sup>19</sup> Storrs' replacement, Governor H. Young (1934-38), was given orders to renew negotiations with Yeta.<sup>20</sup> Provincial Commissioner Lane-Poole reopened discussions in 1935 and a new agreement was quickly obtained.<sup>21</sup> The 1935 agreement was not significantly different from the earlier proposal: the Nawinda court was still recognized as a First Class Native Court.

#### Assault and Excision, 1936-1941

Governor Young toured Barotse Province in late May and early June, 1936, to reassure Yeta that the 1935 agreement would be implemented later that year. Young visited Balovale District prior to his meeting with Yeta. Kasanda

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<sup>18</sup>Storrs to CO, 25 September, 1933, CO 795/62/5584; Storrs to CO, 27 June, 1933, CO 795/64/5645.

<sup>19</sup>See: CO 795/69/25580; CO 795/76/45080/1.

<sup>20</sup>Young to CO, 7 May, 1935, CO 795/76/45080/1.

<sup>21</sup>Yeta used the conciliatory mood of the British to push for the extension of the Barotse Reserve into eastern Balovale, the area under his jurisdiction but designated Crown Territory. He also pushed for another piece of territory, the Kasempa Salient. See: S. Shaloff, "The Kasempa Salient: the Tangled Web of British-Kaonde-Lozi Relations," International Journal of African Historical Studies, V, 1 (1972), 22-40.





took advantage of the occasion to renew his protest against the Nawinda court. Young stood firmly behind the Lozi and did not reprimand any of the Nawinda Lozi.<sup>22</sup> Young's visit dismissed any doubt about British support of the Lozi in Balovale.

Akufuna's assault of Ishinde Kasanda took place within a week after Young's departure. Kasanda and his son travelled to Nawinda and intimated a desire to fight. Some members of the court tried to avoid a confrontation and sent both Kasanda and his son away. Akufuna continued the argument, chased after Kasanda with a knife and assaulted him outside the court. When the District Commissioner was informed of the incident he immediately ordered the Ndembu to avoid Nawinda and to bring all legal cases to Balovale headquarters. Additionally, the District Commissioner sent all the parties of the dispute to Provincial Commissioner Lane-Poole at Mongu.<sup>23</sup>

Provincial Commissioner Lane-Poole acted on this case in July, assessing fines on both Akufuna and Kasanda's son. Meanwhile, the assault had precipitated an uproar in Balovale. Lane-Poole travelled to Balovale in August in an effort to defuse the growing crisis. Luvala leaders joined Kasanda and his followers in formally rejecting recognition of the Nawinda court.<sup>24</sup>

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<sup>22</sup>BCR, 125.

<sup>23</sup>BCR, 133.

<sup>24</sup>The DC eventually ordered the Luvala to avoid the Nawinda court and bring all appeals to the Balovale headquarters.

Lane-Poole offered the Luvala and Ndembu leaders positions on the Nawinda court in exchange for their acceptance of Balovale's subordinate relationship to Lealui. Luvala and Ndembu leaders rejected all compromises and refused to accept Lozi authority. Although Lane-Poole left these meetings with no resolution, he encouraged Young to pass the Ordinances which would designate the Nawinda court as the First Class Native Court of Balovale.<sup>25</sup>

The Ordinances which were signed in September had been altered by the Governor to give the British freedom of action in Balovale. Young rewrote the relevant clauses so that he had the sole authority to remove personnel and to rescind decisions of Native Courts in Barotse Province.<sup>26</sup> Young and his advisors also became less conciliatory toward Yeta in their subsequent attempts to reach a settlement in Balovale.<sup>27</sup> When it became obvious that a compromise could not be obtained, Young's secretary wrote to the Colonial Office with two options: the excision of Balovale or the use of British force to support the Lozi position. He advocated an excision because the Lozi had failed to keep the peace.<sup>28</sup>

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<sup>25</sup>BCR, 128-31; Young to CO September, 1936, CO 795/82/45080/1.

<sup>26</sup>Dundas to Co, 21 March, 1937, CO 795/89/45080/1.

<sup>27</sup>The records of the interviews that occurred in April, July and October, 1932, are contained in CO 795/89/45080/6.

<sup>28</sup>Dundas to CO, 22 April, 1937, CO 795/89/45080/6.

The change in British attitude was noted by Yeta and his close circle of advisors. They began to question their decision to sign the British-Lozi agreement. Kalonga Wina lamented after a session with the Governor in October, 1937:

If indirect rule is granted in Balovale, tribes other than Marosi in Bulozí will claim indirect rule also; this will lessen the authority of the Paramount Chief. We do not want indirect rule in any part of the reserve.<sup>29</sup>

Although the Lozi had initially manipulated the British to their advantage, they sensed that the British would now use the policy of indirect rule against their position. Yeta sent letters to several ex-BSAC officials in Britain and encouraged them to lobby the Colonial Office on behalf of the Lozi.<sup>30</sup>

Governor Young asked the Colonial Office to initiate a Commission of Inquiry on the Balovale crisis.<sup>31</sup> The Colonial Office agreed and selected Sir Phillip MacDonell, an official who had previously served in Northern Rhodesia as a judge on the High Court during the twenties. He gathered oral and archival evidence in Northern Rhodesia from October, 1938, to March,

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<sup>29</sup>Minutes of a discussion, 22 April, 1937, CO 795/97/45080/6.

<sup>30</sup>F. Worthington, the BSAC Secretary of Native Affairs from 1904-1914, had been in contact with the Colonial Office throughout their debate on the future administration of Barotse Province. His Memorandum on Barotse Administration is a classic statement on the territorial basis of Lozi authority. See: CO 795/62/5636. He increased his interest in the Colonial Office debates after Yeta's letter. C. Harding also pressured the Colonial Office after a letter from Yeta. See: Cohen, Minute, 20 May, 1938, and Harding to CO, 28 August, 1938, CO 795/97/45080/6.

<sup>31</sup>Young to CO, 20 December, 1937, CO 795/97/45080/6.

1939. Both Yeta and Kasanda had prepared for the Commissioner and presented written documents to support their positions. Yeta's portfolio included A. Jalla's History of the Barotse Nation, which was considered the official history of Bulozhi.<sup>32</sup> Jalla's passage concerning Lozi-Balovale relations stated that both the Luvala and the Ndembu submitted to Lewanika in 1892 after the Lozi raid.<sup>33</sup> Kasanda presented a typed history of the Lunda with special reference to the place of the Ishinde in Lunda expansion.<sup>34</sup> Both Yeta and Kasanda were hoping that their "traditional" claims could be enhanced through appearance in a written form.<sup>35</sup>

The Commissioner's findings were published in November, 1939. MacDonell was critical of Lozi interventions into Balovale affairs, although he argued that British administrators often encouraged Lozi initiatives.<sup>36</sup> The Commissioner also noted that the Lozi elite was pressured into these actions by colonial policies:

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<sup>32</sup>Caplan, The Elites of Barotseland, 231-240.

<sup>33</sup>I have not seen Jalla's History of the Barotse Nation, although all references to Jalla concur on this interpretation of the raid. See, for example, Mainga, Bulozhi Under the Luyana Kings, 160; BCR, 156-7.

<sup>34</sup>Political Statement of Chief Shinde of Mukandakunda, Balovale District, CO 795/97/45080/6; see also Thomas Chinyama, The Early History of the Balovale Lunda (Lusaka, 1945).

<sup>35</sup>See M. Twaddle, "On Ganda Historiography," History in Africa, I (1974), 85-100.

<sup>36</sup>BCR, 142-44.

Time has yet to show how far by abolishing slavery and mulasa unpaid labor we have or have not shaken the foundations of native social economy: subsidies to chiefs on a scale as ample as circumstances and their several merits permit may help to hold structure together.<sup>37</sup>

MacDonell was unaware that the subsidies had already proved insufficient to the task. He nevertheless recommended the excision of Balovale from Barotse Province because, in his words, "One Bantu tribe cannot rule another."<sup>38</sup> MacDonell added that the Luvala and Ndembu should each have their own Native Authorities and Courts, staffed by the leaders who had resisted the Nawinda court. MacDonell recommended that the Lukwakwa Lozi remain in place as third Native Authority and Native Court for eastern Balovale.

Both the Colonial Office and the new Governor, J.A. Maybin, rejected the argument of the Commissioner. Members of the Colonial Office noted that MacDonell's principle about Bantu overrule would undermine colonial relationships involving the Baganda in Uganda.<sup>39</sup> Maybin specifically wondered how MacDonell could use this principle to justify the excision when the Report itself recognized the Lukwakwa Lozi as the Native Authority and Native Court for eastern Balovale. Maybin also rejected MacDonell's implicit criticism of Lozi overrule in Barotse Province. He interpreted the Balovale crisis as an experiment which failed instead of an indication of

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<sup>37</sup>BCR, 79.

<sup>38</sup>BCR, 163.

<sup>39</sup>Cohen, Minute, 10 June, 1940, CO 795/115/45080/6.

widespread abuse.<sup>40</sup> The Colonial Office supported Maybin's perspective and decided to limit distribution of the Balovale Commission Report to the upper echelons of the Northern Rhodesian administration. Although members of the Colonial Office rejected the reasoning of the Balovale Commission Report, they accepted excision as the most prudent course of action. The excision was implemented in 1941 according to the guidelines set forth by the Commissioner.<sup>41</sup>

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<sup>40</sup>Maybin to CO, 14 November, 1939, CO 795/107/45080/6.

<sup>41</sup>Cohen, Minute, 10 June, 1940, CO 795/115/45080/6;  
MacDonell to Boyd, 9 September, 1940, CO 795/115/45080/6.

## CONCLUSION

Yeta used the opening of discussions on administrative reform with the British to secure approval for a new Lozi court in Balovale. Although local leaders such as Ishinde Kasanda protested this intrusion, the British supported the actions of Lozi judges. An assault on the steps of the court, however, was a rallying point for local resistors who, in time, forced the British to examine colonial relationships in Balovale. The British, confronted with a choice between the use of force or the excision of Balovale from Barotse Province, opted for the latter.

This study has offered a fresh interpretation of Yeta's role in the negotiations leading toward the extension of the Native Authority and Court system into Barotse Province. G.L. Caplan argues that the length of these negotiations was a result of Yeta's reluctance to accept the British initiative.<sup>1</sup> This reluctance supports Caplan's contention that the British were constantly forcing concessions of power from the Lozi throughout the colonial period. Caplan concludes, therefore, that the final agreement was reached only after Yeta yielded to British pressure. While Caplan correctly senses Yeta's reluctance to surrender the autonomy of the Lozi court system,

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<sup>1</sup>Caplan, The Elites of Barotseland, 147-50.



he fails to appreciate Yeta's skillful manipulation of the British. Indeed, it was Yeta's own pressure on Storrs which reopened the stalled British-Lozi negotiations on administrative reform. Yeta pushed for the agreement because he wanted British support for the Lozi court in Balovale. He willingly conceded a role for non-Lozi Native Authorities in Balovale in exchange for control over the Native Court. Yeta was aware that effective Lozi power was based on the control of judicial institutions.

British policy throughout the history of the Nawinda court demonstrates the pragmatism of colonial officials during the years of "indirect rule." Maxwell used the pretext of administrative reform to bring the Lozi court system under greater British supervision. Members of the Colonial Office did not welcome Maxwell's initiative because it limited their options with regard to amalgamation. The conflict between the Governor and the Colonial Office was a result of differing perspectives based on their positions in the colonial hierarchy; they were not quibbling about alternate interpretations of Lugard. Later, both Governor Young and members of the Colonial Office rejected MacDonell's argument for the excision when his general principles conflicted with the demands of local practice. MacDonell's insights into the impact of colonial policies on "native social economy" were buried with his generalizations about "Bantu overrule" in the colonial files of Northern Rhodesia.

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